

## **ANSWERING EXPERT REPORT OF ARY AMERIKANER**

In Re Delaware Public Schools Litigation, C.A. No. 2018-0029-VCL, State Track

My qualifications: I am currently the Vice President for P12 Policy, Practice, and Research at The Education Trust. Prior to my tenure at The Education Trust, I was the Deputy Assistant Secretary for Policy in the Office of Elementary and Secondary Education at the United States Department of Education. In addition, I have conducted research with The Urban Institute and Center for American Progress. I routinely advise federal, state, and local policymakers and advocates on issues of school funding policy. My CV is included as Appendix A.

Overview: I was asked by counsel in April, 2020, to prepare a report responding to the opinions of defense expert Mathew G. Springer, Ph.D. that “Delaware’s education finance system possesses appropriate funding structures and flexibility” and that Delaware’s funding system has “funding structures and flexibility that are commonly found in state funding systems.”<sup>1</sup> This report responds to those opinions by showing (1) why Delaware’s current funding system leads to the inequitable allocation of resources, (2) how other states have addressed similar problems, and (3) what changes in the Delaware funding system would address those problems.

### **1. Why the current Delaware school funding system leads to the inequitable allocation of resources.**

The Delaware school funding system leads to inequities between disadvantaged students and other students by (a) requiring a one-size-fits-all approach to allocating the vast majority of resources between and within districts instead of recognizing that some schools serve students with greater needs and should have additional resources; (b) ignoring key staffing patterns that shortchange higher-need students and schools; (c) failing to be sufficiently responsive to differences in districts’ ability to raise local revenue; and (d) failing to report clearly and publicly on spending patterns by district and school need, limiting the ability for public engagement or true democratic accountability.

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<sup>1</sup> March 13, 2020 Report of Mathew G. Springer, pp. 1, 15.

**(a) Delaware School Funding Formula Mistake 1: adopting a one-size-fits-all approach instead of recognizing different needs of students living in poverty and students learning English as a second language.**

Every parent, educator, or family member who has ever spent time with children knows that they have differing needs. Adults who work directly with children strategically allocate time, attention, and resources to meet each child's differing needs. They know that if a student is coming to school hungry, or has worked a late-night shift to make money for her family, or rushed to complete her homework in the hour that she could access the internet at the public library, or is trying to learn algebra and history while also learning to speak, read, and write English, she will need more supports than peers who do not have to navigate those challenges. And yet, Delaware's state funding formula assumes that students within a single grade have almost entirely the same needs, regardless of whether or not they come from a low-income background, or whether they are learning English as a second language.

The overwhelming majority of state funding in Delaware is distributed through Divisions I and II of the unit system, which allocate the same basket of resources (a combination of staffing positions and dollars) to each district based on the number of students served. This unit system is *not structurally incapable* of differentiating based upon student need – it provides more “units” per student in grades K-3 than in grades 4-12, recognizing that young children need more adult support. It provides more units per student who has a disability, recognizing these students' additional needs. There was a clear policy choice not to recognize the additional needs of students from low-income backgrounds or students learning English as a second language in the main state funding mechanism.

It is true that the state has recently begun providing Opportunity Funding to districts and charter schools serving high-need populations. However, this is a small amount of one time funding (roughly \$75 million over 3 years), allocated for specific expenses that are enumerated in contracts with receiving LEAs, e.g. hiring a specialist or coordinator, purchasing an instructional program, or funding after-school programs.<sup>2</sup> Compared

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<sup>2</sup> [https://governor.delaware.gov/wp-content/uploads/sites/24/2020/02/Opportunity-Funding\\_contracttotals.pdf](https://governor.delaware.gov/wp-content/uploads/sites/24/2020/02/Opportunity-Funding_contracttotals.pdf)

to an annual education budget of approximately \$1.5 billion,<sup>3</sup> it certainly does not fulfill the purpose of systematically supporting low-income and English-learning students with greater levels of funding.

The state also provides additional funding to schools via programs outside of the official unit system; virtually none of these awards are allocated based on school or district poverty or English learner status.<sup>4</sup>

Delaware then compounds the problem by requiring every district to make the same mistake when passing state dollars along to individual schools. Even if local superintendents *wanted* to allocate their resources in line with research by providing more to schools serving higher concentrations of students from low-income backgrounds and students learning English as a second language, they have very little flexibility to do so. Delaware statute requires that 98% of “Division I” funding is spent in the school that “earned” the dollars for the district, unless waived in a public process by the local school board.<sup>5</sup> Given that Division I funding makes up roughly 78% of the state funding for district and charter operations (excluding transportation),<sup>6</sup> this gives equity-minded district leaders very little flexibility to strategically allocate their resources.

**(b) Delaware School Funding Formula Mistake 2: ignoring key staffing patterns that shortchange higher need students and schools.**

By allocating the vast majority of its state dollars via staff positions instead of directly allocating dollars, the state makes its second critical mistake. This policy ignores well documented staffing patterns that tend

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<sup>3</sup> [FY 2020 Operating Budget, available at https://legis.delaware.gov/BillDetail?legislationId=47647](https://legis.delaware.gov/BillDetail?legislationId=47647)

<sup>4</sup> With the exception of the Opportunity Funding and a small amount (\$4 million) allocated under the Student Success Block Grant for reading interventionists at elementary schools with more than 60% low-income or more than 20% EL students, no other education spending is allocated based on school or district poverty or EL status. 14 Del C. Chaps. 13&17; *See also* FY 2020 Operating Budget, *available at* <https://legis.delaware.gov/BillDetail?legislationId=47647>.

<sup>5</sup> 14 Del. C. § 1704.

<sup>6</sup> *See* FY2020 Operating Budget, p. 55  
<https://legis.delaware.gov/BillDetail?legislationId=47647>.

to shortchange higher-need schools and students. As documented in Jesse Rothstein’s expert report in this litigation, and as the State itself has recognized,<sup>7</sup> Delaware schools serving the highest concentration of students from low-income backgrounds have substantially higher rates of novice teachers as the schools serving the lowest concentration of students from low-income backgrounds.

From an instructional standpoint, disproportionate reliance on novice teachers is bad for the students in the higher-poverty schools because substantial research has shown that novice teachers are less effective than non-novice teachers.<sup>8</sup> Given the state’s practice of providing funding in teacher positions rather than in dollars, this trend is also an important source of the funding disparities in Delaware that have been documented by other experts in this case. Novice teachers are funded at lower levels than non-novice teachers in Delaware under state law.<sup>9</sup> According to the state minimum salary schedule, teachers with a bachelor’s degree in their first year of teaching are to be funded at roughly \$29,866 in state dollars (the “base salary amount” in 14 Del. C. § 1305(b) is \$29,866, multiplied by 1, the value for a Step 1 employee with a bachelor’s degree in 14 Del. C. § 1305(a)). Conversely, a teacher with a bachelor’s degree and 10 years of experience would be funded at \$38,512 in state dollars (the same “base salary amount” from 14 Del. C. § 1305(b) multiplied by 1.28949, the value for a Step 11 employee with a bachelor’s degree in 14 Del. C. § 1305(a)). Calculated in the same way, teachers with a master’s degree in their first three years of teaching are to be funded at roughly \$34,000 in state dollars, while a teacher with a master’s degree in her 16<sup>th</sup> year of teaching is to be funded at nearly \$49,000 in state dollars.<sup>10</sup>

How does this relate to the funding formula? The state’s formula allocates one teaching position per twenty 4<sup>th</sup> graders, regardless of

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<sup>7</sup> March 10, 2020 Expert Report of Jesse Rothstein, p. 6 and Exhibit 5; [https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/domain/271/the%20set/January\\_Set\\_2015.pdf](https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/domain/271/the%20set/January_Set_2015.pdf)

<sup>8</sup> See, for example, <https://www.aeaweb.org/articles?id=10.1257/jep.24.3.97> and <https://www.sciencedirect.com/science/article/abs/pii/S0272775707000982>

<sup>9</sup> <https://delcode.delaware.gov/title14/c013/index.shtml>

<sup>10</sup> For all of the above figures, the author used baseline salary and step schedule in DE statute. <https://delcode.delaware.gov/title14/c013/index.shtml>

whether that position is in a high-poverty school or a low-poverty school, and regardless of what that teacher's salary is.<sup>11</sup> But the data show that the teacher who actually fills the position in the high poverty elementary school is more likely to be a novice teacher. Since that teacher's experience level determines the amount of state funding the district (and then school) ultimately receives for the teaching position, the state is actually likely to spend *less* on the teacher position in the high poverty elementary school. This sets up higher-poverty schools to receive the lowest levels of funding for Division I staff units.

It is bad enough that the formula allocates an equal number of positions despite unequal student need. This problem is made worse by the state's spending fewer state dollars per position in the higher need schools.

**(c) Delaware School Funding Formula Mistake 3: failing to sufficiently compensate for differences in local ability to raise revenue**

Delaware has a very atypical funding formula in this regard. It is one of only 6 states to have no policy outlining the share of the formula funding that should come from local dollars.<sup>12</sup> Note that the Delaware code does say that the state funds provided for teacher salaries are "intended to be the equivalent of 70 percent of a recommended average total competitive starting salary,"<sup>13</sup> implying that the remaining 30 percent should be covered by local revenue. However, this intention is not accompanied by binding requirements or policy.

There are two related reasons that most states *do* have a policy governing local contributions. First, the state can't accurately gauge the amount of state funding students in a particular district need from the state if it doesn't start by assessing what the district already has – i.e. the money it can raise from its local property tax base. Second, in a world of limited resources, if a state shoulders the full responsibility for funding the formula with state dollars, it is committed to sending lots of money to higher-wealth districts whose students and schools could be well served

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<sup>11</sup> [https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/366/Education%20101\\_Meeting%201%20-%202011-2-15.pdf](https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/366/Education%20101_Meeting%201%20-%202011-2-15.pdf)

<sup>12</sup> <http://funded.edbuild.org/national#local-share>

<sup>13</sup> 14 Del. C. § 1305(b)

with less state aid, limiting what's left in the pot to truly meet the needs of students in lower-wealth districts.

Absent a systemic policy for dividing responsibility for school funding between state and local dollars, Delaware winds up with two types of inequities: first, lower-wealth districts having less overall funding to provide educational opportunities; and second, lower-wealth communities must contribute the same or larger share of education funds as wealthier communities despite meaningful differences in local ability to pay.

It is instructive to consider an example of each type of inequity.<sup>14</sup>

Type 1: Lower-wealth districts relying on less overall funding. Capital School District serves the highest percentage of low-income students in the state (51 percent of its students). The median value of an owner occupied home is \$190,800, which is one of the lowest in the state. It receives \$10,187 per student from the state, and provides an additional \$3,003 per student in local revenue. In Brandywine School District, 32% of the students are from low-income families, and the median value of an owner occupied home is \$277,300. Brandywine receives \$9,200 in state dollars, and provides an additional \$7,360 in local revenue. By drawing on local property taxes and its notable property wealth, Brandywine is able to nearly double the funding that it receives from the state. Capital simply can't match that, so its students, who come to school with greater needs every day, are supported with fewer overall dollars.

Type 2: Lower-wealth districts contributing the same or a larger share of funding for education, despite differences in ability to pay. Smyrna School District and Seaford School District get roughly the same amount of money per student in non-federal revenue (\$12,316 and \$12,649, respectively), and in both districts the state pays roughly the same share (83 percent in Smyrna; 81 percent in Seaford). But the districts serve students with very different needs and from families with very different property wealth: 27 percent of Smyrna's students are low-income, compared to 51 percent of Seaford's students. The median value of

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<sup>14</sup> The following examples are based on calculations using data from <https://reportcard.doe.k12.de.us/> for the 2017-18 school year. Median values of owner-occupied homes are from <https://edbuild.org/content/dividing-lines/main>.

residential property wealth in Smyrna is 23 percent greater than in Seaford (the median value of owner-occupied homes is \$185,400 in Seaford compared to \$228,200 in Smyrna). The idea that these two districts should have roughly the same spending per student and shoulder roughly the same share of the bill is wrong.

The bottom line is that state education funding in Delaware is handed out almost entirely without regard for differences in local wealth (except for Division III money, which is roughly 7% of state funding in the 2020 operating budget), leading to this kind of inequity in both ultimate revenues and in funding burden.

**(d) Delaware School Funding Formula Mistake 4: failing to report clearly and publicly on spending patterns by district and school need, barring the ability for public engagement or true democratic accountability.**

A funding formula is only as good as the revenue patterns it leads to. Like all state policy, even the best written formula can sometimes go awry in implementation (see discussion of Maryland’s funding formula and results below). The only way to judge the real impact of any funding formula is to closely monitor the actual outlays that support students in different schools, and to periodically reassess policy choices in light of those data. In this litigation, other experts have used their expertise and data-analytic capacity to reveal such spending patterns. However, under the current system, neither policymakers nor the general public in Delaware can easily see or understand these patterns.

Delaware, in compliance with federal law,<sup>15</sup> has begun reporting school-level spending data on school and district report cards. While the state has an Open Data Portal, it does not report its spending in a way that allows the public to clearly see the spending patterns.<sup>16</sup> In a state where

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<sup>15</sup> Elementary and Secondary Education Act, Section 1111(h)(1)(C)(x) and (h)(2)(C)

<sup>16</sup> See <https://edunomicslab.org/delaware/> (“Delaware does not have an online comparison option.”) and <https://reportcard.doe.k12.de.us/detail.html#displaypage?scope=district&district=33&school=0&id=194> for an example of a school district report card showing spending by school with no information on the same page about school poverty, percentage of students with disabilities, or percentage of students learning English as a second language). For

elected state legislators make the critical policy decisions detailed above, and locally elected school board members make spending decisions with regard to local dollars, it is critical that the public understand how those spending decisions are made so that all the responsible parties can be held accountable for them.

## **2. How other state education funding systems facilitate a better allocation of education funding.**

In general, states facilitate a better allocation of funding by (a) allocating resources according to student need; (b) allocating dollars instead of positions; (c) equalizing state spending based on local ability to pay and limiting inequities in local spending outside of the state formula; (d) pairing funding equity for districts with accountability for using the dollars well; and (e) reporting clearly and publicly on spending patterns by district and school need, allowing for public engagement or true democratic accountability.

### **a. Allocate resources according to student need.**

Today 47 states and the District of Columbia provide additional dollars for students who are learning English as a second language; 33 states and the District of Columbia provide additional dollars for students who are living in poverty; and 24 states provide additional dollars for districts with high concentrations of poverty.<sup>17</sup> Only 8 states provide no funding at all for students living in poverty.

Of the states that provide additional funding for students living in poverty, most use a “weight” or “multiplier” to a baseline amount of money allocated to each student (see below for additional discussion of student-based budgets and weighted student funding formulas). These weights range from a minimum of 1% (in Virginia the weights vary by

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further discussion and an illustration of what this could look like done well, see <https://www.nytimes.com/2020/01/29/opinion/school-district-funding-data.html>.

<sup>17</sup> Author’s summary of data obtained at <http://funded.edbuild.org/reports> in May, 2020, as well as direct conversation with EdBuild regarding updated information on Kansas and District of Columbia, both of which provide additional dollars for students who are living in poverty and learning English as a second language; Kansas also provides additional funds for concentration of poverty).

concentration of poverty, from 1% to 13%) to 97% in Maryland.<sup>18</sup> To put these numbers into words: in Maryland, a student living in poverty generates 97% more funding than a student not living in poverty for his or her district.

Of the states that provide additional funding for English learners, roughly half do so using a “weight” or “multiplier.” The weights are similar to those described above for poverty. At the low end, Kentucky allocates 9.6% more; at the high end, Maryland allocates 99% more and Georgia allocates 156% more for English learners.<sup>19</sup>

Using a weight or multiplier is not as simple for states that, like Delaware, allocate teaching positions instead of dollars. But even states that allocate positions have found a way to allocate more to support these additional student needs. For example, in addition to its regular staff units, Tennessee funds a specific teacher position for English-language learners based on a ratio of 25 English learners to one teacher unit.<sup>20</sup> Illinois, which recently revised its school funding formula, provides lower student to staff ratios for students from low income backgrounds (e.g. 1 teacher per 15 low income students in grades K-3<sup>rd</sup> compared to 1 teacher per 20 non low income students in grades K-3<sup>rd</sup>).<sup>21</sup> This funding could be provided more simply and flexibly through a student-based funding formula (more on this below). Still, it is clear that other states with policy structures that parallel Delaware’s have managed to find ways to systematically support their high-need students with greater resources.

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<sup>18</sup> Author’s summary of data generated via <http://funded.edbuild.org/reports>

<sup>19</sup> Ibid.

<sup>20</sup> [https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/BEPHandbook\\_revised\\_July\\_2016.pdf](https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/BEPHandbook_revised_July_2016.pdf)

<sup>21</sup> [https://www.isbe.net/Documents/EBF\\_Presentation\\_Detailed.pdf](https://www.isbe.net/Documents/EBF_Presentation_Detailed.pdf)

## **b. Allocate dollars instead of positions.**

There are three basic approaches to allocating state funds for education: allocate dollars per student (also referred to as a “student-based” system); allocate resources such as staff positions (“resource-based”); or allocate costs for specific educational programs (“program-based”).<sup>22</sup> Student-based funding formulas are the most widely used—30 states and the District of Columbia use a primarily student-based approach, and another 9 use this in combination with one of the other approaches.<sup>23</sup> Delaware is one of 9 states that use a primarily resource-based approach (others include Alabama, Idaho, Illinois, South Dakota, Tennessee, Washington, West Virginia, and Wyoming).<sup>24</sup> Only Wisconsin relies primarily on a program-based approach.<sup>25</sup>

There are three primary downfalls of a resource-based approach such as the one Delaware uses. The first applies wherever a resource-based formula is used: These policies reflect a rigid and outdated notion of educational settings, in which a classroom consists of a single teacher, a certain number of students, and a set of needed materials. It does not adapt well to alternative structures like blended learning, co-teaching models, teacher leadership, etc., and may make it difficult for districts to innovate.

The second problem with many resource-based funding formulas, including Delaware’s, is the allocation of resource units whose state-funded value depends on teachers’ education and experience levels. As discussed above, given the widespread patterns of over-reliance on

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<sup>22</sup> <http://funded.edbuild.org/national#formula-type>

<sup>23</sup> <http://funded.edbuild.org/reports> (Report generated by author on 5/17/2020; as well as direct conversation with EdBuild regarding updated information on Kansas and District of Columbia, both of which now use a student-based approach)

<sup>24</sup> <http://funded.edbuild.org/national#formula-type>

<sup>25</sup> Pennsylvania rounds out the 50 states; it has a student-based formula but is not counted as such here because the formula is only used to allocate roughly 12% of the state’s education funds; the rest are allocated based on historical allocations instead of a formula. (24 Pa. Cons. Stat. Ann. § 25-2502.53; and see <https://www.education.pa.gov/teachers%20-%20administrators/school%20finances/education%20budget/pages/default.aspx#tab-1>)

novice teachers in high need schools, a resource-based approach that funds teacher units in this way is likely to direct fewer actual dollars to high need schools and districts. Even resource-based formulas that direct additional resources (e.g. staff positions) to students living in poverty or learning English as a second language (which Delaware's does not) will see their efforts undercut when they look at actual spending patterns because of these widespread patterns in teacher pay and assignment. North Carolina, for example, provides more teacher units to districts enrolling English-language learners, but positions are funded based on the teachers' position on the state salary schedule, so districts that have an easier time attracting and retaining experienced teachers will benefit more (in terms of state funding) from these additional units.<sup>26</sup> By contrast, Idaho funds all teacher units at a single level, avoiding this funding equity pitfall.<sup>27</sup>

A simpler way to avoid this problem is to move to the student-based funding methodology that is employed by most states. It is important to note that in states using a student-based approach to allocate actual dollars instead of positions, it is still often true that higher-poverty schools rely more heavily on first-year teachers. This is a common and unfortunate pattern across the country.<sup>28</sup> Switching to a student-based approach will not address this teacher equity challenge directly. However, it will ensure that high-need districts are actually allocated all the dollars that state policymakers determine they are owed, allowing those districts to spend in ways that support their students. If a high-need school finds itself relying heavily on lower-paid novice teachers, it will spend less of its money on individual salaries, and instead will have "the rest" of its money to support, for example, more novice teachers (to lower class sizes), teacher coaches, additional planning time, or professional learning opportunities to support those novice educators still learning their craft. In a resource-based approach that funds positions based on a salary schedule such as the one Delaware uses, that money is essentially reallocated to lower-need schools employing more expensive

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<sup>26</sup>[https://www.ncleg.gov/documentsites/committees/JointAppropriationsEducation/2015%20Session/03\\_03\\_2015%20Meeting/FRD\\_PubSchoolAllotment\\_2015\\_03\\_03.pdf](https://www.ncleg.gov/documentsites/committees/JointAppropriationsEducation/2015%20Session/03_03_2015%20Meeting/FRD_PubSchoolAllotment_2015_03_03.pdf)

<sup>27</sup> Idaho Code § 33-1002(5)

<sup>28</sup> [https://scholarship.law.duke.edu/faculty\\_scholarship/1915/](https://scholarship.law.duke.edu/faculty_scholarship/1915/)

educators. Shifting from a resource-based state funding approach to a student-based approach ensures that the teacher equity challenges that persist across our country do not create a funding equity challenge. Addressing these funding inequities might, in turn, help to address the teacher equity challenges by making higher poverty schools more attractive places to work for non-novice teachers.

**c. Equalize state funding on the basis of local ability to pay and limit inequities in local spending outside of the state formula**

**Equalize the bulk of state funding.** As noted above, Delaware is atypical in not having a policy specifying what share of the formula funding should come from local dollars (other than Division III money). The purpose of such policies is to overcome some or all of the inequities that arise from funding schools with local property revenue. The most common approach is for states to specify an expected local tax rate. This rate will raise more in property-rich districts and less in property-poorer districts. The expected yield from this tax rate is subtracted from the district's total formula amount. The state provides the balance as state aid. This approach is in use in states ranging from Alabama to Minnesota to New Mexico, along with several others.<sup>29</sup> It asks districts to invest equal tax effort towards funding their formula amounts while ensuring the state will properly send more support to districts that need more help financing their education spending.

**Address inequities in “outside the formula” local spending.** The approach above helps states equalize funding *within* the funding formula. However, most states, even if they have a local share policy, also allow districts to raise “extra” local dollars outside the funding formula. Because these above-formula dollars are not fully equalized, it is important that the state consider policy options ensuring that poorer districts have the funds they need to provide access to an education that could adequately prepare them to compete in the labor market against young adults educated wealthier districts without taxing themselves at an extremely high rate.

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<sup>29</sup> <http://funded.edbuild.org/reports/issue/local-share/in-depth>

The fullest way to address this problem is to ban all outside-formula dollars, though this is an uncommon approach.<sup>30</sup> However, there are also more limited policy options:

- Massachusetts allows districts to raise extra local dollars but caps local tax rates at 25 mills (equivalent to 2.5%).<sup>31</sup>
- Arizona allows districts to raise extra local dollars, but these are capped at 15% of their formula amounts.<sup>32</sup>
- Vermont does not limit local spending on education; instead it requires municipalities that choose to invest substantially more in local schools to send the same amount of money to the statewide education fund. Specifically, it sets an "excess-spending threshold" and requires municipalities that choose to invest local revenue that brings total spending above that threshold (\$18,311 per student in FY20) to "double count" the dollars above that threshold for tax purposes,<sup>33</sup> requiring the taxpayers to pay education dollars that go above the threshold for their own district *and again* to the statewide education fund to be reallocated based on the state formula. (Note that Vermont's spending threshold is calculated in a way that makes sense only in context of its formula; this could be done in a far

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<sup>30</sup> Wyoming requires local districts to levy 25 mills to fund the local share of the formula. They may not exceed 25 mills. The value of 25 mills is subtracted from each district's formula amount to determine how much state aid they'll receive. However, if the 25 mills raises more than the formula amount, the excess is remitted to the state to finance aid to other districts, so no self-financing of extra spending is possible. (<http://funded.edbuild.org/reports/issue/local-share/in-depth>). I understand that the plaintiffs in this case are not proposing that the Wyoming approach, or the Massachusetts and Arizona approaches described above, be followed. I describe them solely for illustrative purposes.

<sup>31</sup> <http://funded.edbuild.org/reports/issue/property-tax-bounds/in-depth>

<sup>32</sup> Ibid.

<sup>33</sup> <https://tax.vermont.gov/research-and-reports/tax-rates-and-charts/education-tax-rates/faqs>

simpler way in most states – simply by setting a threshold that is pegged to the total funding amount generated by the state funding formula (e.g. 120% of the formula’s allocated dollars per student in that district).

**d. Pair funding equity for districts with accountability for using the dollars well**

Ensure dollars reach the schools serving students with additional need. In most states using a student-based approach, there is no guarantee that the same approach will be used within districts. In fact, while the majority of states use a student-based approach to allocate funds, the vast majority of districts use a resource-based approach when it comes to allocating their dollars to schools.<sup>34</sup> In many places around the country, this leads to substantial “within district” inequities.<sup>35</sup> Even if the state actually sends additional resources to the district to support students living in poverty or English learners, the district commonly undermines the purpose of the state’s support (by, as described in more detail above, allocating one staff position per 20 students regardless of the salary of the educator who fills the position and not providing the schools relying on more novice teachers with “the rest” of the budget they would receive if they were actually allocated all the dollars each of their students “generated” under the state’s formula, which they could spend on supports for those novice teachers).

Delaware’s existing 98 percent rule would eliminate this problem if the state switched to a student-based formula that allocated substantially more dollars to support students living in poverty and students learning English as a second language. Similarly, in Maryland, the legislature passed legislation this year that would, among many other things, require districts to spend 75% of additional funds generated for students living in poverty and English learners to be spent at the schools serving those students; it would also require 100% of funding allocated for schools

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<sup>34</sup> <https://fas.org/sgp/crs/misc/R45827.pdf>

<sup>35</sup> <https://www.americanprogress.org/issues/education-k-12/reports/2015/03/11/107985/comparable-but-unequal/>

serving high concentrations of poverty to be released to those schools.<sup>36</sup> The governor recently vetoed that bill, however, so it is not current law.

Hold district and school leaders accountable for using the dollars to close gaps in opportunity and outcomes for historically marginalized students.

How much funding is allocated to districts and to schools matters tremendously. How those funds are used is just as important. Done well, state funding systems should be coupled with accountability measures to ensure that funding is spent on resources and evidence-based supports and interventions that will close opportunity and achievement gaps for students from low-income backgrounds, English learners, and students with disabilities.

For example, in Massachusetts, the Student Opportunity Act is a new law that commits to increasing state funding for P-12 education, directing most of that funding to the highest need districts; it also requires all districts in the state to take steps to address disparities in opportunity and achievement.<sup>37</sup> It further requires districts to create (with community engagement) three-year plans that specify their evidence-based strategies and how they will measure progress, including specific goals and improvement targets for each student group; critically, those plans are to be reviewed and approved by the State Department of Education.<sup>38</sup>

- e. Report clear, transparent school funding data at the district and school level, and monitor those data to identify necessary policy changes.**

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<sup>36</sup> <https://legiscan.com/MD/text/HB1300/id/2174027/Maryland-2020-HB1300-Enrolled.pdf>. Note that the enabling legislation for Delaware’s Opportunity Funding states that it “shall be apportioned on a per pupil basis to all district and charter schools” but does not specify how it must be apportioned within a district. <https://legis.delaware.gov/BillDetail?legislationId=47647>(Section 361)

<sup>37</sup> <https://malegislature.gov/Laws/SessionLaws/Acts/2019/Chapter132>; <https://masseduequity.org/wp-content/uploads/sites/20/2020/02/Troubling-Trends-Promising-Opportunities-February-2020.pdf>

<sup>38</sup> <http://www.doe.mass.edu/commissioner/spec-advisories/soa.html>;  
<http://www.doe.mass.edu/commissioner/spec-advisories/soap-short-form.pdf>

As described above, even in states that (1) allocate substantially more funding for every student from a low-income background and every student learning English as a second language; (2) use a student-based budget; (3) adjust for local ability to raise education revenue; and (4) include meaningful accountability provisions to ensure dollars are spent equitably at the district level, there is always a risk that implementation will not go as planned or intended.

Given this risk, and the complexity of state funding formulas, **the only way to ensure the policy is working as intended is to track data showing actual revenue patterns and commit to periodic reviews of the data to assess how well the formula is working to achieve funding equity.** This is an important check point at both the district and school level.

District Spending: Maryland, for example, uses a student-based budget, has some of the country's most progressive weights for English learners and students living in poverty, and "wealth equalizes" most of its state money to adjust for local ability to raise revenue,<sup>39</sup> but a variety of policy and implementation "loopholes" undermine the strong foundations of the formula. These include (among other things) not requiring localities to pay their share of the supplemental funding for poverty and English learners and maintenance of state funding "floors" that send a substantial number of state dollars to districts that are very high property wealth.<sup>40</sup>

The silver lining in Maryland is that the state does (at least intermittently) publish data and analysis that clearly shows for every district what its formula-based revenue "target" is (e.g. what the formula says it should receive) and what it is actually receiving.<sup>41</sup> This has allowed community

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<sup>39</sup> <https://www.dllr.state.md.us/p20/p20legishandbook.pdf>,  
<http://funded.edbuild.org/state/MD>

<sup>40</sup> <https://www.dllr.state.md.us/p20/p20legishandbook.pdf>

<sup>41</sup> [http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnInnovEduc/2019\\_06\\_20\\_EdSubFundingBriefing.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnInnovEduc/2019_06_20_EdSubFundingBriefing.pdf) slide 28; <https://www.dllr.state.md.us/p20/p20legishandbook.pdf> (p.105)

advocates and analysts to engage and to identify the pieces of the formula and its implementation that need to change.<sup>42</sup>

School Spending: Illinois is publishing easy-to-follow data on the amount of funding each school is spending each year within districts.<sup>43</sup> Done well, this can help state policymakers understand whether districts are actually spending additional state dollars designated for students living in poverty and English learners on those students and consider relevant policy changes if not.<sup>44</sup> It can also help local decisionmakers, educators, and families understand their own community's spending decisions in new ways – enabling them to ask local school boards why, for example, school spending seems entirely unrelated to student need in their district, if that is what the data show in that district.

### **3. Changes in the Delaware funding system would address those problems.**

Delaware can facilitate a better, more equitable allocation of funding by, as described above, (a) allocating resources according to student need; (b) allocating dollars instead of positions; (c) equalizing state spending based on local ability to pay and limiting inequities in local spending outside of the state formula; (d) pairing funding equity for districts with accountability for using the dollars well; and (e) reporting clearly and publicly on spending patterns by district and school need, allowing for public engagement or true democratic accountability. See the discussion above for details about what each of these things can and do look like when done well. Doing any subset of these things would be an important step in the right direction; doing all of them would truly set Delaware's students from low-income backgrounds and English learners up for success.

Date: May 29, 2020

By: /s/ Ary Amerikaner

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<sup>42</sup> <http://education.baltimorecommunityfoundation.org/2020/01/02/ed-trust-report/>

<sup>43</sup> <https://www.illinoisreportcard.com/> (to see this component of the report card: navigate to a district report card, click on the school finance section; click on “Scatterplot”; finally, click on “low income students” or “English Learners”)

<sup>44</sup> <https://www.nytimes.com/2020/01/29/opinion/school-district-funding-data.html>

## Appendix A

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### EDUCATION

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**University of California**, Juris Doctor & Masters of Public Policy  
**Oberlin College**, Bachelor of Arts

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### EXPERIENCE

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#### **The Education Trust**

*Vice President: P12 Policy, Research, and Practice; Director of Resource Equity*  
June 2017 – Present

#### **United States Department of Education**

*Deputy Assistant Secretary for Policy & Strategic Initiatives*  
Office of Elementary and Secondary Education (OESE)  
May 2015 – January 2017

#### **Center for American Progress**

*Author*  
August 2011 – August 2012

#### **The Honorable Francis Allegra, Court of Federal Claims**

*Law Clerk*  
August 2012 – August 2013

#### **Congresswoman Mazie Hirono**

*Legislative Assistant*  
January 2007 – July 2008

#### **The Urban Institute, Education Policy Center**

*Research Assistant*, August 2005 – May 2006

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## **Appendix B**

My compensation for this report was \$150/hour for a total of 33 hours.