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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

RICHARD R. RASELEY; and FAMILIES FOR
FAIR SCHOOL FUNDING, an unincorporated
association,

Plaintiffs,

v.

SCHOOL DISTRICT NO. 1J, MULTNOMAH
COUNTY, OREGON, doing business as
PORTLAND PUBLIC SCHOOLS; EDWARD
WANG, in his official capacity as Chair of the
Board of Education; MICHELLE DEPASS, in
her official capacity as Vice-Chair of the Board

Case No. 3:25-cv-01924-AR

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF

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4920-4528-6050

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of Education; RASHELLE CHASE-MILLER,
STEPHANIE ENGELSMAN, VIRGINIA LA
FORTE, CHRISTY SPLITT, and PATTE
SULLIVAN, in their official capacities as
members of the Board of Education,

Defendants.

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF

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INTRODUCTION

1. “Eliminating racial discrimination means eliminating all of it.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023). Yet, Portland Public Schools, the largest school district in Oregon, proclaims that “race, racism, and racial equity ... suffuse” its policies and budget. Applying a “Racial Equity and Social Justice lens,” with “the primary focus ... on race and ethnicity,” Portland Public Schools assigns teachers based on race, disciplines students based on race, and—most relevant here—allocates and redistributes school funding based on race. The Fourteenth Amendment forbids this.

2. Plaintiff Richard Raseley is a Portland taxpayer, the father of a student enrolled in Portland Public Schools, and head of Families for Fair School Funding (“FFSF”), a nonpartisan voluntary association whose members believe the District must allocate resources fairly, transparently, and according to educational need—not race. Plaintiffs file this civil-rights lawsuit to end two District policies that violate the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964—Equity Funding and the Districtwide Fundraising Policy.

3. **Equity Funding.** Portland Public Schools uses what it calls “Equity Funding” to allocate staff—and the money to pay for that staff—to each school. The program makes those allocations based on two “equity measures,” both of which are unlawful.

4. The first “equity” measure is an express racial classification. For schools serving grades K–8, the District designates every student who is “Black, Latino/Hispanic, Native American, [or] Pacific Islander” as “Historically Underserved” and then directs additional staff and money toward schools with higher concentrations of these students. Schools receive more money based on the race and ethnicity of the children who attend them. Schools with fewer

“Historically Underserved” students receive less. This is precisely what the Constitution forbids. “[N]o State has any authority under the equal-protection clause of the Fourteenth Amendment to use race as a factor in affording educational opportunities among its citizens.” *Students for Fair Admissions*, 600 U.S. at 204.

5. The second measure within Equity Funding is the percentage of students who automatically qualify for free or reduced-price meals, which is used for all schools. The measure, “Free Meals by Direct Certification,” is facially race-neutral but adopted with a racially discriminatory purpose. The District does not use this measure to fund cafeteria staff to prepare and serve those meals. The District instead uses the measure expressly “[i]n an effort to align with our RESJ lens”—and acknowledges that it functions as “a comparable measure of economic hardship across schools” that is highly correlated with a school’s “Historically Underserved” population. Against the backdrop of the District’s own commitment to let race suffuse every element of its operations, this ostensibly neutral measure is motivated by race. *See Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 265–66 (1977).

6. **Districtwide Fundraising Policy.** Because Equity Funding left schools with smaller proportions of “Historically Underserved” students with less per-student funding, parents at those schools attempted to fill the gap. For years, parents raised money through local school foundations—sharing one-third of amounts over \$10,000 with the District. The principal of the local school then used the foundation’s remaining funds to hire teachers’ aides, librarians, and other staff at the local school. Even with that private fundraising, those schools still received less per-student funding, indeed sometimes much less, than schools with higher proportions of “Historically Underserved” students. The gap remained, but parents could at least narrow it.

7. The District put a stop to that. Facing public criticism that allowing schools to keep locally raised funds perpetuated racial inequality—because the schools that benefited most served predominantly White and Asian student populations—the District adopted its May 2024 Board Policy called Districtwide Advocacy and Fundraising (“Districtwide Fundraising Policy”). Under that policy, all funds raised by local school foundations must be surrendered to the District, which distributes them through a committee operating under principles of racial equity. Parents can no longer donate directly to their children’s schools. They can no longer organize fundraising for teachers and classroom staff. The policy was adopted for a racially discriminatory purpose and must be reversed.

8. The human cost is not abstract. Plaintiff Richard Raseley spent years as chair of his daughter’s local school foundation, raising between \$100,000 and \$150,000 so that the principal could hire additional staff, including teachers’ aides who worked directly with students in the classroom. The Districtwide Fundraising Policy ended that.

9. Today, Mr. Raseley volunteers every Wednesday—washing lunch trays in the school cafeteria—because the school no longer has the staff it once did, and parents have been asked to volunteer to fill the gap. He would rather be raising money to hire school staff. But the Districtwide Fundraising Policy will not allow it.

10. Both Equity Funding and the Districtwide Fundraising Policy trace back to the District’s 2011 “Racial Educational Equity Policy,” which commits the District to closing racial gaps in student achievement by directing “additional and differentiated resources” to certain schools. The District itself concedes that those gaps reflect “complex societal and historical

factors”—forces that no school district has the power or legal authority to remedy by imposing racial classifications on today’s parents and students.

11. The Supreme Court has recognized a narrow exception permitting race-conscious remedies where a government entity seeks to remedy its *own* prior intentional discrimination. But Portland Public Schools has identified no such discrimination. And even if it had, its sweeping, self-described, race-suffused policies could not survive the Constitution’s demanding requirement that race-conscious policies be narrowly tailored to correct that past discrimination.

12. The law is clear: “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007). Plaintiffs respectfully request that the Court declare Equity Funding and the Districtwide Fundraising Policy violate the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964, enjoin Portland Public Schools from continuing to enforce both policies, and award nominal damages.

JURISDICTION AND VENUE

13. This is an action arising under the Constitution and laws of the United States. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4).

14. Plaintiffs seek relief under 42 U.S.C. §§ 1983, 1988, and 2000d.

15. Venue is proper in this Court under 28 U.S.C. § 1391(b) and LR 3-2 because all events giving rise to the claims detailed in this complaint occurred within the Portland Division of the District of Oregon. Additionally, Defendants are located in the Portland Division and are subject to the Court’s personal jurisdiction.

PARTIES

16. Plaintiff Richard R. Raseley is the father of a minor daughter. He resides in Portland, Oregon, within the boundaries of Portland Public Schools and within the attendance boundaries of Glencoe Elementary School. Mr. Raseley’s daughter, currently nine years old, is enrolled at Glencoe Elementary School, part of Portland Public Schools.

17. Plaintiff Families for Fair School Funding (“FFSF”) is an unincorporated association consisting of residents of the Portland, Oregon metropolitan area. It is a nonpartisan voluntary group whose members are committed to ensuring that Portland Public Schools allocates resources fairly, transparently, and according to educational need, and not based on race. In addition to Mr. Raseley, FFSF has at least one other member who has a child in Portland Public Schools and who is harmed by the policies challenged in this lawsuit.

18. Defendant School District No. 1J, Multnomah County, Oregon, doing business as Portland Public Schools (“Portland Public Schools,” “PPS,” or the “District”), is a municipal body of the State of Oregon. Portland Public Schools’ elected and appointed officials, officers, employees, and agents act under color of state authority. Portland Public Schools is located in Multnomah County, with its Offices at 501 North Dixon Street, Portland, OR 97227.

19. The District is governed by an elected seven-member Board of Education (“Board”), which is the final policy-making authority for the District. The Board also approves the District’s annual budget and approved the current and prior-year budgets containing Equity Funding. The Board also approved the Districtwide Fundraising Policy.

20. Defendant Edward Wang is a current member of the Board and currently serves as Chair. He is sued in his official capacity.

21. Defendant Michelle DePass is a current member of the Board and currently serves as Vice-Chair. She is sued in her official capacity.

22. Defendant Rashelle Chase-Miller is a current member of the Board. She is sued in her official capacity.

23. Defendant Stephanie Engelsman is a current member of the Board. She is sued in her official capacity.

24. Defendant Virginia La Forte is a current member of the Board of Education. She is sued in her official capacity.

25. Defendant Christy Splitt is a current member of the Board. She is sued in her official capacity.

26. Defendant Patte Sullivan is a current member of the Board. She is sued in her official capacity.

FACTS

I. Portland Public Schools Engages in a Pattern and Practice of Racial Discrimination.

27. Portland Public Schools is the largest school district in the state of Oregon, serving approximately 45,000 students in pre-kindergarten through twelfth grade in 81 schools and numerous programs.

28. Portland Public Schools' budget for the 2025–26 school year was approximately \$2.04 billion.

29. The 2025–26 budget included approximately \$70.5 million from various federal sources.

30. For the 2024–25 school year, the District’s budget was approximately \$2.39 billion.

31. The 2024–25 budget included approximately \$68.8 million from federal sources.

32. The District receives substantial federal funding every year. In some years, it has received more than \$100 million in federal funding.

A. The District Applies a “Racial Equity and Social Justice Lens” to Every Element of its Plan.

33. For approximately fifteen years, Portland Public Schools has organized its operations around a single animating principle: race. Race shapes how the District hires teachers, how it disciplines students, how it spends money, and—most relevant here—how it allocates funding among its schools.

34. The District’s two-sentence Mission Statement captures its commitment to race: “We provide rigorous, high-quality academic learning experiences that are inclusive and joyful. We disrupt racial inequities to create vibrant environments for every student to demonstrate excellence.”

35. That mission took its formal shape as early as 2011, when the Board adopted the Racial Educational Equity Policy 2.10.010-P (the “Equity Policy”)—committing the District to what it would later describe as “Racial Equity and Social Justice.”

36. The Equity Policy opens by declaring that the “achievement gap between white students and students of color is unacceptable,” noting that “for every year that we have data, white students have clearly outperformed Black, Hispanic and Native American students on state assessments in every subject at every grade level.”

37. The Equity Policy acknowledges that “school districts across the country reveal similar patterns” and that “complex societal and historical factors contribute to the inequities our students face.”

38. Despite acknowledging that forces beyond the District’s boundaries cause the racial achievement gap, the Equity Policy commits the District to “significantly change its practices in order to achieve and maintain racial equity in education.”

39. The Equity Policy does not identify any specific act of racial discrimination committed by Portland Public Schools. It cites no policy, practice, or decision by the District that caused the achievement gap it describes.

40. Indeed, the only cause the Equity Policy identifies is societal. The remedy it adopts is racial discrimination.

41. The Equity Policy’s core mechanism is the deliberate unequal distribution of resources.

42. Moving beyond what it calls “formal equality—where all students are treated the same,” the Equity Policy commits the District to “provide additional and differentiated resources to support the success of all students, including students of color.”

43. The Equity Policy also sets specific racial goals.

44. The policy’s first goal reiterates that the District will provide different levels of funding to achieve racially balanced test scores: “The District shall provide every student with equitable access to high quality and culturally relevant instruction, curriculum, support, facilities and other educational resources, even when this means differentiating resources to accomplish this goal.”

45. As another goal, the District commits to providing a racially balanced workforce: “[T]he District shall actively strive to have our teacher and administrator workforce reflect the diversity of our student body.”

46. And the District commits to achieving equal outcomes—in achievement and in discipline—across racial categories, by using the tool of “differentiated resources” set forth in the first goal: “The District shall remedy the practices, including assessment, that lead to the over-representation of students of color in areas such as special education and discipline, and the under-representation in programs such as talented and gifted and Advanced Placement.”

47. Notably, the Equity Policy refers by name to only three racial groups besides “white”: “Black, Hispanic and Native American.”

48. The Equity Policy proclaims that “[t]he Board will hold the Superintendent and central and school leadership staff accountable in meeting the goals.”

49. To help meet those goals, the Equity Policy instructs the Superintendent “to develop action plans with clear accountability and metrics, ... including prioritizing staffing and budget allocations.”

50. The Equity Policy also directs the District to “report on these goals at least twice a year” and “provide the Board with updated action plans each year.”

51. In June 2012, the Superintendent submitted a comprehensive “5-Year Racial Equity Plan” to the Board as required by the Equity Policy. The plan’s theory is explicit: “If we apply a Racial Equity Lens to key policies, programs, practices and decisions in core business areas—with an intentional focus on ‘equal outcomes’ rather than ‘equal inputs’—students and families of color will experience more equitable outcomes.”

52. The 5-Year Plan identifies “Priority Strategies” with measurable targets—all defined by race.

53. One strategy directs the District to increase the percentage of “students of color” in talented and gifted programs while decreasing their percentage in special education and remedial classes.

54. Another strategy directs the District to “decrease ... the relative rate of exclusionary discipline for students of color.”

55. A third strategy directs the District to “[a]pply a Racial Equity Lens to key policies, programs, practices and decisions in core business areas *with a focus on differentiating resources to better support students of color.*” (emphasis added).

56. The “rationale” for this strategy states that “intentional focus on ‘equal outcomes’ vs. ‘equal inputs’ will result in more equitable outcomes for students and families of color.”

57. The “measure of success” for this racial equity goal is both “evidence that the Racial Equity Lens tool is used for key policy, program and practice decisions” and “organizational behavior that lead[s] to more equitable outcomes for students and families of color.”

58. Additionally, the Equity Plan sets as a Priority Strategy: “[f]acilitate development, adoption and implementation of an affirmative action policy” to “[i]ncrease the percentage of staff of color for every employee group.”

59. In line with those staffing goals, the Board in 2013 adopted Diversity in Employment Policy 5.10.025-P, which states: “PPS must develop a workforce that reflects the diversity of students it serves. Students must see their diverse racial, cultural, and linguistic

characteristics reflected in the school staff who are guiding them toward academic and other success.”

60. In February 2016, the Board adopted a policy that explicitly extended the Equity Policy’s principles to the budget. A Board document titled “Budget Principles,” restates the Equity Policy’s commitment to go “beyond formal equality – where all students are treated the same” by providing “additional and differentiated resources to support the success of all students, including students from all historically underserved populations. (Based upon the PPS Racial Educational Equity Policy).”

61. In the 2018-19 school year, the District formalized its framework under a new name: “Racial Equity and Social Justice Lens” (“RESJ Lens”).

62. In April 2021, the District updated its RESJ Lens, declaring that “[i]t is through racial equity and social justice that PPS will become a premier school district.”

63. In that April 2021 update, the District developed a “theory of action to provide focus and to center our decision making on the experiences of students of color.” That theory of action states that the District will “braid Racial Equity and Social Justice strategies into our instructional core.”

64. The updated RESJ Lens leaves no ambiguity about its scope: “The primary focus of the Racial Equity and Social Justice lens is on race and ethnicity.”

65. While the District acknowledges “many other areas of the opportunity gap,” it concludes that “a focus on race by everyone at PPS allows direct improvements in the other dimensions of diversity.”

66. Accordingly, the District commits to “explicitly identifying disparities in education outcomes for the purpose of targeting areas for action, intervention and investment.”

67. In June 2022, the Board issued its goals for 2022–27—the only Board-level goal-setting document currently on the District’s website.

68. The Board’s sole goal is “a focused effort on narrowing the persistent gaps in student outcomes in order to eventually eliminate these gaps completely.”

69. To that end, the document specifies targeted improvements in test scores for specific racial groups. For example, for “Eighth Grade Readiness,” the District states:

Eighth Grade Readiness

We must accelerate achievement for students of color in order to eliminate persistent gaps. Our goal is to close the opportunity and outcome gaps in eighth grade readiness between students of color and their white peers by the metrics set forth, as measured by the Oregon State Assessment System (OSAS)

- African - American Students by 3.2 percentage points per year
- Pacific Islanders by 2.7 percentage points per year
- Native - American Students by 1.1 percentage points per year
- Latino Students by 2.6 percentage points per year
- Asian Students by - percentage points per year. Asian students are already on track for this goal.

70. The 2022-2027 Board Goals do not include any goals for improving the test scores of White students or of students who might be characterized by other racial groupings.

71. The Portland Public Schools’ 2025–26 Budget carries the RESJ Lens forward. Under the heading “Racial Equity and Social Justice,” the District’s 2021-25 Strategic Plan—incorporated into the budget—declares:

The issues of race, racism and racial equity are important to the strategic plan as a whole—and they suffuse other themes and action areas

throughout. It is important that all stakeholders see opportunities to confront racism and promote equity *in every element of our plan*.

2025–26 Budget Vol. 1 at 12, 49 (emphasis added).

72. The same budget confirms that “[t]he current primary focus of the RESJ lens is on race and ethnicity” 2025–26 Budget Vol. 1 at 267.

73. The 2025–26 budget also created something called the “Center for Black Student Excellence” to provide programs available only to Black students, which the budget describes as “a constellation of built environments and a designated set of culturally responsive strategies that celebrate and advance Black student achievement at PPS.” 2025–26 Budget Vol. 1 at 12, 49.

74. The federal government has taken notice. On February 17, 2026, the U.S. Department of Education’s Office of Civil Rights announced that it opened an investigation into the Center for Black Student Excellence as a violation of Title VI of the Civil Rights Act of 1964.

75. Race also permeates the District’s relationship with its own employees. The District’s collective bargaining agreement with its teaching staff, amended in late 2023, now requires teachers to take a student’s race into account before imposing discipline. “The plan must take into consideration the impact of issues related to the student’s ... race”

76. The same collective bargaining agreement protects “minority teachers” from involuntary transfers that would “decrease the building’s percentage of minority teachers to less than the student minority percentage in the building or below the percentage of minority professional educators in the District,” effectively making teacher assignments based in part on race.

77. Race also suffuses the two policies challenged in this lawsuit: Equity Funding and the Districtwide Fundraising Policy.

B. The District Uses “Equity Funding” to Discriminate Based on Race.

78. Portland Public Schools has a policy of allocating funds to schools for hiring full-time equivalent (FTE) teachers and other staff based on “equity.”

79. The District’s budgets use two “measures of equity” for that reallocation: “Combined Historically Underserved FTE,” which is used only for grades K–8, and “Socio-Economic Status FTE,” which is used for all schools.

80. This lawsuit challenges two aspects of those measures: (1) the express racial classification in what the District calls the “Combined Historically Underserved FTE” and (2) the percentage of students automatically eligible for free and reduced-price lunches (“Free Meals with Direct Certification”), which is used both in the “Combined Historically Underserved FTE” and the “Socio-Economic Status FTE.”

81. The Board approves and has approved the District’s annual budget. Those budgets have contained some form of Equity Funding, together with some form of these two “measures of equity,” since at least 2013.

82. In 2013, as part of implementing its Equity Policy, Portland Public Schools introduced “Equity Allocation” into its annual budget.

83. The District’s 2013–14 budget states that the District “will continue to have equity at the center of all that we do.” 2013–14 Annual Budget at 10.

84. Referring to the 2011 Equity Policy, the 2013–14 budget acknowledges that, to comply with the policy, the District must direct funding based on race, specifically stating: “The

Racial Educational Equity Policy identifies equity goals for PPS and recognizes that we will *need to differentiate resources and services in order to meet those targets.*” *Id.* (emphasis added).

85. As a result, the 2013–14 budget creates a concept called “Equity Allocation.” 2013–14 Annual Budget at 39.

86. That budget defines Equity Allocation as “[s]taff allocation based on the number of students qualifying for free or reduced-price meals and the number of students who meet the definition of ‘combined underserved.’”

87. Under the original Equity Allocation, certain K–8 schools qualify for the financing of additional teaching and staff positions if a requisite percentage of the school’s students are “Combined Underserved,” a term used interchangeably with “Historically Underserved.” 2013–14 Annual Budget at 41.

88. To qualify as Combined (or Historically) Underserved, a student needs to be at least one of the following: (a) African-American, Latino/Hispanic, Native American, or Pacific Islander; (b) qualified for Special Education services; (c) qualified for free or reduced-price meals by Direct Certification; or (d) qualified for English as a Second Language services.

89. The Equity Allocation also provides staff allocation, and therefore the associated funding, based on the number of the school’s students who are eligible for free or reduced-price meals, which the 2013–14 Budget calls a Socio-Economic Status FTE.

90. The Equity Allocation in the 2013–14 budget is now called “Equity Funding.” 2025–26 Budget Vol. 1 at 230. Although the formula has changed slightly over the years, the core concepts have remained the same.

91. The current 2025–26 budget defines Equity Funding as follows:

K-5 and K-8 Equity

In an effort to align with our Equity lens across the District, additional resources are allocated to schools in need through Equity Funding. The equity allocation in grades K-8 is 4% of the total K-8 Teachers allocated across grades K-8, with 2% allocated based on Socio-Economic Status, and the other 2% allocated based on Combined Historically Underserved. The allocations are rounded to the nearest 0.5 increment. Note, K-5 Art teachers are not included in the total K-8 teachers used for the allocation, as those are mainly funded by the City Arts Education and Access tax.

- Socio-Economic Status FTE is allocated to schools with over 20% of students who are eligible for free meals by direct certification.
- ...
- Combined Historically Underserved FTE is allocated to schools with over 40% of students who meet one of the following criteria: Special Education Eligibility, Limited English Proficiency, Free meal eligibility by direct [certification], African-American, Hispanic, Native American or Pacific Islander race.

2025–26 Budget Vol. 1 at 230 (emphasis added); *see also* 2025–26 Budget Vol. 1 at 231–32 (“Middle School Equity”).

92. The “Combined Historically Underserved FTE,” allocates two percent of the District’s K–8 staff, and associated funding, to K–8 schools based, in part, on the racial composition of those schools.

93. “Historically Underserved” is defined using race:

Combined Underserved – Please note that the District uses the following three terminologies interchangeably: Combined Underserved, Combined Historically Underserved, and Historically Underserved. A new subgroup of students originally established by ODE [Oregon Department of Education] as part of the requirements of the Elementary and Secondary Education Act (ESEA) Waiver. PPS’s current definition of Combined Underserved includes the following:

- Students eligible to receive free meals by Direct Certification
- Students eligible for Special Education
- Students eligible to receive English as a Second Language (ESL) services
- Students with any of the following races, ethnicities, or ancestry:
 - ▶ Black
 - ▶ Latino/Hispanic
 - ▶ Native American
 - ▶ Pacific Islander

2025-26 Budget Vol. 1 at 255 (emphasis in original).

94. The interchangeable categories Historically Underserved, Combined Underserved, and Combined Historically Underserved therefore expressly classify students based on specific races, ethnicities, or ancestry.

95. The definition of Historically Underserved, and thus also the Combined Historically Underserved FTE, includes “students eligible to receive free meals by Direct Certification.”

96. Direct Certification means that a student or family automatically qualifies for free or reduced-priced meals “through a number of avenues.” 2025–26 Budget Vol. 1 at 230. This does not include students eligible for free or reduced-priced meals through a paper application. 2025–26 Budget Vol. 1 at 247.

97. According to the District, “Direct Certification is a proxy measure to determine economic disadvantage.” 2025-26 Budget Vol. 1 at 230.

98. The Socio-Economic Status FTE allocates another two percent of the District’s staffing based on each school’s respective number of students who are “eligible to receive free

meals by Direct Certification.” 2025-26 Budget Vol. 1 at 230, 231–32 (“Socio-Economic Status FTE”).

99. The Socio-Economic Status FTE is defined as follows:

Socio-Economic Status FTE is allocated to schools with over 20% of students who are eligible for free meals by direct certification.

- *Direct Certification is a proxy measure to determine economic disadvantage.* Students eligible to receive free meals by Direct Certification are students who are eligible for free meals, as identified by the state. Students or families qualify for Direct Certification through a number of avenues such as eligibility for Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF), Migrant Ed, McKinney Vento, or foster care.
- Starting in 2023, Medicaid was added as another way for families to qualify for free or reduced priced meals in Oregon. Students who qualify for free meals via Medicaid are counted as Direct Certification.

2025-26 Budget Vol. 1 at 230 (emphasis added).

100. Accordingly, “Free Meals by Direct Certification” is used twice—both in the Combined Historically Underserved FTE and the Socio-Economic Status FTE.

101. Put differently, “[t]he District has two demographics that are used as measures of equity: Direct Certification and Combined Historically Underserved. Direct Certification is a subset of Combined Historically Underserved.” 2025–26 Budget Vol. 1 at 246.

102. According to the District’s October 1, 2025 data, on the Enrollment of Underserved Groups, the percentage of students in any given school categorized as qualifying for Free Meals by Direct Certification is strongly correlated with students designated as Historically Underserved, *i.e.*, as Black, Latino/Hispanic, Native American, Pacific Islander, or Multi-Race (other than White and Asian).

103. In the school year 2024–25, the District started providing all students with free meals (breakfast and lunch), regardless of qualification or certification. 2025–26 Budget Vol. 1 at 246. That policy continued for the current school year.

104. Even though all students can obtain free meals, the District nonetheless maintains data on students entitled to Free Meals by Direct Certification. 2025–26 Budget Vol. 1 at 246.

105. According to the District, “Free Meal[s] by Direct Certification is the only comparable measure of economic hardship across schools.” 2025–26 Budget Vol. 1 at 247.

106. The District’s budget does not specify that any Equity Funding owing to the percentage of students entitled to Free Meals by Direct Certification will be, or must be, used to hire cafeteria staff.

107. Moreover, the District does not use either the number of meals served or the amount of food shipped to each school by Portland Public Schools Nutrition Services as a measure of how much Equity Funding is provided on account of the percentage of students who qualify for Free Meals by Direct Certification.

108. In sum, and especially against the backdrop of the District’s “RESJ Lens,” the District does not use Free Meals by Direct Certification to determine the number of FTE staffing needed for meal preparation, service, and related work.

109. Instead, the District uses Free Meals by Direct Certification as a means to provide schools with staff, and associated funding, based on the racial makeup of the school’s students—both through the Combined Historically Underserved FTE and through the Socio-Economic Status FTE.

110. Equity Funding as included in the District’s 2025–26 budget was materially unchanged from Equity Funding in the prior year’s budget from the 2024–25 school year; the defined terms and the program requirements are materially identical. *See* 2024–25 Budget Vol. 1 at 220–23, 244.

111. At least 20 individual K-8 schools in Portland Public Schools are listed as receiving zero Equity Funding in the 2025–26 budget, and at least 19 schools are listed as receiving zero Equity Funding in the 2024–25 budget.

112. Those schools include:

2024–25 Budget	2025–26 Budget
<i>19 Schools — Zero Equity Funding</i>	<i>20 Schools — Zero Equity Funding</i>
Abernethy (K-5)	Abernethy (K-5)
Access (2-8)	Access (1-8)
Alameda (K-5)	Alameda (K-5)
Beverly Cleary (K-8)	Beverly Cleary (K-8)
Bridlemile (K-5)	Bridlemile (K-5)
Capitol Hill (K-5)	Capitol Hill (K-5)
Duniway (K-5)	Duniway (K-5)
Forest Park (K-5)	Forest Park (K-5)
-	Glencoe (K-5) *
-	Irvington (K-5) *
Laurelhurst (K-8)	Laurelhurst (K-8)
Maplewood (K-5)	-
Mt. Tabor (6-8)	Mt. Tabor (6-8)
Odyssey (K-8)	Odyssey (K-8)
Richmond (K-5)	Richmond (K-5)
Rieke (K-5)	Rieke (K-5)

Sellwood (6-8)	Sellwood (6-8)
Skyline (K-8)	Skyline (K-8)
Stephenson (K-5)	Stephenson (K-5)
West Sylvan (6-8)	West Sylvan (6-8)
Winterhaven (K-8)	Winterhaven (K-8)

* New to zero-funding list in 2025-26. Source: PPS 2024-25 and 2025-26 Budget Vol. 2, "Gen Fund Equity" line items. Maplewood (K-5) received zero Equity Funding in 2024-25 but did receive some Equity Funding in 2025-26.

113. The budget entries for individual schools do not differentiate between the Socio-Economic Status FTE and the Combined Historically Underserved FTE.

114. Schools that receive Equity Funding do not receive the same number or proportion of FTEs.

115. Portland Public Schools does not use the Combined Historically Underserved FTE for high school funding. But the District does allocate high school funding under the label "High School Equity (Socio-Economic Status FTE)," which allocates nine percent of the total teaching staff across all high schools based on each school's respective number of students who are eligible for Free Meals by Direct Certification. 2025-26 Budget Vol. 1 at 233.

116. The express purpose of High School Equity is "an effort to align with our RESJ Lens across the District." *Id.*

117. In the 2025-26 budget, every high school received some "High School Equity (Socio-Economic Status FTE)," with values ranging from 1.33 to 11.00. *See* 2025-26 Budget Vol. 2 at 6-171 (three "Gen Fund Equity" line items).

118. The 2024-25 budget contained the same funding mechanism and definitions for "High School Equity (Socio-Economic Status FTE)."

119. In the 2024–25 budget the values for High School Equity (Socio-Economic Status FTE) ranged from 2.50 to 12.16. *See* 2024–25 Budget Vol. 2 at 6–171 (three “Gen Fund Equity” line items).

120. As a result, certain high schools were provided with more staff, and associated funding, based on the number of students eligible for Free Meals by Direct Certification.

C. The Districtwide Fundraising Policy Was Adopted for Racially Discriminatory Reasons.

121. Portland Public Schools has also engaged in racial discrimination through the Board’s May 2024 policy titled Districtwide Advocacy and Fundraising 7.20.010-P (“Districtwide Fundraising Policy”).

122. Until May 2024, local school foundations were permitted to raise private charitable funds earmarked for specific local schools within the District, which the principal of the school could use in several different ways, including for hiring additional staff (“Local Fundraising Policy”).

123. From at least the 2018–19 school year, until the 2024–25 school year, one-third of any funds raised by local school foundations above a \$10,000 threshold was required to be paid over to a districtwide entity called the PPS Parent Fund. 2024–25 Budget Vol. 1 at 224; *see* 2018–19 Budget at 23.

124. Under the Local Fundraising Policy, the PPS Parent Fund, established in 2019, would distribute the funds each year through PPS Parent Fund Awards “to high-need schools using demographic data; a formula that is examined each year to ensure the funds are reaching the highest need schools.” 2024–25 Budget Vol. 1 at 224.

125. The funds that the PPS Parent Fund distributed “may be used for staffing, contracts, or supplies within district guidelines with the goal of supporting the School Improvement Plan. Parent Fund Awards are intended to be expended each year because they are awarded based on current student demographics.” 2024–25 Budget Vol. 1 at 224.

126. Local school foundations raised \$3,439,384 in 2023–24, to be distributed for the 2024–25 school year. For the 2024–25 school year, the Parent Advisory Committee recommended that the Board distribute a total of \$1,030,000, as follows:

- \$660,000 going to high-impact tutoring,
- \$70,000 going to an IXL digital platform,
- \$200,000 going to food pantries in Title I schools, and
- \$100,000 going to seed funding for future fundraising.

The Board approved these recommendations on May 6, 2025.

127. This fundraising system changed for the 2024–25 budget year. On May 7, 2024, the Board adopted the Districtwide Fundraising Policy, replacing the Local Fundraising Policy.

128. Under the Districtwide Fundraising Policy, *all* donations are collected by a single districtwide foundation. The money will then be distributed according to a formula developed in advance of the school year and approved by the Board.

129. According to the 2024–25 Annual Report of The Fund for Portland Public Schools, total fundraising in the District was only \$593,324 in 2024–25—the first full year after the Districtwide Fundraising Policy went into effect.

130. This represents a more than 80% decline in fundraising by local foundations under the Districtwide Fundraising Policy.

131. The Districtwide Fundraising Policy’s introductory paragraph explains that its rationale is to conform the District’s fundraising policies to Defendants’ racial goals.

132. It states: “Given our common mission and vision, the District encourages parents and community groups to advocate, fundraise and support improving the educational experience districtwide *in alignment with our racial equity and social justice values.*” (emphasis added).

133. The Board would not have adopted the Districtwide Fundraising Policy if not for the perceived racial impact of the change in policy.

134. Under the Local Fundraising Policy, schools with predominantly White or Asian populations were, on average, more successful in raising private charitable funds than were local schools with predominantly African-American, Latino/Hispanic, Native American, or Pacific Islander populations.

135. Local political activists working on social media launched a campaign characterizing the Local Fundraising Policy as racist and that it is racist for parents to want to raise money for their own local schools.

136. In the summer of 2020, an organization calling itself Reform PPS Funding began a public campaign against the Local Fundraising Policy.

137. Reform PPS Funding objected to the Local Fundraising Policy on the grounds that it distributed more resources to White students than to Black or other “Historically Underserved” students.

138. Reform PPS Funding posted charts on its website purporting to show that local foundation fundraising was significantly higher at schools with a relatively lower percentage of

Historically Underserved races and ethnicities, *i.e.*, Black, Latino/Hispanic, Native American, and Pacific Islander.

139. Reform PPS Funding implies, if not asserts, that schools with higher Historically Underserved populations have less per-student funding than schools with lower percentages of Historically Underserved students.

140. But this is not true. The District's policies—including Equity Funding—increase the amount of per-student funding for schools with higher percentages of Historically Underserved students. *See* 2024–25 Budget Vol. 2 at 4–5.

141. Indeed, the percentage of Historically Underserved students at a school is positively correlated with funding per student.

142. In other words, schools with higher percentages of students who are Historically Underserved receive higher per-student funding than do schools with lower percentages of students who are Historically Underserved.

143. The Local Fundraising Policy allowed parents of children with lower per-student funding to try to narrow that funding gap between their child's school and the better-funded schools with a higher percentage of Historically Underserved students.

144. Even with additional funding provided by local school foundations under the Local Fundraising Policy, local schools with predominantly White or Asian student populations were still receiving less funding per student on average than local schools with predominantly African-American, Latino/Hispanic, Native American, or Pacific Islander student populations.

145. The Board's decision to adopt the Districtwide Fundraising Policy actually exacerbated the differences in per-student funding across Portland schools.

146. On May 9, 2023, the District’s Community Budget Review Committee (CBRC) issued its 2023–24 Annual Budget Review. This report, which contained recommendations to the Board, is replete with references to race, to desired racial outcomes, and to the District’s Racial Equity and Social Justice policy.

147. For example, the CBRC “encourage[s] the district to continue embedding equity–through an intersectional lens–into budget creation and implementation”

148. The CBRC declared that “school foundation funds should be acknowledged as inequities.”

149. This is because, according to the CBRC, “some schools have more access to foundation funds than others and this increased funding is largely available to schools serving populations of higher SES and lower percentages of Black, brown, and indigenous students.”

150. The CBRC “encourage[d] the district” to depart from the Local Fundraising Policy by “develop[ing] strategies to decrease the inequities including but not limited to policy revisions that could provide for a collective foundation district-wide to distribute collected donations in a more equitable fashion.”

151. The CBRC’s recommendation for “policy revisions that could provide for a collective foundation district-wide” is what the Board ultimately adopted in the Districtwide Fundraising Policy.

152. According to public comments submitted in writing and presented orally at public meetings, many parents opposed the adoption of the Districtwide Fundraising Policy.

153. For example, one letter submitted in opposition to the proposed Districtwide Fundraising Policy had more than 1,250 signatures.

154. Notwithstanding that opposition, the Board approved the Districtwide Fundraising Policy by a vote of five to two.

155. In summing up the argument in favor of the Districtwide Fundraising Policy, then-serving Board member Julia Brim-Edwards repeatedly stated that the new policy should be adopted to bring fundraising into alignment with the District’s Racial Equity and Social Justice policy.

156. For example, at a May 7, 2024, Board meeting, she stated that “[o]ur racial equity and social justice policy requires us to center the voices that have not been heard or are not often heard in the center of the conversation.” Referring to local school foundations, she stated “[t]hese parents have done nothing wrong ... but that is also not a reason to not change something that does not align with our racial equity and social justice policy.”

157. Ms. Brim-Edwards’s remarks at the May 7, 2024, hearing mirrored many of the written comments submitted in support of the new Districtwide Fundraising Policy, which described that support in racial terms.

158. For example, the written comments included the following statements:

- “[Local School Foundations] are not in line with the district’s equitable funding model or its RESJ lens.” (Megan M., April 2024.)
- “I can’t support a system that brings in disproportionately large amounts of money to wealthy, predominantly white schools while schools with children of color receive less funds. Allowing this system to continue goes directly against the PPS Equity Funding Model” (Mackenzie W., April 11, 2024.)

- “ISFs fund positions are primarily wealthy, primarily white schools Moving to a districtwide foundation is an opportunity to tear down a fundamentally inequitable and frankly racist institutional structure.” (Harmony Q., April 2024.)
- “Our whitest schools benefit the most from our current model. White privilege is hurtful to our entire district.” (Ellie R., April 29, 2024.)
- “The model that has been in place for the last 25 years is not equitable and serves the whitest and richest children and neighborhoods.” (Julien R., April 29, 2024.)
- “Allowing schools to keep and raise their own funding compounds on top of decades of racist policy within Portland and the State of Oregon more broadly.” (Kate O., April 29, 2024.)
- “The PPS Racial Educational Equity Policy makes clear the problem, and the role of PPS in the solution. There is overt measurable inequity primarily along racial lines driven by the existing foundation system.” (Anonymous, May 6, 2024.)

159. The District’s decision to adopt the Districtwide Fundraising Policy—choosing to divert 100% of funds raised by local foundations and deviate from the previous policy of collecting one-third of those funds above \$10,000—is unlawfully racially motivated.

160. The Board’s adoption of the Districtwide Fundraising Policy should be reversed.

161. Any new fundraising policy, including the method by which the PPS Parent Fund makes awards, must award funds in a manner that complies with the Constitution.

162. It is not clear how funds will be distributed under the Districtwide Fundraising Policy, which states: “A formula for the distribution of any funding to individual schools shall be developed in advance of the school year by a Parent Advisory Committee, shared with school

administrators for feedback, and a recommendation made to the Board of Education for its approval.”

163. The members of the Parent Advisory Committee are selected and appointed by the Board. The membership is required to “reflect District demographics, including racial/ethnic and socio-economic diversity...” The criteria for Parent Advisory Committee decision-making include “Racial Equity & Social Justice.”

164. In prior years, the PPS Parent Fund made awards based on the percentage of a school’s students who are Historically Underserved and who qualify for Free Meals by Direct Certification.

- 2024–25: “Schools and programs enrolling 25% or more students eligible for Free Meals by Direct Certification qualify for an award. The size of the grant award is based on a school or program’s number of students designated as Combined Underserved.”
- 2023–24: “PPS Parent Fund Awards are made possible by the fundraising contributions of PPS Local School Foundations. To qualify for an award, schools and programs had to have 15% or greater students who qualify for Free Meals by Direct Certification. The size of the grant award is based on a school or program's number of students designated as Combined Underserved.”
- 2022-23: “To receive a grant, a school or program must enroll 1) at least 40% students identified as historically underserved[.] Combined Underserved includes the following: Students eligible for Special Education, Students with Limited English Proficiency, Students eligible to receive free meals by Direct Certification, Students with any of the following races, ethnicities, or ancestry: Black, Latino/Hispanic, Native American,

Pacific Islander. [A]nd 2) at least 15% students eligible for free meals by direct certification. Using just two data points enables us to identify the schools with the greatest need for an award and provide clear transparency.”

- 2021-22: “To be eligible for a grant a school or program must enroll 1) at least 40% students identified as historically underserved and 2) at least 15% students eligible for free meals by direct certification.”
- 2020–21 and 2019–20: “To be eligible for a PPS Parent Fund Award, a school or program must have: 1. At least 40% students identified as Historically Underserved[.] 2. At least 15% students eligible for free meals by direct certification[.]” “Award amounts are tied based on the type of school, and on the percentage and number of historically underserved students.”

165. Because “Historically Underserved” includes an express racial classification and “Free Meals with Direct Certification” is a facially neutral category used for a racially discriminatory purpose, any replacement fundraising policy cannot use those unconstitutional measures.

II. Defendants’ Discriminatory Policies Cause Plaintiffs Continuing Injury.

A. Plaintiff Richard Raseley

166. Richard Raseley, a resident of Portland, Oregon, pays local property taxes that fund Portland Public Schools, including Glencoe Elementary School.

167. Mr. Raseley has two daughters: a nine-year-old who currently attends Glencoe Elementary, and a fourteen-year-old who previously attended Glencoe and Mt. Tabor Middle School.

168. As the parent of a child attending Portland Public Schools, Mr. Raseley is very concerned about the quality of his children's education.

169. Mr. Raseley is a deeply committed parent who has spent years investing his time and his own money in Portland Public Schools on behalf of his daughters and their classmates.

170. Before the adoption of the Districtwide Fundraising Policy, Mr. Raseley had been actively involved in the local school foundation (Glencoe Foundation) supporting Glencoe. Mr. Raseley served as Chair of Glencoe Foundation for two school years, starting in the 2022-23 school year.

171. As Chair of Glencoe Foundation, Mr. Raseley estimates that he devoted between 100 and 120 hours organizing fundraisers, recruiting donors, and building community support for Glencoe. During his tenure, Glencoe Foundation raised between \$100,000 and \$150,000 for the school. Mr. Raseley also personally contributed approximately \$2,000, together with in-kind donations such as an inflatable arch, a bubble machine, and various decorations.

172. In the past, Glencoe Foundation funds were available to Glencoe Elementary's principal to be spent directly on Glencoe students. For example, the principal used the foundation money to hire teachers' aides or librarians whose work directly supported classroom instruction at Glencoe.

173. Indeed, Portland Public Schools has publicly stated that allocating additional resources to schools promotes higher achievement at those schools. Sharing this belief, Mr. Raseley understood the money raised by Glencoe Foundation to be a direct investment in the quality of education his younger daughter and her classmates received at Glencoe, particularly

when that funding is used to hire teachers' aides, librarians, front office staff, or other student-facing staff.

174. The Board's Districtwide Fundraising Policy, adopted in May 2024, ended that arrangement. After May 2024, Glencoe Foundation was prohibited from directing funds it raised to Glencoe.

175. As a result of the Districtwide Fundraising Policy, Glencoe Elementary lost access to the substantial funds Glencoe Foundation had previously provided each year, which for the 2023–24 fundraising year (to be used during the 2024–25 school year) was approximately \$41,500 and for the prior year was approximately \$57,000.

176. Because Glencoe Elementary lost access to those foundation funds, the school has fewer resources for staffing than it had before the Districtwide Fundraising Policy took effect.

177. Students at Glencoe Elementary, including Mr. Raseley's younger daughter, and their parents are harmed by the Districtwide Fundraising Policy because their school now receives less money and has fewer budgeted staff than before the policy was adopted.

178. Defendants essentially acknowledge that decreased staff funding harms students and additional staff funding benefits students. Otherwise, Defendants would not use various policies, like Equity Funding, to shift funding to certain favored schools on the premise that additional funding will improve educational outcomes there.

179. The Districtwide Fundraising Policy also directly injured Mr. Raseley. Under the policy, he can no longer donate money to Glencoe Foundation to support staffing at Glencoe, and he can no longer organize fundraising efforts directed to Glencoe's benefit. The Districtwide

Fundraising Policy denies Mr. Raseley the ability to advocate for his daughter's school in the way he devoted years of his life to doing.

180. Rather than raise funds to hire staff at Glencoe Elementary, Mr. Raseley now volunteers every Wednesday, washing lunch trays in the school cafeteria. He does so because Glencoe lacks the staff it needs—a direct consequence of the Districtwide Fundraising Policy.

181. Other parents at Glencoe have similarly been asked to perform volunteer labor to compensate for the school's staffing shortfall caused by the Districtwide Fundraising Policy, for example by serving as crossing guard monitors, recess monitors, lunch monitors, or dishwashers.

182. Mr. Raseley would rather recruit parents and community members to raise money to pay for needed staff at Glencoe. The Districtwide Fundraising Policy has denied him that option.

183. Mr. Raseley and his younger daughter are also harmed by Portland Public Schools' Equity Funding program. Although Glencoe Elementary qualified for a small amount of Equity Funding in the 2024–25 adopted budget, it does not qualify for any Equity Funding in the 2025–26 budget.

184. Glencoe receives less money under the Equity Funding policy than it would without the policy. In other words, Glencoe is a net loser under Equity Funding.

185. As a result, students at Glencoe, including Mr. Raseley's younger daughter, and their parents are harmed by the Equity Funding program because their school receives less money and has fewer budgeted staff than it would absent the Equity Funding program.

186. Mr. Raseley made the costly decision to enroll his older daughter in private school. After his older daughter completed elementary school at Glencoe, Mr. Raseley withdrew

her from Mt. Tabor Middle School and enrolled her in private school. He did this in part because he felt that Mt. Tabor was being underfunded by Portland Public Schools and, consequently, lacked adequate staffing. Mr. Raseley now pays private school tuition for his older daughter.

187. Mr. Raseley may face the same decision with respect to his younger daughter. If the District continues to deprive Glencoe and its associated middle school of adequate resources—including, in part because of Equity Funding and the Districtwide Fundraising Policy—Mr. Raseley may find it necessary to remove his younger daughter from Portland Public Schools as well, at additional cost.

188. Mr. Raseley and both of his daughters are not among those races, ethnicities, or ancestries that Portland Public Schools considers to be “Historically Underserved” for purposes of the Equity Funding program.

B. Plaintiff Families for Fair School Funding

189. Families for Fair School Funding (FFSF) is a nonpartisan, voluntary association of Portland area residents committed to ensuring that Portland Public Schools allocates resources fairly, transparently, and in accordance with educational need.

190. FFSF’s members share the core belief that fairness cannot be achieved through racial discrimination.

191. FFSF is also guided by the following common principles stated on its website, familiesforfairschoolfunding.org:

- a. Transparency: Parents and taxpayers deserve to know exactly how PPS allocates resources—and why.
- b. Collaboration: FFSF creates space for informed parent discussions about funding approaches that serve all students.

- c. Solution-Oriented: FFSF explores alternative funding methods that serve all students' educational needs without discrimination.
- d. Accountability: the District must make funding decisions that comply with federal law and serve our community's values.

192. Mr. Raseley is the head of FFSF.

193. FFSF's members are residents of the Portland metropolitan area.

194. The majority of FFSF's members have children who attend Portland Public Schools.

195. FFSF members have chosen not to be publicly identified because they have a genuine fear of retaliation—by other community members who support the District's challenged policies, by the District, or by its employees—if their identities were known.

196. This fear is grounded in concrete experience. When parents opposed the Districtwide Fundraising Policy, those parents were publicly labeled "racists" and subjected to other derogatory attacks.

197. Indeed, when Mr. Raseley sent out an email to share information and his concerns about how the District allocates resources to schools and to gauge interest in joining a group to address these issues, he received "hate mail." For example, one Portland resident responded:

I would urge you to take your kids private, and let your community be. Unless there's a "silent majority" of racist portland parents just looking to join with your cause? Please let me know their names too!

198. Another Portland resident responded:

Coming on here to let you know that you are a ridiculous human being and most defin[i]tely part of what is wrong with our society. Please go away.

199. In response to a story in Willamette Week about this lawsuit, one commenter on Facebook wrote:

Cry me a f---ing River. Maybe send both of your kids to private school and shut the f--k up. (Original message not redacted.)

200. In addition to Mr. Raseley, several FFSF members have children who have already been harmed by the District's policies that this lawsuit challenges.

201. For example, one FFSF member has a child who attends Bridlemile Elementary School.

202. Bridlemile Elementary received zero equity funding in both the 2024–25 budget and the 2025–26 budget.

203. Students at Bridlemile Elementary School and their parents, including this anonymous FFSF member and their child, are harmed by the Equity Funding program because Bridlemile receives less money and has fewer budgeted staff than it would without the Equity Funding program.

204. Bridlemile students and their parents are therefore denied the educational benefits that students at Equity Funding recipient schools receive under the program.

205. The anonymous FFSF member and their child are also harmed by the Districtwide Fundraising Policy. Before May 2024, Bridlemile received significant funds each year from its local school foundation. Bridlemile lost access to these funds as a result of the Districtwide Fundraising Policy, which for the 2023–24 fundraising year (to be used in the 2024–25 school year) was approximately \$144,500, and for the prior year was approximately \$75,000.

206. Due to the Districtwide Fundraising Policy, Bridlemile receives less money and has fewer resources for staffing than it did before the policy took effect. And students at

Bridlemile and their parents, including the anonymous FFSF member and their child, are deprived of educational benefits those resources would have provided.

207. Another anonymous FFSF member has a child who attends Duniway Elementary School.

208. Duniway Elementary School did not receive any equity funding in both the 2024–25 budget and the 2025–26 budget.

209. Students at Duniway Elementary School and their parents, including this anonymous FFSF member and their child, are harmed by the Equity Funding program because Duniway receives less money and has fewer budgeted staff than it would without the Equity Funding program.

210. Duniway students and their parents are therefore denied the educational benefits that students at Equity Funding recipient schools receive under the program.

211. The anonymous FFSF member and their child are also harmed by the Districtwide Fundraising Policy. Before May 2024, Duniway received significant funds each year from its local school foundation. Duniway lost access to these funds as a result of the Districtwide Fundraising Policy, which for the 2023–24 fundraising year (to be used in the 2024–25 school year) was approximately \$144,500, and for the prior year was approximately \$75,000.

212. Due to the Districtwide Fundraising Policy, Duniway receives less money and has fewer resources for staffing than it did before the policy took effect. Before the Districtwide Fundraising Policy took effect, Duniway had six full-time teachers' aides at the school, four of which were paid for using funds from the Duniway School Foundation. After the Districtwide Fundraising Policy took effect, there are two part-time teachers' aides across K-5 this year. And

students at Duniway and their parents, including the anonymous FFSF member and their child, are deprived of educational benefits those resources would have provided.

213. Notably, even with the additional fundraising under the Local Fundraising Policy, the per student funding at Glencoe, Bridlemile, and Duniway for 2024–25 were still far lower than at schools with a higher percentage of “Historically Underserved” students.

214. In sum, both Equity Funding and the Districtwide Fundraising Policy are causing Plaintiffs ongoing harm.

CAUSES OF ACTION

COUNT I

Equity Funding

(Violation of the Equal Protection Clause of the Fourteenth Amendment through 42 U.S.C. § 1983)

215. Plaintiffs hereby incorporate the previous allegations in this complaint.

216. The Fourteenth Amendment to the United States Constitution provides in relevant part: “No State shall make or enforce any law which shall ... deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1.

217. 42 U.S.C. § 1983 provides in relevant part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding

218. The individual Defendants, who are municipal officials sued in their official capacity, and Defendant Portland Public Schools are each a “person” within the meaning of 42 U.S.C. § 1983. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 663 (1978).

219. By approving and enforcing Equity Funding, Defendants have acted and are acting “under color of state law” within the meaning of Section 1983.

220. Equity Funding violates the Equal Protection Clause of the Fourteenth Amendment, through Section 1983, in two ways, by using an express racial classification and by being racially motivated.

Express Racial Classification

221. Equity Funding contains an express racial classification in the “measure of equity” called “Combined Underserved FTE,” which applies to grades K–8.

222. That measure allocates staff to schools, together with funding for that staff, based on the percentage of students in that school with “races, ethnicities, or ancestry: Black, Latino/Hispanic, Native American, [or] Pacific Islander.”

223. This express racial classification is unlawful.

224. “A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification.” *Pers. Adm’r of Massachusetts v. Feeney*, 442 U.S. 256, 272 (1979).

225. “All racial classifications imposed by the government must be analyzed by a reviewing court under strict scrutiny.” *Johnson v. California*, 543 U.S. 499, 505 (2005) (cleaned up; emphasis in original). “Under strict scrutiny, the government has the burden of proving that

racial classifications are narrowly tailored measures that further compelling governmental interests.” *Id.* (citation modified).

226. Race-conscious programs must also meet additional tests. They must “comply with the twin commands of the Equal Protection Clause that race may never be used as a ‘negative’ and that it may not operate as a stereotype.” *Students for Fair Admissions*, 600 U.S. at 218. And all race-based programs must have a “logical end point.” *Id.* at 221–22 (quoting *Grutter v. Bollinger*, 539 U.S. 306, 342 (2003)).

227. The express racial classification in the Combined Underserved FTE fails each of these five tests: (i) Defendants lack a compelling government interest for the racial classification, (ii) the racial classification is not narrowly tailored to serve a compelling governmental interest, (iii) race is used as a negative, (iv) race is used as a stereotype, and (v) the use of a racial classification does not contain a logical end point.

228. *First*, Defendants did not, and cannot, establish a compelling government interest. To establish a compelling government interest, Defendants must have a “strong basis in evidence,” *City of Richmond v. J. A. Croson Co.*, 488 U.S. 469, 500 (1989), that the purpose of the program is “remediating specific, identified instances of past discrimination that violated the Constitution or a statute,” *Students for Fair Admissions*, 600 U.S. at 207.

229. Defendants’ overarching policy is to achieve racially equal outcomes by “go[ing] beyond formal equality, where all students are treated the same.”

230. This version of equity, rather than equality, requires Portland Public Schools to engage in racially discriminatory treatment to serve the goal of racially managed outcomes.

231. Defendants’ stated desire to narrow certain racial achievement gaps but not other achievement gaps is a form of prohibited racial balancing—not a compelling, or even permissible, government interest.

232. Moreover, Defendants have not, and cannot, provide a strong basis in evidence that Equity Funding’s racial classification remedies Portland Public Schools’ own past racial discrimination against students.

233. Defendants admit that they seek to address lower aggregate test scores by students with certain immutable characteristics, but it admits that this is a society-wide issue—not an issue specific to Portland Public Schools. The Board’s Equity Policy, which the District attempts to operationalize through Equity Funding, admits that “student achievement data from school districts across the country reveal similar patterns and that complex societal and historical factors contribute to the inequalities our students face.”

234. The District does not have a compelling interest in discriminating against its own students in a misguided effort to address “complex societal and historical factors” affecting students “across the country.”

235. *Second*, the racial presumptions and racial funding preferences in the Equity Funding program are also not narrowly tailored to achieve any compelling government interest.

236. There are numerous race-neutral means to target students who need additional attention or resources without resorting to the pernicious racial stereotypes in Equity Funding, for example by identifying specific students with flagging scores on standardized tests.

237. Also, the unconstitutional premise of Equity Funding’s racial presumption makes little logical sense.

238. The Equity Policy professes that every child with “races, ethnicities, or ancestry: Black, Latino/Hispanic, Native American, [or] Pacific Islander” requires more funding to improve the *aggregate* test scores of those races, ethnicities, or ancestries.

239. But Equity Funding does not provide those presumptively disadvantaged students with the additional funding that the Board and the District assert to be necessary.

240. The funding goes to *schools* with a certain proportion of students with those immutable characteristics—not directly to the students.

241. Black, Latino/Hispanic, Native American, and Pacific Islander students who do not attend those schools do not benefit from the additional funding that Equity Funding provides.

242. But a White or Asian student who does attend such a school *will* benefit from the Equity Funding that Defendants assert is not necessary for White or Asian students.

243. The District’s effort to engage in racial balancing through such poorly tailored, heavy-handed racial balancing underscores the unconstitutional nature of its racial classifications.

244. *Third*, Equity Funding uses race as a “negative” because funding is allocated on the basis of certain races, but not others. *See Students for Fair Admissions*, 600 U.S. at 218–19.

245. *Fourth*, Equity Funding uses race as a stereotype because the District presumes that all students with “races, ethnicities, or ancestry: Black, Latino/Hispanic, Native American, [or] Pacific Islander” are “Historically Underserved,” and thus, per the District, require more funding to improve academically, as measured by standardized test scores.

246. *Finally*, the racial presumption has been used in Equity Funding since 2013 and “lack[s] a logical end point.” *Id.* at 221. The District has not identified any criteria by which to assess when this racial classification will no longer be necessary.

Racially Discriminatory Purpose for a Race-Neutral Classification

247. Equity Funding uses a second “measure of equity”—the percentage of students who receive Free Meals by Direct Certification.

248. This measure is present in both the Combined Underserved FTE, which is used for grades K–8, and the Socio-Economic Status FTE, which is used for all schools.

249. The percentage of students who receive Free Meals by Direct Certification is a race-neutral measure that the District, with the Board’s formal approval, is using for a racially discriminatory purpose.

250. A law that is facially neutral may also violate equal protection principles if a racially discriminatory purpose was a motivating factor for the legislation. *United States v. Carillo-Lopez*, 68 F.4th 1113, 1139 (9th Cir. 2023) (citing *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977)). “Under *Arlington Heights*, a plaintiff must ‘simply produce direct or circumstantial evidence demonstrating that a discriminatory reason more likely than not motivated the defendant and that the defendant’s actions adversely affected the plaintiff in some way.’” *Mi Familia Vota v. Fontes*, 129 F.4th 691, 724 (9th Cir. 2025) (quoting *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d 1142, 1158 (9th Cir. 2013)).

251. The District’s budgets, approved by the Board, expressly state that Equity Funding, to include the criteria Free Meals by Direct Certification, is “an effort to align with our

RESJ lens” or “an effort to align with our Equity lens,” and “the primary focus of the Racial Equity and Social Justice lens is on race and ethnicity.”

252. As the District states in its budgets from year 2021–22 forward, “[t]he issues of race, racism and equity” “suffuse other themes and action areas,” to “promote equity in every element of [the District’s] plan.”

253. The budgets are not the only evidence of the District’s focus on race-conscious measures. The 2011 Equity Policy, 5-Year Racial Equity Plan, employment policy, 2016 Budget Principles document, the RESJ Lens, the 2022–27 goal-setting document, and the collective bargaining agreement—all of which are discussed and quoted above—show that the District is engaged in widespread racial discrimination.

254. To pursue racial equity, Defendants use Free Meals by Direct Certification as a pretext for engaging in racial discrimination.

255. According to publicly available data from October 1, 2025, the percentage of students in any given school categorized as qualifying for Free Meals by Direct Certification is strongly correlated with students designated as Historically Underserved, *i.e.*, as Black, Latino, Native American, Pacific Islander, or “Multi-Race.”

256. The District admits that Free Meals by Direct Certification is a “measure of economic hardship across all schools.”

257. In other words, this measure is not an effort to determine the number of full-time employees needed to prepare and serve meals.

258. Indeed, since 2024–25 all students in the District have been provided with the opportunity to obtain free meals.

259. If the District were attempting to determine how much cafeteria staff to allocate to each school, the District would use projected number of meals served or the quantity of food shipped to each school—not the percentage of students who qualify for Free Meals by Direct Certification.

260. Defendants’ use of Free Meals by Direct Certification as a basis for funding decisions is therefore a pretext for racial discrimination in service of the Equity Plan.

261. Defendants lack a compelling government interest for allocating school funding based on race.

262. The Free Meals by Direct Certification measure of equity is not narrowly tailored to achieve any government interest.

263. Plaintiffs have suffered injury and will continue to suffer injury as a consequence of the racially discriminatory Equity Funding used by Portland Public Schools, with formal Board approval.

264. As a result, Plaintiffs are entitled to a declaratory judgment, injunctive relief, and nominal damages.

COUNT II
Equity Funding
(Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to d-7)

265. Plaintiffs hereby incorporate all of the previous allegations of this complaint.

266. Portland Public Schools receives federal funds to support its operations.

267. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d to d-7) applies the same standard from the Equal Protection Clause of the Fourteenth Amendment to programs or

activities receiving federal financial assistance. *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003); *Yu v. Idaho State Univ.*, 15 F.4th 1236, 1242 (9th Cir. 2021).

268. For the reasons alleged in paragraphs 215–264 above, Portland Public Schools has violated and is violating the Equal Protection Clause of the Fourteenth Amendment by engaging in race discrimination through Equity Funding—specifically, through the express racial classification in the Combined Historically Underserved FTE and through the Free Meals by Direct Certification measure, which was and is used for a racially discriminatory purpose, used in both the Combined Historically Underserved FTE and the Socio-Economic Status FTE.

269. That same conduct therefore has violated and is violating Title VI of the Civil Rights Act of 1964.

270. Plaintiffs have suffered injury and will continue to suffer injury because of racially discriminatory Equity Funding conducted by Portland Public Schools, with the Board’s formal approval.

271. As a result, Plaintiffs are entitled to a declaratory judgment, injunctive relief, and nominal damages.

COUNT III
Districtwide Fundraising Policy
(Violation of the Equal Protection Clause of the Fourteenth Amendment
through 42 U.S.C. § 1983)

272. Plaintiffs hereby incorporate all of the previous allegations of this complaint.

273. Defendants violated the Equal Protection Clause of the Fourteenth Amendment, through 42 U.S.C. § 1983, by adopting and enforcing the Districtwide Fundraising Policy for impermissible racially discriminatory reasons.

274. The CBRC recommended that, to align with the District's RESJ lens, the Board should adopt a fundraising policy that pooled all donations to local school foundations into one districtwide foundation.

275. After receiving many comments describing and criticizing the Local Fundraising Policy in racial terms, the Board adopted the Districtwide Fundraising Policy that did what the CBRC recommended, pooling all donations to local school foundations into one districtwide foundation.

276. The Board's change from the Local Fundraising Policy to the Districtwide Fundraising Policy was motivated by race.

277. Eliminating alleged disparities in school foundation fundraising in Portland Public Schools is not a compelling government interest.

278. Indeed, the Board does not have any compelling government interest in adopting, nor does the District have such an interest in enforcing, the Districtwide Fundraising Policy.

279. Moreover, the Districtwide Fundraising Policy is not narrowly tailored to further a compelling government interest.

280. Plaintiffs have suffered injury and will continue to suffer injury as a consequence of the Board's adoption and the District's enforcement of the Districtwide Fundraising Policy.

281. As a result, Plaintiffs are entitled to a declaratory judgment, injunctive relief, and nominal damages.

COUNT IV
Districtwide Fundraising Policy
(Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to d-7)

282. Plaintiffs hereby incorporate all of the previous allegations of this complaint.

283. Portland Public Schools receives federal funds to support its operations.

284. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d to d-7) applies the same standard from the Equal Protection Clause of the Fourteenth Amendment to programs or activities receiving federal financial assistance. *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003); *Yu v. Idaho State Univ.*, 15 F.4th 1236, 1242 (9th Cir. 2021).

285. Defendants have violated Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d to d-7) by adopting and enforcing the Districtwide Fundraising Policy for impermissible racially discriminatory reasons.

286. For the reasons alleged in paragraphs 272–281 above, Plaintiffs have suffered injury and will continue to suffer injury as a consequence of the Board’s adoption and the District’s enforcement of the Districtwide Fundraising Policy.

287. As a result, Plaintiffs are entitled to a declaratory judgment, injunctive relief, and nominal damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment as follows:

A. A declaratory judgment that Defendants have violated and continue to violate the United States Constitution, 42 U.S.C. § 1983, and 42 U.S.C. § 2000d by engaging in illegal race discrimination through Equity Funding;

B. A declaratory judgment that Defendants have violated and continue to violate the United States Constitution, 42 U.S.C. § 1983, and 42 U.S.C. § 2000d by adopting and enforcing the Districtwide Fundraising Policy for illegal, racially discriminatory reasons;

C. Injunctive relief prohibiting Defendants from engaging in race discrimination using Equity Funding, through both the Combined Historically Underserved FTE and the Socio-Economic Status FTE;

D. Injunctive relief prohibiting Defendants from enforcing the Districtwide Fundraising Policy;

E. An award of nominal damages in the amount of \$1.00;

F. Attorney's fees and costs pursuant to 28 U.S.C. § 1920 and 42 U.S.C. § 1988, or any other applicable authority; and

G. Any other relief that is appropriate.

Dated: April 15, 2026

Respectfully submitted,

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