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Delawareans for Educational Opportunity and NAACP Reach Agreement with the State in Education Equity Lawsuit

WILMINGTON—Delawareans for Educational Opportunity and the NAACP of Delaware announced today that they have reached a settlement with Governor John Carney in their education equity lawsuit. DEO and the NAACP were represented by the national law firm [Arnold & Porter](#), the American Civil Liberties Union of Delaware and the Community Legal Aid Society.

Dr. Freeman Williams, on behalf of the Delaware State Conference of Branches of the NAACP, said of the settlement: “We are happy that an agreement has occurred between the state of Delaware, the NAACP and Delawareans for Educational Opportunity. This agreement has the potential to provide greater instructional program equity and equal education opportunities for disadvantaged students within Delaware's public school system.”

The lawsuit, filed in 2018, claimed that the state had for many years been aware of substantial deficiencies in the educational resources provided to low income students, students with disabilities, and students who are English learners, with those groups performing lowest in state testing data and other metrics such as high school graduation. Despite reports from Delaware’s own state-commissioned task forces about this issue over the last 20 years, no significant changes were made and disparities grew. The lawsuit sought to have those students provided with the systematic educational resources required by the Delaware Constitution.

“In any negotiated settlement neither side gets everything they want. While we were not able to get everything we wanted in this settlement, it does provide support for children that is desperately needed in Delaware’s education system. In that regard, the settlement and the relief it provides is reasonable and appropriate during the current crisis created by

the pandemic. While this settlement is reasonable today, I must make it clear that the battle for fairness in public school education in Delaware is not over and advocacy for improvement will continue,” said Jea Street, of Delawareans for Educational Opportunity. “DEO is proud to work with our co plaintiffs, the Delaware State Conference of Branches of the NAACP and truly grateful for the support we received from the National office of the NAACP in this most important matter.”

The agreement requires the governor to seek legislation bringing new financial commitments and structural changes to the way that Delaware serves disadvantaged students. Some of the systemic changes listed in the agreement are:

- \$25 million in Opportunity Funding, which was instituted on a temporary basis after the lawsuit was underway, used to enhance services and provide additional resources to English learners and low income students, will become permanent and more than double to \$60 million by the 2024-2025 school year. After that, the \$60 million will increase proportionally with student growth.
- Opportunity Funding resources will be allocated specifically to the schools serving English language learners and low income students, in proportion to the number of those students at each school. \$5 million of these funds will be reserved for mental health and reading supports in schools with the highest concentrations of low income and English learner students.
- Funding dedicated to basic special education students in Kindergarten through 3rd grade to equal funding currently in place for basic special education students in grades 4-12 by the 2023-2024 school year.
- By the 2023-2024 school year, the Early Childhood Assistance Program, which funds preschool programs for low income families, will double its funding from \$6.1 million to \$12.2 million.
- A \$4 million annual commitment to support enhanced teacher recruitment and retention in high-needs schools beginning in the 2022-2023 school year.
- An ombudsperson program will be adopted to assist individual students and families in resolving disputes or complaints concerning disparate discipline, inequitable access to school programs, and different or unfair treatment.
- School districts seeking voter approval for capital construction and major renovations will be required to distribute an equity statement to explain how the capital project would impact equitable distributions of new and renovated buildings within the district.
- The State will hire an independent organization to complete a holistic assessment of the Delaware public school finance system by January 2024, which shall consider funding levels, revenue mechanisms, equity, and efficiency.



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“Governor Carney’s decision to seek additional funding for the education of disadvantaged children instead of continuing the court battle is very welcome. Additional education funding will change the lives of children now, and improve the economy and wellbeing of Delawareans up and down the state when those children become adults,” said Richard Morse, Senior Counsel at Community Legal Aid Society.

The changes put in motion from this settlement will significantly decrease long-existing gaps in educational resources for Delaware children who are low income, students with disabilities, and students who are English learners.

“Delaware’s current educational resource allocation system does not recognize the additional needs of children living in poverty and English learners. That system is outdated and inequitable,” said Karen Lantz, Legal and Policy Director at the ACLU of Delaware. “Our expectation is that this settlement will begin systemic changes that result in a fundamental shift in how resources are allocated, so every student in Delaware can get the education they deserve. We are pleased that Governor Carney has chosen to join with our clients to champion changes that will improve educational outcomes and expand the possibilities for success for all Delaware’s children.”

“We are extremely proud to be a part of these historic efforts to bring educational equity to Delaware. We thank the NAACP, DEO, our co-counsel, and Governor Carney for working effectively together to make systematic changes that will greatly improve the educational prospects for disadvantaged students, particularly in these times of such acute need,” said Peta Gordon, Counsel at Arnold & Porter.

The plaintiffs now await further proceedings on the County Track of this case, to determine the timing and manner of an appropriate remedy for the counties’ property tax assessment system, that the Court ruled in May violates the Delaware Constitution and state law.

The ACLU of Delaware and the Community Legal Aid Society would like to extend a special thank you to the team at [Arnold & Porter](#), who have been indispensable allies on this case. We would also like to thank the State for putting forth a genuine effort to resolve this lawsuit in the best interest of Delaware’s current and future students.

This press release can be found online here:

<https://www.aclu-de.org/en/news/deo-naacp-settle-education-lawsuit>

The full agreement can be found online here:

https://www.aclu-de.org/sites/default/files/judgereviewed_73825397_settlement-stipulation-and-order-final-.pdf

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