

EXHIBIT A

IN THE CHANCERY COURT FOR DAVIDSON COUNTY
TWENTIETH JUDICIAL DISTRICT
THE STATE OF TENNESSEE

DAVID P. BICHELL, TERRY JO BICHELL,
LISA MINGRONE, CLAUDIA RUSSELL,
INEZ WILLIAMS, ELISE McINTOSH,
APRYLE YOUNG, DUSTIN PARK, JILL
SMILEY, and CRYSTAL BOEHM,

Plaintiffs,

vs.

BILL LEE, in his official capacity as Governor
of the State of Tennessee; ROBERT EBY, in
his official capacity as Chair of the Tennessee
State Board of Education; DARRELL
COBBINS, in his official capacity as Vice
Chair of the Tennessee State Board of
Education; KRISSI McINTURFF, in her
official capacity as Member of the Tennessee
State Board of Education; JORDAN
MOLLENHOUR, in his official capacity as
Member of the Tennessee State Board of
Education; WARREN WELLS, in his official
capacity as Member of the Tennessee State
Board of Education; RYAN HOLT, in his
official capacity as Member of the Tennessee
State Board of Education; DR. INA
MAXWELL, in her official capacity as Member
of the Tennessee State Board of Education;
MARSHA JOHNSON, in her official capacity
as Member of the Tennessee State Board of
Education; LARRY JENSEN, in his official
capacity as Member of the Tennessee State
Board of Education; and LIZZETTE
REYNOLDS, in her official capacity as
Education Commissioner for the Tennessee
Department of Education,

Defendants,

– and –

NATU BAH, et al.,

Intervenor-Defendants.

Case No. 20-0242-II

Chancellor Anne C. Martin,
Chief Judge
Judge Tammy M. Harrington
Chancellor William C. Cole

[PROPOSED] SECOND AMENDED
COMPLAINT

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I. NATURE OF THE ACTION

1. This complaint contends that both the 2019 Tennessee Education Savings Account Pilot Program (“Targeted Voucher Law”), T.C.A. §49-6-2601, *et seq.*, and the 2025 Tennessee Education Freedom Act (“Universal Voucher Law”), T.C.A §49-6-3501, *et seq.*, violate the Tennessee Constitution by diverting taxpayer funds to private schools and reducing funding essential for Tennessee’s public schools.

2. The Targeted Voucher Law applies to local education agencies (“LEA”) in Shelby County, Davidson County, and Hamilton County. The Universal Voucher Law applies to students attending any LEA statewide, including those in Shelby County, Davidson County, and Hamilton County.

3. As originally enacted, the Targeted Voucher Law diverted critically needed funding appropriated for public schools in Shelby and Davidson Counties. In 2023, the Targeted Voucher Law was expanded to include Hamilton County and thus began diverting funding from public schools in that county as well.

4. For the 2022-2023 school year, Targeted Voucher Law funds were diverted from the funds allocated pursuant to the Basic Education Program (“BEP”), the State’s then-operative school funding statute. During the 2023-2024 school year and thereafter, the Targeted Voucher Law has diverted funds from those allocated pursuant to the Tennessee Invest in Student Achievement Act (“TISA”), the State’s subsequent school funding statute.

5. On February 12, 2025, the Universal Voucher Law was signed into law and the program is to go into effect in the 2025-2026 school year. The Universal Voucher Law will

divert public funds to private schools and reduce critically needed funding for public schools across Tennessee.

6. This diversion of public funding to private education under the Targeted Voucher Law and the Universal Voucher Law each independently violate the Education Clause of the Tennessee Constitution, which guarantees all public school students an adequate education. The voucher laws reduce funding and resources for public schools in violation of the constitutional guarantee of an adequate education.

7. The Targeted Voucher Law also violates the Equal Protection Clause of the Tennessee Constitution, by creating inequities in funding and resources for public school students in different districts and inequities in tax burdens between taxpayers in different districts.

8. Additionally, both voucher laws divert taxpayer dollars to private schools in violation of the Education Clause's mandate that the State provide K-12 education through a system of public schools. The private schools and private education providers funded by these laws are outside the State's public school system and are not required to adhere to the same academic, accountability, governance, and non-discrimination requirements as public schools. Diverting public funding to private schools that do not accept all students nor provide students the same education and civil rights protections as public schools violates Tennessee's Constitution.

9. The Targeted Voucher Law was passed during the 2019 legislative session, but it did not receive an appropriation for its estimated first-year funding during the 2019

legislative session. This directly violates the “Appropriation of Public Moneys” provision of the Tennessee Constitution and related state law.

II. JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this action pursuant to T.C.A. §16-11-101, *et seq.*, as well as T.C.A. §§1-3-121, 29-1-101 and 29-14-101, *et seq.*, and Tenn. R. Civ. P. 65.

11. This Court has personal jurisdiction over Defendants pursuant to T.C.A. §§ 20-2-222 and 20-2-223 on the grounds that their principal place of business is in Tennessee and that the wrongful conduct and resulting injuries alleged herein substantially occurred in Tennessee.

12. Venue is proper in this judicial district pursuant to T.C.A. § 20-4-101(a) because the cause of action arose in Davidson County. Additionally, the office of the Commissioner of Education is located in Davidson County.

III. PARTIES

13. Plaintiffs David P. Bichell and Terry Jo Bichell are residents of Davidson County, Tennessee. The Bichells own property and pay state and local taxes in Davidson County, including property taxes.

14. Plaintiff Lisa Mingrone owns property in Davidson County and pays property taxes.

15. Plaintiff Claudia Russell is a resident of Davidson County, Tennessee. She is a retired public school administrator in Metro Nashville Public Schools, and she periodically returns to the district in a temporary position to fill in for administrators who are on leave.

Dr. Russell has spent her entire career working in Metro Nashville Public Schools. She began her career as a teacher, then became an assistant principal, then a principal. She has worked in various schools in the district. Dr. Russell owns property and pays state and local taxes in Davidson County, including property taxes.

16. Plaintiff Inez Williams is a resident of Davidson County, Tennessee. Ms. Williams pays state and local taxes in Davidson County, including car registration and renewal taxes.

17. Plaintiff Elise McIntosh is a resident of Shelby County, Tennessee. She is a parent with a minor child currently enrolled in Shelby County Schools. Her child is classified as a student with disabilities who receives special education or other services or accommodations in school. Her child also identifies as LGBTQ. Ms. McIntosh pays state and local taxes in Shelby County, including car registration and renewal taxes.

18. Plaintiff Apryle Young is a resident of Shelby County, Tennessee. She is a parent with three children currently enrolled in Shelby County Schools. Ms. Young's children are eligible for the targeted voucher program based on their household income and the other eligibility criteria. Ms. Young pays state and local taxes in Shelby County, including car registration and renewal taxes.

19. Plaintiff Dustin Park is a resident of Blount County, Tennessee. He is a parent of a child enrolled in Maryville City Schools. Mr. Park's child is classified as a student with disabilities who receives special education or other services or accommodations in school. Mr. Park also volunteers as a Surrogate Parent on behalf of students with disabilities in foster

care in Blount County Schools. Mr. Park owns property and pays state and local taxes in Blount County, including property taxes.

20. Plaintiff Jill Smiley is a resident of Rutherford County, Tennessee. She is a parent of three children and one step-child enrolled in Rutherford County Schools. Mrs. Smiley owns property and pays state and local taxes in Rutherford County, including property taxes.

21. Plaintiff Crystal Boehm is a resident of Hamilton County, Tennessee. She is a parent of two children enrolled in Hamilton County Schools. Mrs. Boehm owns property and pays state and local taxes in Hamilton County, including property taxes.

22. Defendant Bill Lee is the Governor of the State of Tennessee and has a legal obligation to enforce the Constitution and laws of this State. Governor Lee is vested under Article III, §§1 and 10, of the Tennessee Constitution with “Supreme Executive power” and the duty to ensure that “the laws be faithfully executed.” As the chief executive officer for the State of Tennessee, Governor Lee has responsibility for ensuring that school districts have adequate resources to provide all children with a public education that meets the requirements of the Tennessee Constitution and state laws and regulations. Governor Lee has an office located at State Capitol, First Floor, 600 Charlotte Avenue, Nashville, Tennessee 37243. Service on Governor Lee may be perfected by delivering a copy of the summons and complaint to the Attorney General or at his State office.

23. Defendants Robert Eby, Darrell Cobbins, Krissi McInturff, Jordan Mollenhour, Warren Wells, Ryan Holt, Dr. Ina Maxwell, Marsha Johnson, and Larry Jensen are members of the State Board of Education (“State Board”) and are statutorily charged with overseeing

Tennessee’s system of public schools, including academic standards and policies, organization and structure of public schools, licensure of teachers, and distribution of public funds among public schools. T.C.A. § 49-1-302. The Targeted Voucher Law and Universal Voucher Law authorize the State Board of Education to promulgate rules to implement the purposes of the laws. T.C.A. § 49-6-2610; T.C.A. § 49-6-3512. In November 2019, the State Board approved rules to implement the Targeted Voucher Law. Tenn. Comp. R. & Regs. § 0520-01-16. As of May 2025, the State Board is in the process of promulgating rules to implement the Universal Voucher Law.¹ These Defendants are being sued in their official capacities. The Tennessee Board of Education’s office is located at 500 James Robertson Parkway, Fifth Floor, Nashville, Tennessee 37243. Service on these Defendants may be perfected by delivering a copy of the summons and complaint to the Attorney General or at their State offices.

24. Defendant Tennessee Department of Education (TDOE) is the State Education Agency in Tennessee and, together with the State Board and the State Education Commissioner, is responsible for overseeing the state system of public schools. T.C.A. § 49-1-201, *et seq.* Under the Targeted Voucher Law and the Universal Voucher Law, the TDOE is responsible for the administration and implementation of the voucher programs. T.C.A. § 49-6-2604; T.C.A. § 49-6-3503(a). The TDOE is located at 710 James Robertson Parkway,

¹ Tennessee State Board of Education, *May 12, 2025 SBE Rulemaking Hearing – 0520-01-24 Education Freedom Scholarships* (accessed on May 29, 2025), available at: <https://www.tn.gov/sbe/meetings/meetings-calendar/2025/5/12/may-12--2025-sbe-rulemaking-hearing---0520-01-24-education-freedom-scholarships.html>.

Nashville, Tennessee 37243. Service on the Department may be perfected by delivering a copy of the summons and complaint to the Attorney General.

25. Defendant Lizette Reynolds is the State Education Commissioner. In her official capacity, she is responsible for the implementation of laws and policies established by the General Assembly and the State Board. T.C.A. § 49-1-201(a). Commissioner Reynolds oversees the State system of public schools, administers the TDOE, and is responsible for implementing and administering the Targeted Voucher Law and Universal Voucher Law. *Id.*; T.C.A. § 49-6-2604. Defendant Reynolds is being sued in her official capacity and has an office at 710 James Robertson Parkway, Nashville, Tennessee 37243. Service on Commissioner Reynolds may be perfected by delivering a copy of the summons and complaint to the Attorney General or at her State office.

IV. RELEVANT LAW

A. Tennessee Constitution's Education and Equal Protection Guarantees

26. The Tennessee Constitution guarantees all children in the State the opportunity to obtain an education in Tennessee's "system of free public schools."

27. Article XI, §12, of the Tennessee Constitution, the Education Clause, provides in relevant part:

The state of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly may establish and support such post-secondary educational institutions, including public institutions of higher learning, as it determines.

28. The Tennessee Constitution also guarantees equal protection under the law.

Article I, §8, states:

That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land.

Article XI, §8, of the Tennessee Constitution provides, in relevant part:

The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunitie[s], or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law.

29. Pursuant to the guarantees of the Education and Equal Protection Clauses of the Tennessee Constitution, the Tennessee Supreme Court has recognized the State’s “obligation to maintain and support a system of free public schools that affords substantially equal educational opportunities to all students” throughout the State. *Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 140-41 (Tenn. 1993) (“*Small Sch. Sys. P*”).

30. The Tennessee Supreme Court has further recognized that the Tennessee Constitution imposes on the State the affirmative obligation to provide an adequate education to all children in Tennessee’s public school system. *Id.* at 150-51.

31. The Tennessee Constitution thus requires the State to provide a system of public schools that affords all children in districts across Tennessee a substantially equal opportunity for an adequate education.

32. The Tennessee Constitution mandates the State fulfill this duty through maintaining and supporting “a system of free public schools.” The Constitution does not

provide for the State to maintain and support any schools other than the system of public schools.

B. Funding Statutes

33. The Tennessee Supreme Court has also found that the BEP was designed and enacted by the General Assembly to address “both constitutional mandates imposed upon the State – the obligation to maintain and support a system of free public schools and the obligation that that system afford substantially equal educational opportunities.” *Tenn. Small Sch. Sys. v. McWherter*, 894 S.W.2d 734, 738 (Tenn. 1995) (“*Small Sch. Sys. II*”). The BEP served as the state’s school funding formula through the 2022-2023 school year.

34. In 2022, Tennessee enacted TISA to replace the BEP as the statutory formula that determines the amount and distribution of funding to maintain and support the State’s system of free public schools. T.C.A. § 49-3-101, *et seq.* Like the BEP, TISA was enacted purportedly to provide the necessary funding for public schools. T.C.A. § 49-3-103(a).

35. TISA provides a base amount of per-pupil funding, then adjusts the base amount by adding weights corresponding to several factors, including economically disadvantaged students, students living in areas of concentrated poverty, students attending charter schools, students living in sparsely populated areas, and students with unique needs. T.C.A. §49-3-105.

36. The total amount calculated under TISA that a school district must spend consists of a state share, allocated to the district from state funds, and a local share, which must be raised from local revenue sources. T.C.A. §49-3-109.

C. Tennessee Constitution’s Appropriation of Public Moneys Provision and Related Law

37. The “Appropriation of Public Moneys” provision of the Tennessee Constitution requires the General Assembly to appropriate the estimated first year’s funding for every law passed during a legislative session.

38. Article II, §24, of the Tennessee Constitution provides in relevant part that:

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year’s funding.

39. Article II, §24, of the Tennessee Constitution also provides: “No public money shall be expended except pursuant to appropriations made by law.”

40. Additionally, under Tennessee law, “[n]o money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law.” T.C.A. §9-4-601(a)(1).

V. FACTUAL ALLEGATIONS

A. Enactment of the Targeted Voucher Law

41. During the 2019 session, the Tennessee Legislature enacted the Targeted Voucher Law, T.C.A. § 49-6-2601, *et seq*, creating an education savings account voucher program without an appropriation for the estimated first year’s funding of the program. On May 24, 2019, Governor Lee signed the bill into law.

42. The Targeted Voucher Law originally established a voucher program exclusively in Shelby and Davidson Counties. It diverted taxpayer funds that were appropriated to maintain and support Shelby County Schools and Metro Nashville Public Schools to private schools and other private education expenses. Under the Targeted

Voucher Law, BEP funds (in 2022-2023) and TISA funds (in 2023-2024 and thereafter) otherwise payable to Shelby County Schools and Metro Nashville Public Schools are deposited into an Education Savings Account (“ESA”) for each participating voucher student.

43. In 2023, the Targeted Voucher Law expanded to include Hamilton County. T.C.A. § 49-6-2602(3)(c); Tenn. Comp. R. & Regs. 0520-01-16-.06.

44. Under the Targeted Voucher Law, a student is eligible for the voucher program if the student:

- (A) (i) Was previously enrolled in and attended a Tennessee public school for one (1) full school year immediately preceding the school year for which the student receives an education savings account;
- (ii) is eligible for the first time to enroll in a Tennessee school; [or]
- (iii) received an education savings account in the previous school year;

* * *

- (B) Is a student in any of the grades kindergarten through twelve (K-12);
- (C) (i) Is zoned to attend a school in an LEA, excluding the achievement school district (ASD) with five (5) or more schools:
 - (a) Identified as priority schools in 2015, as defined by the state’s accountability system pursuant to § 49-1-602;
 - (b) Among the bottom ten percent (10%) of schools, as identified by the department in 2017 in accordance with § 49-1-602(b)(3);
 - (c) Identified as priority schools in 2018, as defined by the state’s accountability system pursuant to § 49-1-602; and
 - (d) Identified as priority schools in 2021, as defined by the state’s accountability system pursuant to § 49-1-602; or
- (ii) Is zoned to attend a school that is in the ASD on May 24, 2019; and

(D) is a member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch[.]

T.C.A. §49-6-2602(3).

45. The Targeted Voucher Law allows up to 5,000 vouchers in its first year of operation; 7,500 vouchers in its second year; 10,000 vouchers in its third year; 12,500 vouchers in its fourth year; and 15,000 vouchers in and beyond the program's fifth year. T.C.A. §49-6-2604(c). The 2024-2025 school year is the targeted voucher program's third year of operation.

B. Enactment of the Universal Voucher Law

46. On February 12, 2025, the Governor signed the Universal Voucher Law, establishing a new, statewide education savings account voucher program that makes nearly every school-age student in the state eligible for a \$7,295 voucher.

47. On February 25, 2025, Plaintiffs sent a letter to Defendants and other state officials demanding that they not implement the Universal Voucher Law, stating that spending public money on the Universal Voucher Law violates their rights under the Tennessee Constitution, including the Education and Equal Protection Clauses. Plaintiffs did not receive a response.

48. The Universal Voucher Law requires that the program provide a voucher to any eligible student who applies, subject to appropriation. T.C.A. § 49-6-3503(b).

49. An eligible student is one who is entitled to attend a public school, with few exceptions. T.C.A. § 49-6-3502. There is no family income limit nor requirement that the student previously attended a public school.

50. In the 2025-2026 school year, a maximum of 20,000 vouchers can be provided. Of those, 10,000 vouchers are designated for students who either (1) do not exceed an annual household income threshold of 300 percent of the free or reduced-price lunch eligibility guidelines; or (2) are eligible for the targeted voucher program. T.C.A. § 49-6-3504(a)(1). The other 10,000 vouchers are available for any eligible student. T.C.A. § 49-6-3504(a)(2).

51. Each subsequent school year, the program cap increases by 5,000 vouchers so long as the number of voucher applications in the previous year exceeded 75 percent of the maximum number of vouchers for that year. T.C.A. § 49-6-3504(b)(1). The Tennessee General Assembly Fiscal Review Committee estimates that demand will be sufficient to increase the maximum number of scholarships in subsequent years.²

52. There are no geographical restrictions to the Universal Voucher Law; the program applies statewide.

53. As of May 19, 2025, more than 38,000 people applied for the universal vouchers program. Of that amount, 18,852 met the income qualification for the 10,000 vouchers prioritized in § 49-6-3504(a)(1) of the law, and 19,308 were above that income threshold.

² Tennessee General Assembly Fiscal Review Committee, *SB 6001 - HB 6004 Fiscal Note* (Jan. 23, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

C. The Voucher Laws Divert Public Funds to Private Schools

1. The Targeted Voucher Law Diverts Public Education Funds to Private Schools

a. The Targeted Voucher Law Diverts an Amount Equal to Both the State and Local Shares of Per Pupil Funding from Public Schools that Lose Students to the Voucher Program

54. The Targeted Voucher Law mandates that for every pupil enrolled in the voucher program an amount representing both the state *and* local shares of an LEA’s per-pupil TISA allocation—up to the combined statewide average of state and local per-pupil TISA allocations—“must be subtracted from the *state* TISA funds otherwise payable to the LEA.” T.C.A. §49-6-2605(a)-(b)(1) (emphasis added).

55. For every student enrolled in public school, the State provides only the state share of the TISA amount. The local share comes from the county’s local revenue sources. When a student leaves a district for reasons unrelated to a voucher, *e.g.*, if that student moves out of district or attends a private school without a voucher, the district only loses the state share.

56. However, when a student leaves Shelby County Schools, Metro Nashville Public Schools, or Hamilton County Schools to use a voucher, the districts lose out of their state allocation an amount representing the state *and* local shares of TISA for that student.

57. For the 2024-2025 school year, the voucher amount was \$9,423.58 per pupil in Shelby and Davidson Counties and \$9,346.05 in Hamilton County.³ So, for each voucher

³ Tennessee Department of Education, *Education Savings Account Program* (Sept. 2024) (last accessed May 17, 2025), available at: <https://us8.campaign-archive.com/?u=b28b453ee164f9a2e2b5057e1&id=53e54d5f58>.

student, Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools lost those amounts in state funding.

58. For the 2024-2025 school year, Metro Nashville Public Schools' total state share of TISA was \$339,096,743.62.⁴ The average daily membership, the student count used to determine the per-pupil state share, was 80,636.32.⁵ So, the average per-pupil state contribution is an estimated \$4,205.26.

59. When a student disenrolls for a reason other than taking a voucher, Metro Nashville Public Schools loses an estimated \$4,205.26 in state funds. When a student leaves to use a private school voucher, the LEA loses more than twice that amount of state funding, or \$9,423.58.

60. For the 2024-2025 school year, Shelby County Schools' total state share of TISA was \$853,683,626.45.⁶ The average daily membership to determine the per-pupil state share was 111,131.23.⁷ So, the average per-pupil state contribution is an estimated \$7,681.54. When a student leaves Shelby County Schools for a reason other than taking a voucher, Shelby County Schools loses an estimated \$7,681.54 in state funds. When a student

⁴ Tennessee Department of Education, *Tennessee Investment in Student Achievement (TISA) Allocations for Fiscal Year 2024-25*, available at: <https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/2024-sbe-meetings/august-16%2c-2024-sbe-meeting/8-16-24%20II%20B%20TISA%20Allocations%20for%20FY%202024-25%20Attachment.pdf> via <https://www.tn.gov/sbe/meetings/meetings-calendar/2024/8/16/august-16--2024-sbe-meeting.html>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

leaves to use a private school voucher, the LEA loses significantly more than that amount of state funding, or \$9,423.58.

61. For the 2024-2025 school year, Hamilton County Schools' total state share of TISA was \$270,087,219.45.⁸ The average daily membership to determine the per-pupil state share was 44,986.40.⁹ So, the average per-pupil state contribution is an estimated \$6,003.75. Thus, when a student leaves Hamilton County Schools for a reason other than participating in the voucher program, Hamilton County Schools loses an estimated \$6,003.75 in state funds. When a student leaves to use a private school voucher, the LEA loses over 1.5 times that amount, or \$9,346.05.

62. These LEAs must also raise local funds from taxpayers as if voucher students were still being educated by the district. The Targeted Voucher Law requires LEAs to continue to count students who leave the district to use a voucher as being enrolled in the district. *See* T.C.A. §49-6-2605(b)(1). Requiring that the districts count voucher students as enrolled increases the amount of local money the districts must raise from local tax dollars in order to satisfy statutory “maintenance of effort” requirements.

b. The Targeted Voucher Law Diverts Tens of Millions of Dollars from Already Under-Resourced Public Schools

63. The General Assembly's persistent failure to provide adequate funding to maintain and support Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools is well-documented. For example, a 2024 report found major deficiencies in

⁸ *Id.*

⁹ *Id.*

the State's funding of its public school system: a funding level approximately \$4,000 per pupil below the national average and 43rd in the nation, and low funding effort as compared to state GDP.¹⁰ For at least a decade, this annual report has consistently found Tennessee's public school funding level to be among the lowest in the nation.¹¹ In fact, state reports show that BEP funding was inadequate.¹²

64. The State's enactment of TISA to replace the BEP was purportedly aimed at addressing this problem. However, the State failed to conduct any assessment of the cost of an adequate education prior to enacting TISA. Thus, there is no evidence that either the TISA base amount or its student weights provide sufficient funding so that all students receive the opportunity for a constitutionally adequate education.

65. Further, much of TISA's funding is not tied to student educational needs but rather state policy priorities, such as K-3 literacy, grade 4 literacy support, career and technical education, ACT test-taking, and charter facilities. T.C.A. § 49-3-105. Nor are these

¹⁰ Danielle Farrie & Robert Kim, *Making the Grade: How fair is school funding in your state?*, Education Law Center (2024), available at: <https://edlawcenter.org/wp-content/uploads/2024/12/Making-the-Grade-2024.pdf>.

¹¹ Bruce D. Baker, et al, *Is School Funding Fair? A National Report Card*, Education Law Center (Jan. 2014), available at: https://edlawcenter.org/assets/files/pdfs/publications/National_Report_Card_2014.pdf.

¹² Tennessee Advisory Commission on Intergovernmental Relations, *K-12 Public Education Funding and Services* (Jan. 2020), available at: https://www.tn.gov/content/dam/tn/tacir/2020publications/2020_K12Financing.pdf; Tennessee State Board of Education, *Basic Education Program Review Committee 2021 Annual Report*, available at: https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/bepcommitteeactivities/2021/2021%20BEP%20Report_FINAL.pdf.

categories weighted by student need.¹³ Thus, a large portion of TISA’s funding, by design, is not tied to the actual cost of education or student needs.

66. Moreover, the State’s reliance on direct certification of participation in federal assistance programs for its definition of an economically disadvantaged student under TISA likely underestimates the funding districts need to educate such students. T.C.A. § 49-3-104(10). The administrative burdens the State places on the application and renewal processes for programs like Supplemental Nutrition Assistance Program, Women, Infants, and Children, and Temporary Assistance for Needy Families impede an accurate count of how many students should qualify for an additional allocation under TISA based on economic disadvantage.¹⁴ For this and other reasons, the number of students eligible for additional TISA funding through the economically disadvantaged weight in the formula is less than the actual number of economically disadvantaged students who require additional educational services to access an adequate education.¹⁵ Thus, TISA does not adequately fund districts to serve all economically disadvantaged students.

¹³ Tennessee Department of Education, *2023-2024 Tennessee Investment in Student Achievement Annual Report*, at 7 (Jan. 2025), (last accessed May 29, 2025), available at: https://www.tn.gov/content/dam/tn/education/tisa-resources/2023-24_Tennessee_Investment-Student_AchievementTISAAnnual_Report.pdf.

¹⁴ See, e.g., Nashville Public Education Foundation, *How TISA Affects MNPS* (last accessed May 29, 2025), available at: <https://nashvillepef.org/wp-content/uploads/2022/04/How-TISA-Affects-MNPS.pdf> (“Onerous application process: On top of federal requirements, Tennessee requires families to regularly submit additional paperwork justifying their eligibility, an arduous process that deters many eligible applicants.”).

¹⁵ *Id.*

67. In fact, the State’s own reports on TISA implementation reveal that TISA fails to adequately account for, and provide funding for, the basic costs of educating all students generally, and, in particular, it fails to account for the cost of educating high-need students. For example, according to the 2025 TDOE TISA annual report, a majority of school district leaders surveyed considered TISA’s base funding amount inadequate.¹⁶ A third of those surveyed found that the weight for disadvantaged students was inadequate, and almost half found that TISA provided inadequate funding for literacy support.¹⁷ District leaders also reported that TISA funding was inadequate to meet the State’s minimum teacher salary goals.¹⁸

68. Moreover, the annual report found that the year-to-year increase in TISA funding is not responsive to cost drivers. District leaders reported being most concerned with adequacy of funding for capital improvements, the rising cost of transportation, and the growing demand for mental health services—costs not considered in TISA’s yearly increase.¹⁹

69. TISA also fails to account for the varying costs of educating students across geographic locations. For instance, TISA does not reflect that there exists variation in local

¹⁶ Tennessee Department of Education, *2023-24 Tennessee Investment in Student Achievement Annual Report*, at 7-8 (Jan. 2025) (last accessed May 29, 2025), available at: https://www.tn.gov/content/dam/tn/education/tisa-resources/2023-24_Tennessee_Investment-Student_AchievementTISAAnnual_Report.pdf.

¹⁷ *Id.*

¹⁸ *Id.* at 13.

¹⁹ *Id.* at 8, 13-14.

wages across LEAs. In addition, while the BEP included grants intended to supplement district budgets where the cost of living is higher than the state average, TISA currently lacks such grants.²⁰ The General Assembly has not appropriated any funds to date to account for geographic cost of living differences.

70. Upon information and belief, State funding fails to provide Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools with resources necessary to provide an adequate education – including sufficient teachers, guidance counselors, nurses, interventions for high need students, facilities maintenance, and capital improvement.

71. The tens of millions of dollars that have been diverted from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools under the Targeted Voucher Law exacerbates the underfunding of these districts.

72. Upon information and belief, the Targeted Voucher Law has required Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to make further reductions to resources essential to providing a constitutionally adequate education to their students.

73. The Targeted Voucher Law’s school improvement fund could never remedy this diversion of necessary funds from public schools.

²⁰ Alison Pams, et al., Tennessee Comptroller of the Treasury Office of Research and Education Accountability, *Tennessee Investment in Student Achievement: First-Year Implementation*, at 29 (Feb. 2025) (last accessed May 29, 2025), available at: <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2025/TISAFullReport.pdf> (“Districts located in a county in which the cost of living is greater than the statewide average are eligible for a cost differential factor (CDF) grant. . . The General Assembly did not appropriate funding for CDF grants in FY 2023-24 or FY 2024-25.”).

74. The Targeted Voucher Law authorizes grants for Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools from a “school improvement fund” for up to three years. T.C.A. §49-6-2605(b)(2). These grants are expressly subject to an appropriation of funds by the General Assembly each year. *Id.* Now that the targeted voucher is entering its fourth year of operation, the State is no longer required to provide grants via the school improvement fund. T.C.A. § 49-6-2605(b)(2)(A).

75. The Targeted Voucher Law restricts the use of these grants, if appropriated, to “school improvement” only. Thus, these grants, even if available, cannot be used for general operating funds and consequently will not replace the state funds diverted from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools under the Targeted Voucher Law.

76. Even if the General Assembly fully funded these “school improvement grants,” the grants would not compensate Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools for the loss of TISA funds for each student who uses a voucher. The grants equal only the amount of money diverted to targeted voucher accounts for students who “[w]ere enrolled in and attended a school in the LEA for the one (1) full school year immediately preceding the school year in which the student began participating in the program.” T.C.A. § 49-6-2605(b)(2)(A)(i). This does not include students who are “eligible for the first time to enroll in a Tennessee school” – for example, those entering kindergarten – who are also eligible for the voucher program. T.C.A. §49-6-2602(3)(A)(ii).

77. In addition to the initial loss of TISA funds by Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools, the Targeted Voucher Law

provides that, when a targeted voucher account is closed for any number of reasons, the remaining funds are returned to the State's TISA account rather than returned to Shelby County Schools, Metro Nashville Public Schools, or Hamilton County School. T.C.A. § 49-6-2603(e); § 49-6-2608(e). Even when a voucher student returns to Shelby County Schools, Metro Nashville Public Schools, or Hamilton County Schools and the district resumes full responsibility for, and paying the cost of, educating that student, the funds remaining in the student's targeted voucher account are returned to the State and not to the district. T.C.A. § 49-6-2603(e).

2. The Universal Voucher Law Diverts Public Funds to Private Schools

78. In addition to the inadequacy of resources for public schools in Shelby, Davidson, and Hamilton Counties, which will suffer additional loss of funding under the Universal Voucher Law, the remaining 144 school districts in Tennessee are also subject to loss of state funding due to the Universal Voucher Law.

79. The Universal Voucher Law incentivizes students to leave the public school system. Because funding for public schools is in large part based on enrollment, the Universal Voucher Law will result in a reduction in funding for public schools. T.C.A. § 49-3-105.

80. The Universal Voucher Law mandates that, subject to appropriation, every eligible applicant must be provided a voucher equal to the TISA base funding amount. T.C.A. § 49-6-3505; T.C.A. § 49-3-104(2).

81. For the 2025-2026 school year, the voucher amount is \$7,295.²¹

82. For every student previously enrolled in public school who uses a universal voucher in the 2025-2026 school year, the school district will lose at least the TISA base per pupil amount (\$7,295 in 2025-2026²²), plus any weighted funding for that student.

83. If 20,000 vouchers are distributed in the 2025-26 school year (the program cap for the year), it will cost the State at least \$145,900,000 in the 2025-2026 school year.

84. The strain on district budgets from the Universal Voucher Law increases when students participate in the voucher program and then return to a public school, as those voucher funds are returned to the state treasurer to award additional vouchers rather than directed to the public school that has resumed educating the student. T.C.A. § 49-6-3506; T.C.A. § 49-6-3504(b).

85. The funding loss to public schools caused by the universal voucher program will only grow with 1) annual increases to the base TISA funding amount and 2) the built-in increases to the voucher program cap. The Tennessee General Assembly Fiscal Review Committee estimates the State will spend \$188,100,000 on vouchers in the 2026-2027 school year.²³

²¹ Tennessee Department of Education, *Tennessee Education Freedom Scholarship Program*, available at: <https://www.tn.gov/education/efs.html> (last visited May 29, 2025).

²² H.B. 1409, 2025 Leg., 114th Sess. (Tn. 2025), Sect. 11(1)(b), at 70 (last accessed May 29, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Bill/HB1409.pdf>.

²³ Tennessee General Assembly Fiscal Review Committee, *SB 6001 - HB 6004 Fiscal Note* (Jan. 23, 2025) (last accessed May 29, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

86. Moreover, under the Universal Voucher Law, the State is choosing to take on the cost of education for likely a large percentage of the tens of thousands of existing private school students, whose education the State was not previously funding. The Tennessee General Assembly Fiscal Review Committee estimates that 74,112 students attend voucher-qualifying private schools in Tennessee.²⁴ Nothing in the Universal Voucher Law bars these families from obtaining a voucher.

87. The Committee expects that private school students will seek to use a voucher under the Universal Voucher Law.²⁵ In fact, the Committee estimates that in the 2025-2026 school year, more than half of the vouchers will be awarded to students who attended private school in the preceding school year.²⁶ The Committee estimates that 65 percent of vouchers will be awarded to students previously enrolled in private schools (prior to 2025) in 2026-2027 and going forward.²⁷

88. The Tennessee General Assembly Fiscal Review Committee estimates the Universal Voucher Law will cost the State \$1 billion in its first five years of operation.²⁸ By 2041, the State could annually provide as many as 100,000 vouchers under the Universal Voucher Law.²⁹

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

89. Thus, the Universal Voucher Law will cause the State to pay a huge amount for a voucher system parallel to the public school system, including for a large number of additional students whose education costs did not previously fall to the State. This will leave the State with significantly reduced taxpayer funds to pay for public goods, including public education.

90. School districts across the state, including the plaintiffs' districts, are already facing inadequate funding and resulting deficiencies in resources essential for a constitutionally adequate education, such as: teacher shortages, special education resource deficits, facilities disrepair, overcrowding, and insufficient support staff, school nurses, social workers, and counselors. The Universal Voucher Law exacerbates this underfunding.

91. The Universal Voucher Law's "hold harmless" provision does not remedy this loss of funds from public schools.

92. This hold harmless provision does not protect public schools from the full scale of funding loss due to the universal voucher program; it only provides that if districts experience disenrollment, they will not receive less than their total funding allocation in the immediately preceding school year. T.C.A. § 49-3-108(i). But the TISA allocation generally grows annually,³⁰ and districts subject to this hold harmless provision will lose out on that increase year after year. Districts that lose students because of the Universal Voucher Law are only able to receive as much TISA allocation as they did in the year before.

³⁰ Tennessee General Assembly Fiscal Review Committee, *SB 6001 - HB 6004 Fiscal Note* (Jan. 23, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

93. Further, the limitations of the hold harmless provision of the Universal Voucher Law mean that only a fraction of districts that experience disenrollment will receive any hold harmless funds. Hold harmless funds will only apply if (1) the district experiences disenrollment and (2) the disenrollment is such that the district would otherwise receive an allocation below the TISA allocation it received in the previous year. Therefore, a district may lose significant funds due to the voucher program but not meet the threshold for receiving hold harmless funds.

94. In 2025-2026, the Tennessee General Assembly Fiscal Review Committee estimates only 12 of Tennessee’s 147 districts will meet the criteria to receive hold harmless funds, with an estimated \$3,328,662 in “hold harmless” allocations.³¹

95. In 2026-2027, the committee estimates only 15 of Tennessee’s 147 school districts will qualify for hold harmless funds, with an estimated \$5,323,643 in “hold harmless” allocations.³² By contrast, the committee estimates districts will lose \$50,257,200 in TISA funds in the same year as a result of the Universal Voucher Law.³³

3. Additional Factors Exacerbate the Fiscal Impacts of the Voucher Laws

96. School districts must pay fixed costs to operate their schools, regardless of decline in enrollment due to the voucher laws, furthering financial harm to public schools. And districts bear substantial fixed costs, including facilities repair and maintenance, teacher

³¹ Tennessee General Assembly Fiscal Review Committee, *SB 6001 - HB 6004 Fiscal Note*, at 5-6 (Jan. 23, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

³² *Id.*

³³ *Id.*

and staff pensions, debt service, and long-term contracts. Because participants in the voucher programs will exit public schools from different schools, grade levels, and classrooms, the districts will be unable to reduce these fixed costs proportionate to the enrollment loss. Moreover, because students will leave the districts from different classrooms, grades, and schools, the districts will likewise not be able to proportionately reduce even variable costs, such as staff, programs, and services.

97. Thus, the districts will be unable to rely on supposed reduced costs to cover the loss of TISA funds under the Targeted Voucher Law and the Universal Voucher Law.

98. Additionally, as set forth below, the voucher laws permit private schools participating in a voucher program to deny enrollment to students with higher needs, including students with disabilities, whose school districts are required to provide additional supports and services under state and federal law. As a result, the voucher laws will likely increase the concentration of higher need, more costly-to-educate students in public schools, which are already left with less money available for these students' support and growth.

99. The loss of funding and concentration of high-cost students caused by vouchers will be even more pronounced in Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools, to which both voucher laws apply and which are therefore subject to losing even more students and corresponding TISA funding.

D. Academic and Accountability Requirements Differ for Voucher Schools and Public Schools

1. Participating Private Schools Under the Targeted Voucher Law Need Not Comply with Significant Requirements that Apply to Public Schools

100. A student participating in the targeted voucher program may use the TISA funds deposited into a voucher account for tuition in a private school and also for many other private education expenses: private school fees and textbooks; tutors and/or tutoring facilities; transportation to and from a private school or educational provider; early postsecondary opportunity courses or examinations for college admissions; computer hardware, technological devices, or other technology fees; uniforms; summer education programs and certain afterschool programs; tuition, textbooks and fees at certain postsecondary institutions; educational therapy services; and voucher account management fees. T.C.A. §49-6-2603(4).

101. The Targeted Voucher Law provides that only students attending a “participating school” can receive voucher funding. Participating schools are defined as those that meet the requirements established by the TDOE and the State Board for Category I, II, or III private schools. T.C.A. § 49-6-2602(9).

102. Category I private schools are “those approved individually by the Department of Education,” Category II private schools are those “accredited by an agency whose accreditation process is approved by the State Board of Education,” and Category III private schools are “those which are regionally accredited.” Tenn. Comp. R. & Regs. §0520-07-02-.01.

103. State Board regulations provide that “[t]he criteria and procedures used in the evaluation of [Category I] schools are the same as for the public schools,” Tenn. Comp. R. & Regs. §0520-07-02-.02, but this is not true for Category II and Category III private schools. Tenn. Comp. R. & Regs, §§0520-07-02-.03, 0520-07-02-.04.

104. The State Board regulations governing approval of accrediting organizations for Category II private schools include criteria for topics such as curriculum and graduation, teacher licensure and evaluation, and testing. Tenn. Comp. R. & Regs. §0520-07-02-.03(6)(c)(9). The regulations for Category III private schools require only regional accreditation, reporting of basic student information to the student’s public school district of residence, and a minimum age for students entering kindergarten. Tenn. Comp. R. & Regs. §0520-07-02-.04. The criteria used by regional accrediting agencies varies.

105. In contrast to public schools, the Targeted Voucher Law requires participating private schools to administer state tests in only two subjects, Math and English Language Arts. T.C.A. §49-6-2606(a)(1). Unlike public school students, voucher students need not be given a state test in Social Studies and Science.

106. The Targeted Voucher Law does not require all participating private schools to comply with the governance and accountability mandates of state laws that apply to the public schools.

2. Participating Private Schools Under the Universal Voucher Law Need Not Comply with Significant Requirements that Apply to Public Schools

107. A student participating in the universal voucher program must use the voucher funds to pay for private school tuition and fees and may use additional funds for: textbooks,

instructional materials, and uniforms; tutoring services; transportation to and from a private school; summer education programs and certain afterschool programs; computer hardware, technological devices, or other technology fees; fees at certain postsecondary courses or exams; and educational therapy services. T.C.A. § 49-6-3505(b)-(c).

108. To receive voucher funds, participating private schools must (1) be located in Tennessee; (2) be “accredited by, or a member of, an organization or association approved by the state board of education as an organization accrediting or setting academic requirements in schools, or that has been approved by the state, or is in the future approved by the commissioner in accordance with rules promulgated by the state board of education,”; and (3) be defined as a category I, II, or III school approved by the commissioner of education. T.C.A. § 49-6-3502(4)(B); T.C.A. § 49-6-3001(c)(3)(A)(iii).

109. In contrast to public schools, the Universal Voucher Law does not require participating private schools to administer state tests. Instead, either a national standardized achievement test or the state test for Math and English Language Arts only may be administered. T.C.A. § 49-6-3507(a)(1). The Tennessee General Assembly Fiscal Review Committee predicts that participating private schools will not administer the state test but rather opt for the national standardized test instead.³⁴

110. The Universal Voucher Law does not require participating private schools to follow state curriculum.

³⁴ Tennessee General Assembly Fiscal Review Committee, *SB 6001 - HB 6004 Fiscal Note*, at 5-6 (Jan. 23, 2025), available at: <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

111. The Universal Voucher Law does not require all participating private schools to comply with the governance and accountability mandates of state laws that apply to the public schools.

E. The Targeted Voucher Law and the Universal Voucher Law Explicitly Lack the Anti-Discrimination and Civil Rights Protections Guaranteed to Public School Students

112. Upon information and belief, many Tennessee private schools limit admission and continued enrollment based on religion, sexual orientation, gender identity, disability, and/or other student or family characteristics protected from discrimination in public schools.

113. For example, Evangelical Christian School in Shelby County, a Category II and III private school, will only admit students with “one parent professing Christ as Savior.”³⁵

114. Christ’s Legacy Academy, a Category II and IV private school in McMinn County, requires that parents write a statement of faith and attest that they “are believers in Christ and who have personally accepted Him as Lord,” are active members of a church, and “endeavor[] to maintain a Christian home where Biblical principles are nurtured” as part of their application.³⁶

115. Briarcrest Christian School in Shelby County, a Category II and III private school: (i) immediately expels any student who is pregnant; (ii) expels students for engaging

³⁵ Evangelical Christian School, “How to Apply,” (last accessed May 29, 2025, available at: <https://www.ecseagles.com/admissions/visit>).

³⁶ Christ’s Legacy Academy, *Application Procedures and Information* (last accessed May 29, 2025), available at: https://www.christslegacyacademy.org/_files/ugd/873237_b7de91b738044fcea1e55fc682813008.pdf.

in “inappropriate sexual behavior (including but not limited to premarital sexual relations, homosexuality, bisexuality or transgender related actions)”; and (iii) may “decline to tour, process an application, extend an offer to enroll or continue the enrollment of any . . . student” if such student or their parent “is or appears to be failing to conform their actions or statements to biblical principles.”³⁷ Briarcrest states that actions not in conformity with biblical principles include: abortion, “[h]eterosexual, homosexual or alternate gender identity,” and disrespect of faculty or staff, among others.³⁸

116. Providence Christian Academy, a Category III private school in Rutherford County, reserves the right to refuse admission or discontinue enrollment of students from homes that are “living in, condoning or supporting sexual immorality; practicing homosexual lifestyle or alternative gender identity; promoting such practices; or otherwise having the inability to support the moral principles of the school.”³⁹

117. Christ the King School, a Category III private school in Davidson County, states that the school “may not accept for enrollment or continue enrollment for applicants whose special needs, including, but not limited to, emotional, behavioral, or educational needs, in the considered judgment by the School, cannot be met with reasonable

³⁷ Briarcrest Christian School, “Biblical Principles,” (last accessed May 29, 2025), available at: <https://www.briarcrest.com/admissions/student-and-family-policies/biblical-principles>; Briarcrest Christian School, “Code of Conduct,” (last accessed May 29, 2025), available at: <https://www.briarcrest.com/admissions/student-and-family-policies/code-of-conduct>.

³⁸ Briarcrest Christian School, “Biblical Principles,” (last accessed May 29, 2025), available at: <https://www.briarcrest.com/admissions/student-and-family-policies/biblical-principles>.

³⁹ Providence Christian Academy, *Parent Student Handbook 2024-2025*, (last accessed May 29, 2025), available at: <https://providencechristian.com/wp-content/uploads/2024/10/Parent-Student-Handbook-2024-2025-.pdf>.

accommodations by the School,” and that “[t]he admission, instruction, and retention of students with disabilities, students with special needs, and students who are English Language Learners cannot be guaranteed.”⁴⁰

118. Holy Rosary Academy, a Category III private school in Davidson County, states that all admissions are subject to approval of students’ academic, behavioral, standardized test, and attendance records, in addition to whether the student is an active member of the parish.⁴¹

119. Our Lady of Perpetual Help Catholic School, a Category III private school in Shelby County, states that the school “is not able to meet the needs of every learner . . . In the event that we cannot meet your child’s needs, every effort will be given to assist in transitioning to another school or program.”⁴²

⁴⁰ Christ the King School, *Parent and Student Handbook 2023-2024*, at 9 (last accessed May 29, 2025), available at: https://cdnsm5-ss11.sharpschool.com/UserFiles/Servers/Server_610718/File/2023-2024%20Student%20Handbook.pdf.

⁴¹ Holy Rosary Academy, *Admissions Overview* (last accessed May 29, 2025), available at: <https://www.holyrosary.edu/admissions-overview>.

⁴² Our Lady of Perpetual Help, 2024-2025 Student and Parent Handbook, at 34 (last accessed May 29, 2025), available at: [https://assets.speakcdn.com/assets/2983/olph_cdom_handbook_2024-2025__final_draftdocx_\(1\).pdf](https://assets.speakcdn.com/assets/2983/olph_cdom_handbook_2024-2025__final_draftdocx_(1).pdf).

120. Brainerd Baptist School, a Category III private school in Hamilton County, states that, regarding admission, “[a]ll students must be capable of functioning in a traditional classroom environment.”⁴³

121. The Targeted Voucher Law requires participating private schools to certify that they will not discriminate against voucher students or applicants on the basis of race, color, or national origin, but has no other antidiscrimination provisions. T.C.A. §49-6-2607(e)(2).

122. The Universal Voucher Law does not require participating private schools to make any such certification. T.C.A. § 49-6-3501, *et seq.*

123. The Targeted Voucher Law and the Universal Voucher Law do not prohibit participating schools from refusing admission based on disability, religion, English language ability, LGBTQ status, family income level, or academic ability.

124. The Targeted Voucher Law and the Universal Voucher Law explicitly state that accepting voucher money will not require any participating private school to change its creed, practices, admissions policies, or curriculum. T.C.A. §49-6-2609(c); T.C.A. § 49-6-3508(c).

125. The Targeted Voucher Law and Universal Voucher Law expressly permit participating private schools to deny special education programs and services to students with disabilities. The Targeted Voucher Law states that voucher program participation “has the same effect as a parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act.” T.C.A. §49-6-2603(3). The Universal Voucher Law states

⁴³ Brainerd Baptist School, *Brainerd Baptist School Student Handbook*, 5 (last accessed May 17, 2025), available at: <https://drive.google.com/file/d/1FJa62yeEvQdT-utfK6dlhlCRlSkOseVj/view>.

that “[a] recipient does not retain the right to receive special education and related services from the LEA in which the recipient resides, through an individualized education program,” and that “[r]ecipients have the same rights under the Individuals with Disabilities Education Act . . . to receive equitable services . . . as all other students enrolled in non-public schools.” T.C.A. § 49-6-3509(b). This means universal voucher program students, like those in the targeted voucher program, have the much more limited special education rights that private school students do, as compared to public school students.

126. The Targeted Voucher Law diverts TISA funds appropriated by the General Assembly away from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to pay tuition, fees, and other expenses for private schools that are not required to serve all students.

127. The Universal Voucher Law diverts state funding to private schools statewide that are not required to serve all students.

128. The Targeted Voucher Law and Universal Voucher Law allow participating private schools that receive public taxpayer dollars to refuse admission to and discriminate against students based on disability status, religious beliefs, language proficiency, lack of financial means, gender identity, sexual orientation, or other factors.

129. Public schools are prohibited by law from refusing admission to or discriminating against students or families based on any of these characteristics or factors.

130. The Targeted Voucher Law and Universal Voucher Law do not require participating private schools to afford students the protections against bullying, intimidation, and harassment that public schools must provide under state law. T.C.A. §49-6-4501, *et seq.*

F. The Targeted Voucher Law Was Passed Without an Appropriation for the Estimated First Year's Funding in the Session in Which It Was Enacted

131. The General Assembly did not make an appropriation for the estimated first year's funding of the Targeted Voucher Law during the session in which it was enacted.

132. Despite the absence of an appropriation for the estimated funding of the Targeted Voucher Law in fiscal year 2019, Defendant TDOE entered into a \$2.5 million contract in November 2019 with ClassWallet, a private, for-profit company based in Florida. Under this contract, ClassWallet was to oversee online application and payment systems for the voucher program. ClassWallet began work under this contract in November 2019.

133. TDOE paid ClassWallet approximately \$1.2 million in 2019 for performance under this contract, despite the fact that no money was appropriated for the first year of the Targeted Voucher Law. According to testimony by TDOE's deputy commissioner before the General Assembly's Joint Government Operations Committee on January 27, 2020, TDOE diverted funds appropriated by the General Assembly for the unrelated "Career Ladder" program for public school teachers to pay ClassWallet for services performed to implement the Targeted Voucher Law.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION – TARGETED VOUCHER LAW

**(Violation of the Education and Equal Protection Clauses
of the Tennessee Constitution)**

134. This claim is brought by Plaintiffs David P. Bichell, Terry Jo Bichell, Lisa Mingrone, Claudia Russell, Inez Williams, Elise McIntosh, Apryle Young, and Crystal Boehm against all Defendants.

135. Plaintiffs hereby incorporate paragraphs 1-36, 41-45, 54-77, 96-106, and 112-133 as if fully set forth herein.

136. Under the Tennessee Constitution, the State of Tennessee, through the General Assembly, must maintain and support a system of public schools that provides adequate and substantially equal educational opportunities to all children residing in the State. Tenn. Const., art. I, §8; art. XI, §§8, 12; *Small Sch. Sys. I*, 851 S.W.2d at 139; *Small Sch. Sys. II*, 894 S.W.2d at 734; *Tenn. Small Sch. Sys. v. McWherter* (“*Small Sch. Sys. III*”), 91 S.W.3d 232 (Tenn. 2002).

137. In the *Small School Systems* rulings, the Tennessee Supreme Court invalidated the State’s previous school funding system because it deprived public school students in certain LEAs of substantially equal educational opportunities. *Small Sch. Sys. I*, 851 S.W.2d at 156.

138. The current funding provided by the General Assembly through the TISA statute is demonstrably inadequate to enable Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to provide the teachers, support staff, and other resources necessary to afford all students an adequate education under Article I, §8, and Article XI, §§8 and 12, of the Tennessee Constitution.

139. The diversion of state TISA funds under the Targeted Voucher Law further deprives Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools of the funding required to provide their students with a constitutionally mandated adequate education.

140. The Targeted Voucher Law also deprives students in these counties of a substantially equal educational opportunity by diverting an amount equal to the state and local share of TISA funding from their public schools for every voucher participant, leaving the districts with fewer state funds than when students leave school districts for reasons other than using the Targeted Voucher.

141. Moreover, by diverting an amount representing the state and local TISA allocation out of state funds for every student who takes a voucher in Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools – but in no other counties – the Targeted Voucher Law imposes an unequal burden on taxpayers in those counties because it forces them to make up for the diversion of state funds in order to maintain even the same level of school funding. Additionally, only in those counties, the Targeted Voucher Law forces taxpayers to maintain local revenue levels for voucher students who have left the district. Thus, the Targeted Voucher Law violates the equal protection rights of those taxpayers.

142. The school improvement grants, even if allocated, do not make up for the loss of state funding.

143. Therefore, the Targeted Voucher Law violates the Equal Protection and Education Clauses of the Tennessee Constitution, Article I, §8; Article XI, §§8, 12, for students in Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools, and violates the Equal Protection rights of taxpayers in those districts.

SECOND CAUSE OF ACTION – TARGETED VOUCHER LAW

(Violation of the Appropriation of Public Moneys Provisions of the Tennessee Constitution and T.C.A. §9-4-601)

144. This claim is brought by Plaintiffs David P. Bichell, Terry Jo Bichell, Claudia Russell, Inez Williams, Elise McIntosh, Apryle Young, Dustin Park, Jill Smiley, and Crystal Boehm against all Defendants.

145. Plaintiffs hereby incorporate paragraphs 1-25, 37-45, and 131-133 as if fully set forth herein.

146. Article II, §24, of the Tennessee Constitution provides:

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding.

147. Article II, §24, of the Tennessee Constitution also provides: "No public money shall be expended except pursuant to appropriations made by law."

148. By statute, "[n]o money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law." T.C.A. §9-4-601(a)(1).

149. The Targeted Voucher Law was enacted by the General Assembly in its 2019 legislative session.

150. During the 2019 legislative session, the General Assembly did not make an appropriation for the estimated first year's funding of the Targeted Voucher Law.

151. In November 2019, Defendant TDOE signed a \$2.5 million contract with a private for-profit company, ClassWallet, to undertake the administration of the Targeted Voucher Law. ClassWallet began work under the contract in November 2019.

152. TDOE diverted public funds from an unrelated, existing State program supporting public school teachers to instead pay ClassWallet \$1.2 million in 2019 for its work on the voucher program.

153. TDOE's expenditures for the ClassWallet contract, or any other expenditures for the administration and implementation of the Targeted Voucher Law in 2019, without appropriation for the estimated first year's funding of the Targeted Voucher Law, render the Targeted Voucher Law null and void under Article II, §24, of the Tennessee Constitution and violate T.C.A. §9-4-601.

THIRD CAUSE OF ACTION – UNIVERSAL VOUCHER LAW

(Violation of the Education Clause of the Tennessee Constitution)

154. This claim is brought by Plaintiffs Elise McIntosh, Apryle Young, Dustin Park, Jill Smiley, and Crystal Boehm against all Defendants.

155. Plaintiffs hereby incorporate paragraphs 1-36, 46-69, 78-99, and 107-130 as if fully set forth herein.

156. Under the Tennessee Constitution, the State of Tennessee, through the General Assembly, must maintain and support a system of public schools that provides an adequate education to all children residing in the State. Tenn. Const., art. XI, § 12; *Small Sch. Sys. I*, 851 S.W.2d at 150-1.

157. The Universal Voucher Law will deprive students in public schools of an adequate education by reducing funding for public schools, and reducing scarce public funding that otherwise could be used for public purposes, including public schools, which currently lack sufficient resources.

158. The current funding provided by the General Assembly through TISA is inadequate to enable public schools to provide the teachers, support staff, and other resources necessary to afford all students an adequate education under Article XI, §12, of the Tennessee Constitution.

159. The diversion of students and funding away from public schools due to the Universal Voucher Law, and the diversion of hundreds of millions of dollars from the public fisc, will further deprive public school districts of the funding required to provide their students with a constitutionally mandated adequate education.

160. The Universal Voucher Law's hold harmless provision does not make up for this funding loss.

161. Because the Universal Voucher Law diminishes TISA funds appropriated by the General Assembly to maintain and support public schools, the Universal Voucher Law violates the Education Clause of the Tennessee Constitution, Article XI, §12, for all students.

FOURTH CAUSE OF ACTION – TARGETED AND UNIVERSAL VOUCHER LAWS

(Violation of the Requirement of a Single System of Public Schools Mandated by the Education Clause of the Tennessee Constitution)

162. This claim is brought by all Plaintiffs against all Defendants.

163. Plaintiffs hereby incorporate paragraphs 1-36, and 41-130 as if fully set forth herein.

164. The Tennessee Constitution's Education Clause, Article XI, §12, requires the General Assembly to provide for the maintenance, support and eligibility standards of “*a* system of free *public* schools” (emphases added). The Tennessee Constitution does not

permit the General Assembly to maintain and support schools outside the system of free public schools.

165. The Targeted Voucher Law diverts TISA funds appropriated by the General Assembly to maintain and support Tennessee public schools to instead pay for tuition and other expenses in private schools that do not comply with the requirements of a single system of public schools.

166. The Universal Voucher Law diverts state funds to pay for tuition and other expenses in private schools that do not comply with the requirements of a single system of public schools.

167. The private schools authorized by the Targeted Voucher Law and the Universal Voucher Law to participate in the voucher program are not – and cannot, by the express terms of the Law – be part of the State of Tennessee’s system of free public schools.

168. Under the Targeted Voucher Law and the Universal Voucher Law, participating private schools are not required to comply with the same academic and eligibility standards required by State law for Tennessee’s system of free public schools.

169. Under the Targeted Voucher Law and the Universal Voucher Law, participating private schools are expressly exempt from the legal obligations to enroll and educate all students that apply to Tennessee’s system of free public schools. The participating private schools can deny enrollment or otherwise discriminate against students based on characteristics such as disability, religion, English proficiency, LGBTQ status, and ability to pay tuition or fees.

170. Under the Targeted Voucher Law and the Universal Voucher Law, participating private schools are not required to provide services that public schools are obligated under state and federal law to provide to students, including special education services for students with disabilities.

171. Under the Targeted Voucher Law and the Universal Voucher Law, participating private schools are not subject to the requirements imposed by State law on public schools to protect students from harassment, intimidation, or bullying.

172. Under the Targeted Voucher Law and the Universal Voucher Law, participating private schools are not required to comply with the same governance and accountability mandates of state law that apply to Tennessee's system of free public schools.

173. The Targeted Voucher Law and the Universal Voucher Law violate the General Assembly's obligation in Article XI, §12 of the Tennessee Constitution to maintain and support "*a system*" of "free *public* schools" (emphases added).

VII. DECLARATORY AND INJUNCTIVE RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants on each Count of the Complaint and pray for the following relief:

A. That the Court enter a judgment declaring that the Targeted Voucher Law violates the Tennessee Constitution's provisions on Education, Equal Protection, and Appropriation of Public Moneys, and T.C.A. §9-4-601 (as to Counts I, II, and IV);

B. That the Court enter a judgment declaring that the Universal Voucher Law violates the Tennessee Constitution's Education Clause (as to Counts III and IV);

C. That the Court issue temporary and permanent injunctions preventing the enforcement of the Targeted Voucher Law and the Universal Voucher Law (as to Counts I-IV);

D. That the Court grant such further relief as it may deem just and proper.

DATED: [Insert Date]

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