

IN THE SUPREME COURT OF THE STATE OF KANSAS

CASE NO. 113,267

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs/Appellees,

County Appealed From: Shawnee

v.

District Court Case No.: 10-C-1569

STATE OF KANSAS, *et al.*

Defendants/Appellants.

RULE 6.09(b) LETTER

Plaintiffs/Appellees direct the Court's attention to the document attached to this letter as Exhibit A. The exhibit is a reproduction of a demonstrative chart that was shared with the Court by Plaintiffs' counsel at oral argument on September 21, 2016.

Exhibit A contains two graphs displaying the achievement gap among Kansas students. The top graph is part of the record on appeal and was an exhibit at trial. *See, e.g.*, R. Vol. 61, at p. 1788 (Plaintiffs' Trial Exhibit 106). It contains achievement data from 2011.

The bottom graph on Exhibit A contains achievement data from 2015. This graph was compiled based on data presented to this Court within Appendix C of Plaintiffs' Supplemental Response Brief, submitted August 12, 2016. It is appropriate for this Court to take judicial notice of this data, which can be accessed on the Kansas State Department of Education's website. *See* Pl's Supplemental Response Brief, at p. 16, n. 8 (citing K.S.A. 60-409(b)(4); K.S.A. 60-412(c)).

Respectfully submitted,

/s/ Alan L. Rupe

Alan L. Rupe, #08914
Jessica L. Skladzien, #24178
LEWIS BRISBOIS BISGAARD & SMITH LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
(316) 462-5746 (Facsimile)

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
(316) 283-5049 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2016, I electronically served the foregoing to:

Derek Schmidt
Jeffrey A. Chanay
Stephen R. McAllister
M.J. Willoughby
Memorial Building, 2nd Floor
120 SW 10th Ave.
Topeka, KS 66612-1597
Derek.Schmidt@ag.ks.gov
Jeff.Chanay@ag.ks.gov
stevermac@fastmail.fm
MJ.Willoughby@ag.ks.gov

Arthur S. Chalmers
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
chalmers@hitefanning.com

*Attorneys for Defendant State of
Kansas*

Steve Phillips
Assistant Attorney General
Office of the Attorney General
Memorial Building, 2nd Floor
120 S.W. 10th Ave.
Topeka, KS 66612-1597
Steve.Phillips@ag.ks.gov

*Attorney for State Treasurer Ron
Estes*

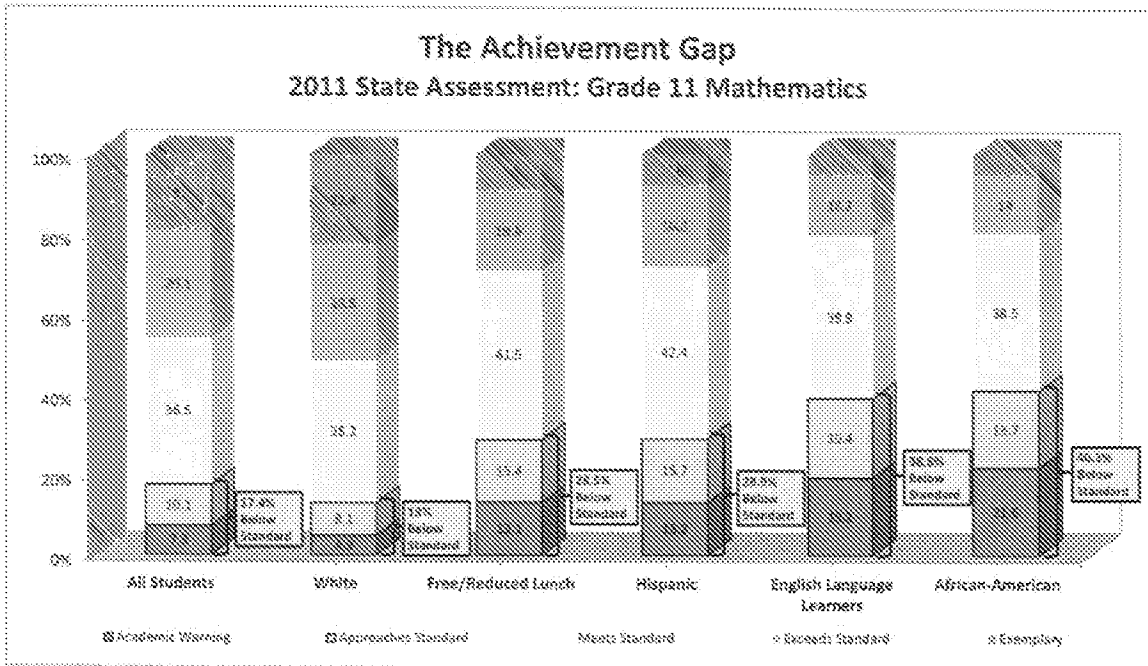
Philip R. Michael
Daniel J. Carroll
Kansas Dept. of Administration
1000 SW Jackson, Suite 500
Topeka, KS 66612
philip.michael@da.ks.gov
dan.carroll@da.ks.gov

*Attorneys for Secretary of
Administration Jim Clark*

/s/ Alan L. Rupe
Alan L. Rupe, #08914

Exhibit A

At Trial:



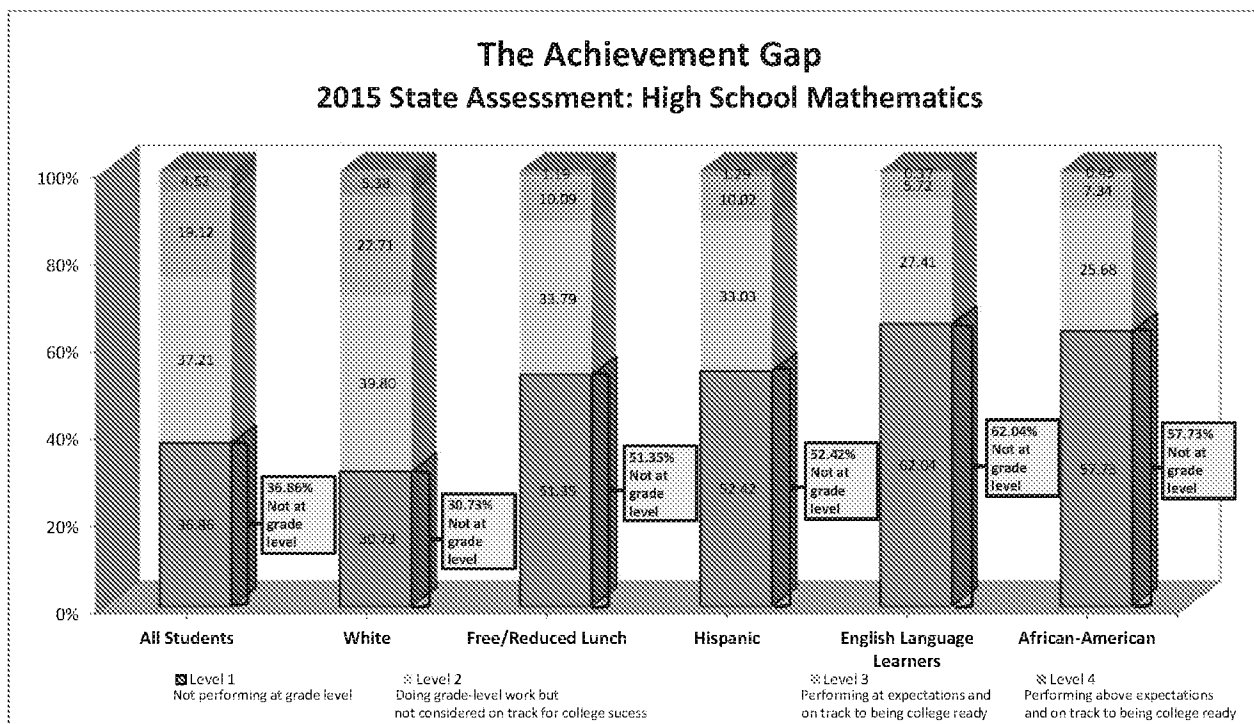
Data from KSDH Report Card 2011-2012

PLAINTIFFS'
EX. 106

99006

ACHIEVEMENT000672

Now:

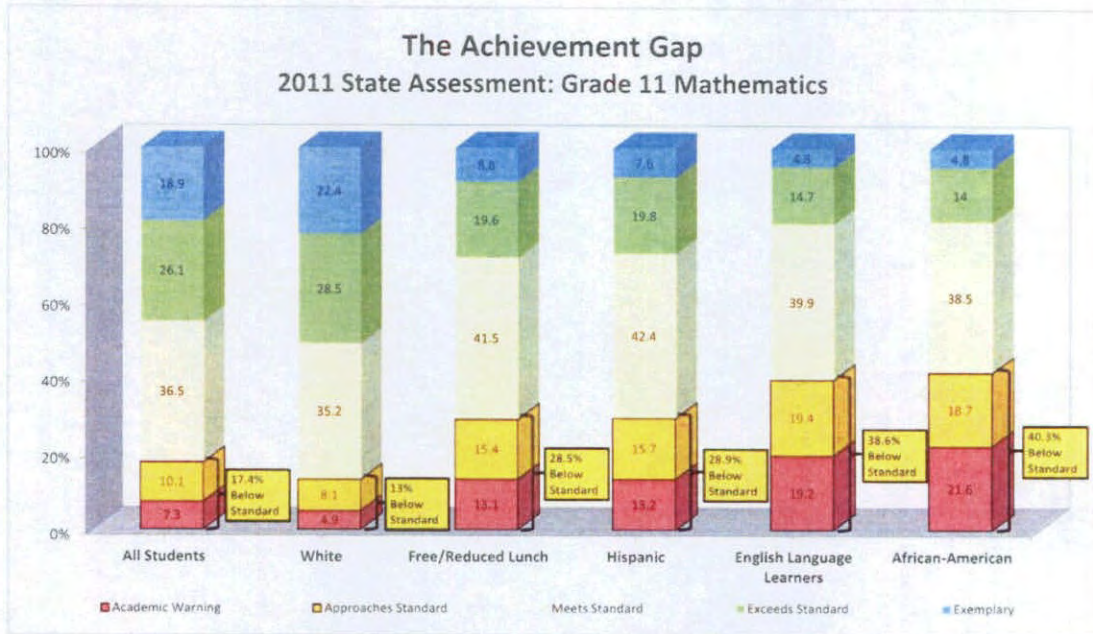


Data from K.SDE Report Card 2014-2015

ACHIEVEMENT000674

990090

At Trial:



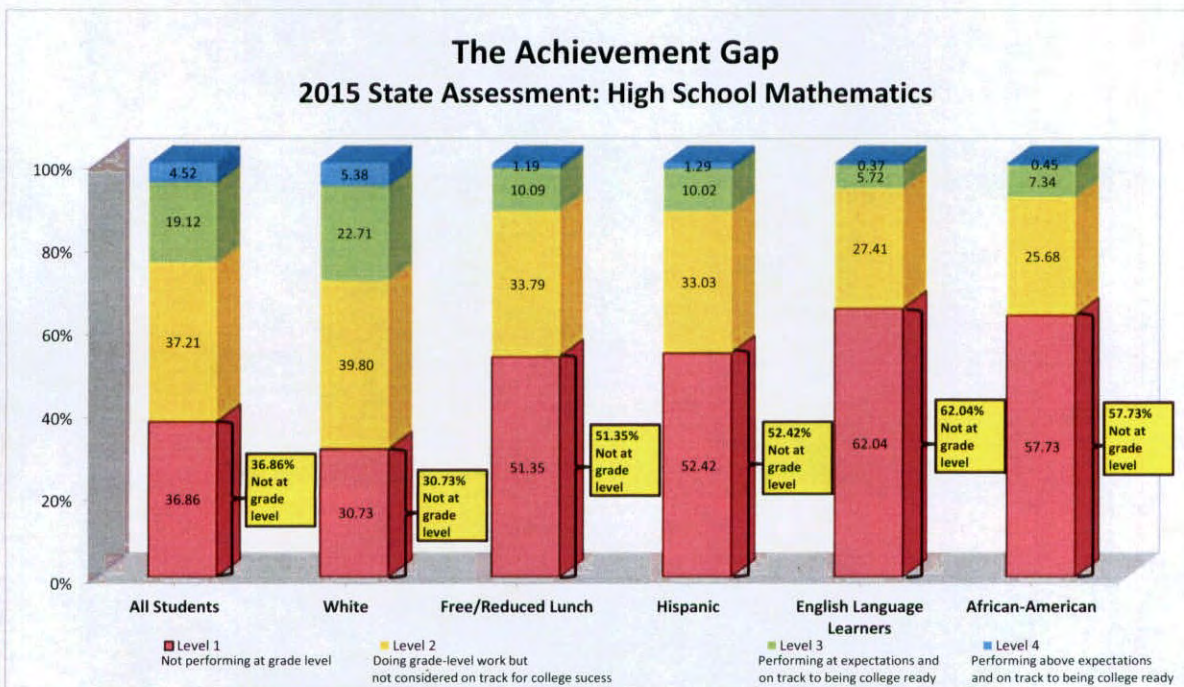
Data from KSDE Report Card 2010-2011

PLAINTIFFS'
EX. 106

990096

ACHIEVEMENT000672

Now:



Data from KSDE Report Card 2014-2015

ACHIEVEMENT000674

990090