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FILED

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DIANE SANCHEZ
CLERK OF THE DISTRICT COURT

STATE OF WYOMING)
)ss.
COUNTY OF LARAMIE)

DISTRICT COURT OF THE
FIRST JUDICIAL DISTRICT
OF LARAMIE COUNTY
309 WEST 20th STREET
CHEYENNE, WY 82001

WYOMING EDUCATION ASSOCIATION,
a Wyoming Nonprofit Membership Corporation,

Plaintiff

Vs.

Case No. 2022-CV-200-788

STATE OF WYOMING,

Defendant

COMPLAINT

COMES NOW the Plaintiff, Wyoming Education Association, and
hereby complains and alleges as follows:

Parties and Standing

1. Plaintiff Wyoming Education Association (WEA) is a non-profit membership corporation in the state of Wyoming. It has approximately 6000 members who work as educators and educational support personnel in the public schools in the state of Wyoming. WEA members are also taxpayers and parents of children who attend Wyoming public schools in schools and districts across every county in Wyoming. WEA's nonprofit purpose is to further public education and the educational profession in Wyoming. WEA has been an advocate for public schools for more than 100 years. WEA regularly appears before boards, commissions, state agencies and other entities as a spokesperson on behalf of public school students and public education issues. WEA was a principal party and plaintiff in each of the previous series of school finance cases known as the *Campbell* cases. WEA brings this action to further and protect the rights of its members as educators, parents, and taxpayers.

2. WEA has been recognized as having standing to bring legal

actions on behalf of Wyoming school children. *Director of the Office of State Lands v. Merbanco*, 2008 WY 73 at ¶¶16-18, 70 P.3d 241, 247 (2008), citing *Washakie School District v. Herschler*, 606 P.2d 310, 317 (Wyo. 1980). WEA had its standing recognized as an intervening Plaintiff in the most recent series of school finance litigation cases in Wyoming which are known as the *Campbell* cases. See *Campbell County Sch. Dist. v. State*, 1995 WY 184, 907 P.2d 1238 (Wyo.1995) (hereinafter *Campbell I*); *State v. Campbell County Sch. Dist.*, 2001 WY 19, 19 P.3d 518 (2001) (hereinafter *Campbell II*); *State v. Campbell County School District*, 2001 WY 90, 32 P.3d 325 (2001) (hereinafter *Campbell III*); and *State v. Campbell County School District*, 2008 WY 2, 181 P.3d 43 (2008) (hereinafter *Campbell IV*).

3. WEA members are in a unique position to have direct knowledge, insight, and commitment to providing quality education for all Wyoming school children. They are also parents of children who attend public schools, as well as taxpayers. They will be directly impacted by any

decision in this case in their personal safety, their livelihoods, and their ability to effectively meet the educational needs of the school children they serve. The outcome of this case will affect enforcement and protection of their children's' constitutional right to a high-quality public education.

4. Defendant is the State of Wyoming. Plaintiff brings this action pursuant to the Wyoming Uniform Declaratory Judgments Act (Wyo. Stat. Ann. §§ 1-37-101 through 1-37-115) and as a direct action against the State of Wyoming for enforcement of the Wyoming Constitution.

Constitutional Duty of the Wyoming Legislature

5. The Wyoming Constitution creates a fundamental right to an equal and quality education for every child in the State of Wyoming. The opening Article of the Wyoming Constitution, the "Declaration of Rights", establishes that the right to an education is a fundamental right in Wyoming (Wyo. Const. Art. 1, § 23). In fact, that fundamental right to an education is found just before the right to bear arms is listed in the Declaration of Rights. As the Wyoming Supreme Court has held in the *Campbell* cases, a

student's right to an equal and quality education is a fundamental right in Wyoming guaranteed by the State's constitution.

6. Additional provisions of the Wyoming Constitution found in Article 7 further define the right to educational opportunity established in Article 1 and explain how that right must be implemented. "The language identifies three 'duties' borne by the legislature in order to meet its constitutional responsibility to provide the equal opportunity: 1) the 'system of public instruction 'must be complete and uniform,'; 2) the 'system of public schools must be 'thorough and efficient'; and 3) the thorough and efficient system of public schools must be 'adequate to the proper instruction' of the state's youth." *Campbell I*, at 1263 (citing to Wyo. Const. Art. VII, § 9).

7. In the *Campbell* cases, *supra*, the Wyoming Supreme Court has clearly held that the right to public education in Wyoming is a fundamental right and that violations of that right are subject to standards of strict scrutiny.

Because education is a fundamental right and our citizens are entitled to equal protection under our state constitution, all aspects

of the school finance system are subject to strict scrutiny, and statutes establishing the school financing system are not entitled to any presumption of validity... Because the right to an equal opportunity to a proper public education is constitutionally recognized in Wyoming, any state action interfering with that right must be closely examined before it can be said to pass constitutional muster. Such state action will not be entitled to the usual presumption of validity; rather, the state must establish its interference with that right is forced by some compelling state interest and its interference is the least onerous means of accomplishing that objective... We hold this test applies to the complete system for distribution of funds for operating public schools as well as for construction of the necessary facilities in which to operate them.

Campbell II, at ¶¶42-45.

8. In the *Campbell* cases, the Wyoming Supreme Court also affirmed that the educational opportunity may not be provided on an unequal basis. “As nearly as possible, and making allowances for local conditions, special needs and problems, and educational cost differentials, the education system must achieve financial parity... The state financed basket of quality educational goods and services available to all school-age youth must be nearly identical from district to district.” *Campbell I*, at 1279.

9. The Wyoming Supreme Court has also clarified that the nature of

the educational opportunity provided by the State must be one of very high quality:

Substantively, the constitution uses terms commanding the legislature to provide and fund an education system which is of a quality 'appropriate for the times.' No other reasonable conclusion can be drawn except the obvious one that the specific directives of §§ 1 and 9 are well beyond simply allowing the legislature to dispense a minimal level of elementary and secondary education and then fund it as best it can amidst other competing priorities. Supporting an opportunity for a complete, proper, quality education is the legislature's paramount priority; competing priorities not of constitutional magnitude are secondary, and the legislature may not yield to them until constitutionally sufficient provision is made for elementary and secondary education.

Campbell I, at 1279.

10. The Wyoming Supreme Court gave the Wyoming Legislature several obligations to perform in order to create a constitutionally compliant educational system. Among those obligations were these four crucial directives for the legislature: (1) to identify all the components of a modern, high quality elementary and secondary school system (often called the "basket of educational goods and services"); (2) to determine the actual cost

of the necessary components (costing the “basket”); (3) to fully fund the cost of the components which were so identified; and (4) to regularly increase the funding provided to adjust for the effects of inflation and to continuously fund innovations in educational practice.

11. The Wyoming Supreme Court has established that Wyoming is unlike other states and their educational systems because Wyoming’s Constitution requires the State to provide not just a minimum level of education, but rather to provide a high quality, complete, and thorough education adapted to the needs of all kinds of students everywhere in the state. In developing the basket of educational goods and services which is at the core of the right to education, “The constitution requires that it be the *best* that we can do.” *Campbell I*, at 1279. In fact, “... Wyoming views its state constitution as mandating legislative action to provide a thorough and uniform education of a quality that is both visionary and unsurpassed. To that end, this court required the legislature to consider education as a paramount priority over all other considerations...” *Campbell II*, at 538.

Constitutional Duty to Increase Funding with Inflation

12. Once the funding system was properly established to meet these constitutional requirements, the Supreme Court also gave the Legislature two duties to comply with at a minimum to *keep* the funding system constitutionally compliant: 1) that the Legislature must regularly adjust the amount of funding to reflect the effects of inflation, an adjustment called the “external cost adjustment” or “ECA”), and 2) that at least every five years the Legislature must review the components of a quality education and update the funding model and its funding levels to reflect actual, current costs as well as to provide funding for any innovations or changes in the nature of what constitutes a quality education. The Legislature has failed to comply with either of these duties and, as a result, the current educational finance system in Wyoming is not constitutionally compliant.

The Legislature Has Allowed Funding Support for Education to Seriously Deteriorate

13. The Legislature, in response to the Supreme Court’s initial *Campbell* decision, engaged experts to design a finance formula that would

comply with the Court's mandate. Those original studies eventually resulted in a complex formula for calculating each district's revenue entitlement. There were then a series of legal developments that followed, including a trial and multiple appeals which addressed issues about what educational goods and services actually cost, the level of funding that was being provided, educational costs which were or were not being included in the funding model, and other related issues. The State continued to make changes to the funding model as these legal developments occurred, resolving disputes about which components should be funded and at what level.

14. Eventually, the Wyoming Supreme Court found that enough changes had been made to the funding model to make the education funding system constitutional as of that time. A significant part of the Supreme Court's holding that the newly created and modified system was constitutional at that time was that the funding model: (1) included and funded those components and educational goods and services which were necessary to have a complete, uniform, and high-quality education, and (2) that the kinds and

levels of funding were “cost-based,” meaning that the amount of funding was at the level needed to pay for the actual costs school districts would have in providing that complete, uniform, and high-quality education.

15. In reaching this conclusion and ending its continuing jurisdiction in *Campbell*, the Supreme Court relied on the good faith of the State to finish the processes established and keep the funding system current with inflation adjustments and adjustments for educational developments and needs. See *Campbell IV, supra*. Unfortunately, as is laid out in this Complaint, in the years since that time, the State has failed to follow through with its obligations to maintain a constitutionally compliant funding system.

16. Among the actions the State needed to perform to maintain a proper education funding system, the Supreme Court specifically required the Legislature to perform two duties to keep the finance system constitutional: 1) Review the model at least every five years to determine if the model contains all the right components of a high quality modern education, and 2) Adjust funding at least every two years to account for inflation (the “External

Cost Adjustment” or “ECA”). The State has failed to comply with either of these duties due to the failure by the State Legislature to appropriate necessary funds for these needed adjustments to increase funding levels.

17. The failure to provided needed inflationary cost adjustments has made the funding model unconstitutional. As the Wyoming Supreme Court has established:

There will undoubtedly come a time when inflationary cost increases render the funding levels inadequate to deliver the basket.

As long as the state continues to rely upon a cost of education model based upon historic actual costs to determine the appropriate funding for schools, regular and timely inflation adjustments are essential to funding the real cost of education. We adopt the opinion of the state's experts and hold that the model and statute must be adjusted for inflation/deflation every two years at a minimum. Given the acceptance of all parties of validity of the WCLI, adjustments made consistent with that index will be presumed to be adequate. If other methods of adjustment are chosen by the legislature, they must be structured to assure quality of education remains adequate...The model and statute must be adjusted for inflation no later than July 1, 2002, and each biennium thereafter so long as a cost of education model using historic costs is relied upon for the basis of education funding.

Campbell II, ¶¶ 87, 90

18. The failure to meet increased costs as part of periodic reviews of the cost of components in the funding model (“recalibration”), also has made the funding model unconstitutional, as it is no longer a “cost-based” model.

As the Wyoming Supreme Court established:

“Therefore, we hold that, in order for teacher salaries, which comprise 80 percent of the total cost of education, and the school financing system as a whole to maintain cost-based validity, the legislature shall conduct a review of the components in 2001 and at least every five years.

Therefore, we hold that the legislature shall conduct a review of all the components every five years to ensure that funding accurately reflects the actual costs school districts are paying because of current market or economic conditions.

Campbell II, at ¶¶ 66, 89.

19. Since *Campbell IV* was decided, the Legislature has gone through some efforts to periodically *study* the costs of the components of the model, a process it refers to as “recalibration.” However, as is set forth below in this Complaint, the Legislature did not increase funding for components with increased costs as needed to keep the model cost-based.

20. Instead, what has actually occurred is that the Legislature has used

the “recalibration” process primarily as a means to look for a cheaper model and possible ways to reduce funding. The Legislature has successively commissioned at least three different sets of consultants to study the current, actual costs of the funding model components. The Legislature then essentially disregarded those consultants’ work when those consultants reached conclusions the Legislature did not like, particularly the consultants’ suggestions to add components in need of funding to the model or to increase the levels of funding in the model. The Legislature has spent millions of dollars on studies, but at this point the funding levels and components do not match any of their consultants’ recommendations. Rather, the current funding system and levels of funding constitute a patchwork system which is still based primarily on the original statutory model from years ago.

21. The current makeup and funding levels in the State’s educational funding system are not consistent with any of the State’s consultants’ models; with the original model as it should have been adjusted for inflation and increased costs; or with the actual costs that districts incur. Therefore, the

model is not “cost-based.”

22. The Legislature has failed to properly fund public education as constitutionally required, whether viewed globally or specifically in regard to individual components, including the following:

a. The level of funding of the model currently being provided is less than the actual costs of providing a complete, uniform, and high-quality education to Wyoming students. The level of funding for the model currently being provided is actually far below the funding level recommendations of the Legislature’s own consultants when the model was studied as part of “recalibration.” In reality, even those studies seriously *understated* the actual cost of education. The fact that the State has failed to fund public education at even the increased, but still inadequate, level recommended by its own consultants clearly demonstrates the constitutional failures. At one point during its “recalibration” exercises, the Legislature asserted that one of the consultant’s models was the “constitutional model,” but then when those

consultants concluded that the current funding level was not sufficient and recommended more money be appropriated for education funding, the Legislature dropped the consultant instead of acting to provide the necessary increased funding.

b. The State has successively used three different sets of consultants to do these “recalibration” studies but stopped using each of them in turn when the consultants’ recommendations included increased funding. The Legislature keeps looking for a new consultant who will invent a different model that will cost less than the current system, despite the reality that the current system does not adequately fund actual costs of a complete, uniform, thorough, and high-quality education as required by the Wyoming Constitution. Public schools inherently have certain components - teachers, counselors, tutors, administrators, educational support personnel, books, technology, facilities, and many more components. These commonly agreed-upon, necessary elements of any delivery of education simply cost more than

the State has appropriated and cost more than the funding model provides for.

c. Although the State's various consultants for "recalibration" have had some differences in their proposed funding configurations, there is a general consensus across their reports of the basics that needed to be funded. There has also been a general consensus that the funding levels of the current system are inadequate and need to be increased. At this point, the current level of funding is significantly less than even what each of the last two sets of the State's consultants recommended.

d. Among the significant failures to fully and properly fund education is the fact that the Legislature has failed to adjust the personnel component for inflation as required. "[S]uffice it to say that if teacher salaries are not adjusted in keeping with our holding on the external cost adjustment they will no longer be constitutionally cost-based." *Campbell II*, ¶67.

i. Personnel costs represent approximately 84% of the

total cost of public education. It is well established that a high-quality teacher is the most important element in a quality education. The current funding does not provide sufficient funding to attract and retain enough high-quality teachers. The salaries provided in the funding model have not been adjusted for inflation for more than a decade. For example, current model funding for teacher salaries is approximately \$ 7,000 per teacher below the actual costs which districts must pay each school year to fill teaching positions. And even with districts diverting that much extra money to teacher salaries (and thus away from other funding needs), districts still cannot appropriately attract, hire, and retain enough high-quality teachers.

ii. Not only has the Legislature failed to adjust teacher salaries for inflation, but the Legislature has also failed to adjust administrative salaries and salaries of educational support personnel. Like teacher salaries, the salaries provided in the model

for other needed employees are no longer sufficient for districts to recruit and retain those employees. There is a general labor shortage in many categories of employees which school districts also need to hire, and the salary amounts in the current funding model for educational support personnel do not match the current labor market salaries for those kinds of employees.

iii. As the State's education funding model was created in the years following the *Campbell I* decision, the amounts for teaching salaries in that model were intentionally and necessarily established at a high enough level to give Wyoming a significant competitive advantage over other states with respect to hiring and keeping teachers. Salary amounts in the funding model were established in this manner so that Wyoming could compete for high quality teachers based on a recognition by the State that Wyoming school districts have various disadvantages in recruiting and retaining teachers as compared to school districts in other

states. In 2010, that teacher salary advantage was approximately 25% above the average of surrounding states and Wyoming districts competed well for the best teachers. Due to the failure to keep the model adjusted for inflation, that advantage has disappeared, and Wyoming districts not only cannot compete for high-quality teachers, but in a number of instances, Wyoming districts cannot compete to hire anyone for some positions.

iv. Wyoming school districts must fill approximately 825 teaching position vacancies each year. The University of Wyoming does not graduate enough teachers to fill the need. UW graduates approximately just 200 teacher graduates each year. 46% of Wyoming teachers come from UW, 38% come from 12 intermountain regional institutions, and 17% come from other institutions from across the country. Wyoming districts thus must compete with school districts throughout the intermountain region and nationally to try to find highly qualified teachers. That

competition has become particularly fierce because nationally other colleges are also not producing enough education graduates to meet the national demand. Wyoming's low population spread unevenly over vast geography creates circumstances that make it more difficult to compete. There are distinct disadvantages for recruiting new teachers to districts in Wyoming, such as relative isolation, absence of local medical specialists and hospitals, absence of major shopping opportunities, limited entertainment and dining opportunities, limited employment opportunities for spouses of teachers, distances from families, poor and challenging weather conditions, long travel distances and very limited air service, lack of infrastructure, lack of other young people to date or marry, problems in finding suitable housing, and other similar circumstances which are important as prospective teachers evaluate their opportunities.

v. Periodically in its "recalibration" processes, the

Legislature has had its consultants look at how Wyoming's *average* teaching salaries compare with the *average* salaries of other states. That consultant work has demonstrated that the higher salary advantage intentionally established in the funding model at the time of its creation to help overcome the inherent competitive disadvantages no longer exists. Districts have lost their competitive edge due to the state's failure to adjust the model for inflation as required. The result is that Wyoming districts have serious difficulty hiring high quality teachers and, in some instances, hiring anyone at all.

vi. The current average Wyoming teaching salaries that district can afford to pay, including those funds already directed to supplement salaries above the legislative model (\$7,000 per teacher on average), are now actually the same as average salaries being paid in several adjacent states and barely above average salaries in others. The needed competitive advantage for salaries

which existed when the model was created and found valid by the Supreme Court has now disappeared even when measured by a comparison of average teacher salaries.

vii. Further, school districts do not compete to hire teachers based on some mathematical “average” of statewide salaries, but rather compete based on individual district salary schedules. Wyoming school districts whose actual salaries are lower than the statewide average salaries are obviously even less able to compete for high quality teachers. In analyzing whether Wyoming salaries are competitive, the State’s consultants should have considered whether funding is sufficient for *all* districts to compete, not just some of the districts reflected in the average salary calculation. As determined by the Wyoming Supreme Court, the right to a complete, uniform, and high-quality education under the Wyoming Constitution requires that *every* school district have enough funding to compete to hire high-quality teachers.

viii. With regard to those teachers already employed by Wyoming school districts whom districts need to retain, those districts lack the funds to provide any salary growth. Teacher salaries have been essentially frozen for many years. The average annual salaries of Wyoming teachers increased only \$604 per teacher between 2010 and 2022. This decade-plus long stagnation in wages is due to the failure of the school finance system to provide adequate funding for teacher salaries.

ix. Districts are hard pressed to find enough money to rob from other categories to be able to continue paying existing salaries, so there is little or no money for salary increases. The absence of any meaningful teacher salary increase creates problems both in retention and in recruitment of new teachers.

x. Prospective teachers are aware of the lack of meaningful opportunity for salary advancement, and of the fact that Wyoming salaries have been flat for years while other states

are engaging in major initiatives to improve salaries. For those already employed, it creates a major morale problem, with teachers having little economic incentive to stay. Teachers who are qualify for the retirement system rule of 85 lack incentive to stay because their future retirement benefits will not increase if their salaries remain flat. Teachers who have put down roots in the community, bought homes and established relationships may stay for a time, but it is devastating for them to know that their services are not valued by their state. A recent survey by the University of Wyoming found that 62% of current Wyoming teachers would quit if they could.

xi. These problems with recruitment and retention have direct impact on students. The inability to pay necessary compensation is directly caused by the Legislature's failure to fund public education as required by the state constitution. If the Legislature had made the required External Cost Adjustments for

inflation over the years, districts would have been better able to provide necessary and proper compensation, slow the departure of teachers, and improve the ability of districts to compete for replacement new hires.

xii. In the most recent legislative session, the Governor included an External Cost Adjustment (ECA) in his proposed budget, and the Joint Education committee also recommended an ECA, but the Legislature nonetheless refused to fund any inflation increase for personnel costs, which represent 84% of total school budgets. With inflation at a 40-year record high, the Legislature refused to adopt the ECA that was clearly warranted and necessary. In the 12 months preceding that legislative session the national rate of inflation was 8.9%. In the time period between 2010 and the 4th quarter of 2021, the state's official Wyoming Cost of Living Index (WCLI) calculation of inflation demonstrates that there was cost inflation in Wyoming in every measured

quarterly measurement during that 11-year period except one. The last two WCLI quarterly rates of inflation also demonstrate a substantial increase in inflation last year, with a 7.7% rate for 2nd quarter 2021 and a 9.3% rate for 4th quarter 2021.

xiii. The real-world experiences of Wyoming school districts are now such that they are no longer competitive in hiring for many of the highly-qualified teachers they might have otherwise been able to attract years ago. Districts have far fewer applicants for positions, and there are important positions for which district have no applicants. One Wyoming school district has 50 vacant educator positions existing still as of July 2022. A number of school districts have had to fill vacant positions with long term substitutes or other stop-gap measures which do not result in students having a regular, highly-qualified teacher to educate them as is necessary to meet the standard of a complete, uniform, and high-quality educational opportunity for students.

xiv. As a result of the funding disparity between model salaries and actual cost of personnel which districts must pay to attract and retain employees, Wyoming school districts must “rob Peter to pay Paul.” Districts must divert a large amount of their funding allocation to increase their salaries to the point of being able to try to fill a minimum number of positions. Because districts have to do this to make up for the shortfall in the funding system for personnel costs, districts are forced to underfund or not fund other important elements of the educational system. For example, to cover this under-funding in the model for personnel costs, districts hire fewer professionals than the funding model suggest and they use more paraprofessionals rather than actual certified professionals for tutors and needed supplemental educational services. Districts delay or reduce purchasing needed textbooks, computers, software, and other technology, they do not initiate or undertake new programs or educational services that

would benefit students, they provide fewer curricular offerings for students, and they otherwise borrow from and cut a variety of other needed educational components just to try to afford salaries at a level needed to attract and retain teachers. The result of the need to cut other components to afford minimum staffing is that it adversely impacts student educational opportunities and the quality of their education. This violates the rights of Wyoming students to a complete, uniform, and high-quality educational opportunity under the Wyoming Constitution.

xv. The salary underfunding also disparately impacts school districts and their students. Smaller schools and districts experience more severe restrictions on their ability to meet educational needs because smaller schools and districts have far less flexibility in a smaller budget to find other categories with sufficient money to cover the unfunded salary shortfall.

xvi. For example, regardless of the level of funding it

receives, a small school district will need a certain minimum number of teachers required to staff all grades, teach all necessary subjects, and deliver the minimum level of curriculum to students. Larger districts have some greater flexibility in that they have multiple sections of elementary grades or multiple sections of secondary subjects, and so it may be possible to eliminate a position due to funding constraints and disperse the students from that classroom into another classroom teaching the same subject. Small schools cannot, in most cases, do that because they have a single teacher at a grade level or teaching a particular subject. Thus, small schools may find it necessary to make far deeper cuts elsewhere, to eliminate some educational opportunities, or to use a long-term substitute or a teacher who does not qualify for normal certification. Whatever choice a district must make to cover funding shortfalls has a negative impact on students.

xvii. On the other hand, even if a larger school district can be more “flexible” by combining classes at a larger school to address a lack of funding for a teaching position, taking that action has the consequence of creating class sizes of students where students get less individual attention and teachers become more limited in their educational strategies due to the class size. It is well established, including being recognized by the Supreme Court, that class size is directly related to the quality of a student’s educational opportunity.

e. Inadequate funding in the model causes school districts to divert funds from a variety of educational activities depending on local circumstances. Because different districts and schools need to make different kinds of cuts, compromises, and reductions in circumstances, the product of underfunding is a patchwork of compromises that undercuts the constitutional duty to fund uniform, equal, thorough, and complete educational opportunities for all

students across Wyoming. This inequality in educational opportunity, which derives from the Legislature's refusal to fully fund the cost of education in Wyoming, violates students' constitutional right to a complete, uniform, and high-quality education.

f. The inadequate funding of education through the funding model impacts the provision of a variety of important and needed educational functions. It also interferes with funding services to provide a comprehensive approach to improving student outcomes for all students. This includes a substantial negative impact for "at-risk" students in Wyoming. The updated funding models proposed by the State's consultants in the "recalibration" processes have had a common theme of providing and funding comprehensive services to support teachers and help teachers be able to adapt teaching to individual student needs.

i. It is well-established that student learning and

success at school is impacted by a variety of circumstances in student's lives. One universal event has been the impact of the pandemic which affected virtually all students' learning. There are a host of student issues that require adaptive educational strategies, such as unstable home situations, social-emotional issues, bullying, out of control behaviors, parents who frequently move disrupting educational continuity, violence at home or otherwise in a student's life, as well as the variety of individual learning styles of different children. It has been widely recognized that post-pandemic students need additional resources to make up for educational deficits they suffered during the chaotic period of the pandemic when schools were closed, instruction was provided remotely, and usual support services were not operating normally.

ii. There is also now a recognized need for more counseling services generally to be provided through schools

for students of younger age. Those support services are often reduced or eliminated as part of the effort to find additional money to supplement the inadequate personnel funding of the model.

iii. The State's consultants have recognized the need in the model for increased funding for personnel and programs to address some of these needs, including adding funding for certified teacher tutors, trained professionals with specialized training in reading, students, and classes. Despite these recognized needs, the Legislature has nonetheless failed to act to revise the model or increase funding.

23. The underfunding of the overall model and the resulting consequence of districts having to "borrow from Peter", by redirecting funds away from needed areas and services to cover that underfunding, prevents school districts from fully providing a comprehensive, uniform, and high-quality education for students in many instances. The educational

funding model in Wyoming as currently formulated and funded is not cost-based, does not provide an adequate level of funding for education, and does not comply with the Supreme Court's requirements for a constitutional funding system. This means the State is impermissibly violating the constitutional right of Wyoming students to education.

The Legislature Has Failed to Fund Safety and Security Costs

24. In addition to the failure to properly fund the model as it exists, the Legislature has failed to update the model and provide funding to address a number of necessary elements which need to be added. The need for more comprehensive support services, referenced above, is one such. Likely the most glaring and deadly omission is the failure to fund security and safety costs. Wyoming experienced an incident in 1986 when armed intruders took over a classroom of the elementary school in Cokeville. The intruders held elementary children hostage and threatened to set off a bomb. The intruders did ultimately set off a gasoline bomb, but miraculously, no children died, although a number were seriously injured. Notwithstanding that experience,

the Legislature failed to provide any funding for the cost of school security in the creation of the current funding model.

25. Since that model was created, the phenomenon of school violence and attacks on school children has become more widespread, frequent, and devastating. In the last year, there have been 97 school shootings with injuries or death. Columbine, Sandy Hook, Parkland, Uvalde, and other incidents of school violence clearly demonstrate the need for school districts to seriously address safety and use all reasonable means to protect children. Providing a safe environment in public schools for all students is the essential beginning point of education and an essential feature of a constitutional education system. Despite this, the current funding model fails to fund any cost of security personnel or other provisions that need to be implemented by school districts to improve that safety.

26. In order to address the ever-present risk of school shootings or other violence in the schools, a number of larger school districts in Wyoming have, without any corresponding funding from the State, entered into agreements

with local law enforcement agencies whereby the districts pay those agencies to provide school resource officers to be present in schools as a means of discouraging, delaying, or thwarting possible violence. In order to do this, however, Wyoming school districts once again must take money from other necessary educational services and needs in order to pay the cost for those security positions. Smaller schools in Wyoming, though, usually cannot make such arrangements due to the very limited law enforcement presence in more rural areas and the fact that they have less financial flexibility. Even in districts that manage to divert otherwise needed funds to pay for *some* resource officers, however there are usually not enough funds and not enough law enforcement capacity to have enough officers. This creates an inequality of educational opportunity for those students who are in schools who do not have adequate officer coverage and so their opportunity to learn is not as safe or secure as students in other schools.

27. As is set forth in the section later in this Complaint relating to school facilities, the State's failure to fund the cost of security personnel,

training and equipment is compounded by the State's disregard of the safety issues occurring in older buildings. The level of safety for students as they are present to learn varies widely between different school districts and schools based on factors like: whether the building is a newer school or an old school; whether there is a security officer or not; what kinds of physical security measures have been or are able to be installed; and other such variables. The unequal access of students within districts and across the State to a safe and secure learning environment violates those students' right to a complete, uniform, and high-quality educational opportunity.

28. It is a fundamental failure of the State to provide adequate funding for security in schools. Not only does this failure to fund this essential element of a modern educational system mean that the current funding system is unconstitutional due it not being not-cost based or adequate, but this failure also aggravates the other harms to educational opportunities for students which are created when districts have to redirect needed funds for costs of education to security. Despite the ever-growing pattern of school violence, the

Legislature has failed to act in this area. In the Legislature's "recalibration" studies, the State's consultants were, in fact, wrongly dismissive of school safety as a "law enforcement problem" which did not need funding.

The Legislature has failed to Provide Necessary Funds for School Lunch Programs

29. It is well established that the school lunch program is a critical element of a modern educational system. It is axiomatic that hungry, underfed, or malnourished children do not perform well at school. There are students whose only nutritious meal of the day occurs at school. The school lunch program has been a staple of educational systems for many decades. While Wyoming school districts receive some assistance from the federal government for school lunch programs, that assistance is not sufficient to pay the entire cost of school lunch for students. Wyoming school districts are spending hundreds of thousands of dollars in addition to received federal assistance in order to have viable and necessary school lunch programs.

30. There is no provision in the State's school funding model to pay for the costs of school lunch which districts actually incur. Districts have

repeatedly presented information to the State showing that existing school lunch programs do not and cannot pay for themselves. Because the funding model does not cover the non-federally funded portion of school lunch costs, school districts must divert money from other categories of necessary educational costs in order to pay the unfunded cost. That, in turn, can diminish or prevent school districts from providing students other needed elements of a complete, uniform, and high-quality education and harm their constitutionally guaranteed right to education. The failure to fund school lunch costs means the current funding system is not cost-based and is inadequate, making the system unconstitutional under the standards defined by the Wyoming Supreme Court.

31. The unfunded cost of school lunch programs falls unequally on school districts due to differences in districts regarding numbers of free and reduced lunch students; availability and cost of local food;; fixed and variable costs for providing school lunch; facilities and equipment available; labor costs; and other disparate factors which vary between schools and districts across Wyoming. Thus, the harm caused by those costs not being funded falls

unequally across the state and has an unequal impact on educational activities in the respective districts. The resulting differences in impacts and harms create an inequality of educational opportunity which makes the funding system unconstitutional. The costs of school lunch above the amount of federal assistance received need to be included as a component of the operations model and funded at actual cost to districts in order for these violations to be remedied. However, there has been no action by the Legislature to address this.

Consequences of Underfunding

32. The failure to properly fund public education in Wyoming has had an adverse effect on the public school system and the children its serves. Districts are no longer in a position to hire and retain enough highly qualified teachers, which is the most critical element in providing a quality educational opportunity. In fact, districts have had, and continue to have, unfilled teaching positions because they simply cannot recruit anyone to fill those positions at the salary levels that districts can afford to pay (which are levels already well

above the salary amounts funded in the model). In a number of instances districts have had to fill essential positions with long term substitutes or other stop-gap measures that provide a diminished educational opportunity to students.

33. Because the actual cost of essential personnel is not fully funded in the State's funding model, Wyoming school districts have been unable to afford to provide necessary support services for students; have delayed purchase of new textbooks, equipment, technology and other essentials; have cut back on activities and opportunities for students; and, in some cases, even eliminated programs. All of these items and the other areas of educational services that school districts must curtail have a negative impact on students. That impact in varies from school to school and there is greater impact in some areas for smaller districts. The need for counselors, social workers, tutors, and support staff in Wyoming is acute, given well documented issues with students struggling with challenges such as depression, anxiety, bullying, and social-emotional issues which, if not addressed through the schools, can result in lack

of educational success, dropping out of school, disruptions at school affecting other students, behaviors leading into the judicial system, and other very negative outcomes for Wyoming children.

34. The various funding failures described in this Complaint have an unequal impact on students. The chronic underfunding has had a greater impact on small school districts which have less flexibility to cover the unfunded personnel costs by moving funds from other areas. School districts in certain areas of the state, which are more difficult to recruit and retain teachers in, are more impacted than others by the inadequate levels of funding for salaries, resulting in disparity in the quality and number of teachers across the state. The failure to fund school security services has a disparate impact on students. School resource officers and similar protections are provided in some districts but cannot be afforded in others. Schools in larger communities have the benefit of well-trained local law enforcement more readily available to respond to a crisis while in other areas law enforcement presence is often miles away and limited in ability to respond to a major security incident.

35. The State has refused to increase funding as needed, including by failing to update the model's components, by failing to increase funding levels to reflect the actual costs of components, and by failing to do something as basic as apply necessary inflation adjustments (ECA). As a result, individual districts are left to fend for themselves and their students as best they individually can by making cuts, compromises, and reductions in the educational opportunity they deliver those students given the inadequacy of funding they receive. While dedicated educators and educational support staff have done a superior job of working with students, the funding deficiencies outlined in this Complaint nonetheless have damaged the right of Wyoming students to a complete, uniform, and high-quality education and have negatively impacted student learning, student performance, and student well-being.

Lack of Revenue is Not a Constitutionally Acceptable Excuse

36. Because there is a recognized, mandatory constitutional requirement to fully fund a complete, uniform, and high-quality education for students in Wyoming, the Legislature has no discretion or option about

whether to fully fund all components of that education. The Constitution requires that the Legislature “shall” provide the funding.

37. Moreover, the Legislature cannot choose to inadequately fund education based on a claimed lack of revenue or availability of funds. As the Supreme Court found in *Campbell I*, “Supporting an opportunity for a complete, proper, quality education is the legislature's paramount priority; competing priorities not of constitutional magnitude are secondary, and the legislature may not yield to them until constitutionally sufficient provision is made for elementary and secondary education.... Put simply, ...lack of financial resources will not be an acceptable reason for failure to provide the best educational system.” *Campbell I*, at 1279.

The Funding Failures Described in this Complaint Are the Result of a Deliberate, Willful Legislative Choice

38. While it is essential to recognize the principle that lack of revenue is not an excuse for the State to inadequately fund education in Wyoming or to violate the Wyoming Constitution, the reality is that that the Legislature has had the needed revenue but has knowingly chosen to disregard the

constitutional imperative. That intentional disregard of the Constitution bears on the remedy for the constitutional violation. There have been multiple opportunities for the State to fully and properly fund education which the Legislature has chosen not to utilize. The failure to fully and adequately fund education in Wyoming is not really grounded in any *inability* to fund education; rather, it is ultimately a result of the lack of political will to follow the clear constitutional mandate. Education has not been funded ahead of other competing interests as required by the Constitution and clarified by the Supreme Court. For example:

- a. At the time of the adoption of the new state funded system (following the decision in *Campbell I*), school districts throughout the state had local property mills levied for the support of each local district. Instead of converting those existing local levies into state revenue for education by making all or part of those existing mills into state mills, however, the Legislature eliminated the mills and did not replace that revenue stream with any other revenue source. Thus, the Legislature

simply elected to assume from local school districts the entire cost of the public education without creating any new revenue stream to fund its new obligation.

b. Not only did the Legislature not establish any new source of revenue when it created the current funding system, over time the Legislature has actually diverted money out of the public school foundation fund to fund non-public school education expenditures. The Legislature chose to diminish funds which were collected *for the operation of public schools* by appropriating those funds into other purposes. Examples of such other purposes those funds were redirected to include funding for additional professorships at the University of Wyoming; funding the Higher Education Hathaway scholarship program; and using school operating money to fund capital construction. Plaintiff WEA considers these other initiatives as having merit but asserts they should have been funded by some other revenue stream, not by robbing the school foundation operating account. It is a form of financial

mismanagement to assume that the funds collected in the public school foundation account in times of economic boom will not be needed when economic conditions change. If the school foundation account had been left intact, there would now be more than enough money to easily and fully fund public education in a constitutionally compliant manner.

c. Any revenue issues the legislature may face when looking at increasing funding for public education are issues that have been known for decades. This topic has been studied, reported, and debated at the Legislature, but the Legislature has failed to resolve the issue and failed to take action to increase revenue for public education funding.

d. There have been efforts by a number of legislators to provide additional revenue for public school funding through various approaches, including diversions of revenue streams, a one-half cent sales tax and other means. Although such efforts have had some success in the Wyoming House of Representatives, all efforts at providing more support for public education funding revenue have failed in the Wyoming

Senate.

e. The current State Superintendent of Public Instruction has repeatedly stated that Wyoming does not have a revenue problem for public education. He is advocating that the State refuse millions of dollars of federal aid and that the State has plenty of money available to be appropriated to replace refused federal funds. While other state officials have disagreed with his assertion, his statements unintentionally expose the actual issue with revenue—the State has large amounts of revenue, but whether that revenue actually makes it to fund public education it is actually a question of what the State chooses to spend its revenue on. The State, for a number of years now, has been placing other interests which are not constitutionally required ahead of fully funding a complete, uniform, and high-quality public education system, and in doing so has acted contrary to its constitutional obligation as explained plainly by the *Campbell* decisions.

39. The Supreme Court in *Campbell* gave wide latitude to the

Legislature as to *how* to provide revenue for the schools. The Court made it clear that the Legislature could literally use any source of revenue it chose— income from investments, diversion from different accounts, any form of taxation, etc. The Legislature has total choice as to the *means* of funding public education in Wyoming. However, the Legislature does not have any discretion whether to fully fund a thorough and complete, uniform, high-quality education for all students.

All Efforts to Resolve the Problem Without Litigation Have Failed

40. Plaintiff WEA has consistently and frequently communicated to the Legislature and its committees about these serious failures to properly and adequately fund public education and the resulting adverse impact on Wyoming students and educators. WEA has been joined at different times by the Wyoming School Boards Association, by individual Wyoming school board/districts, by school administrators' organizations, and by parents in advocating for the need to fix the funding problem. The efforts of the entire educational community to get the Legislature to fulfill its constitutional duty

have occurred over a period of multiple years. WEA and the educational community as a whole have sought legislative redress without success. Unfortunately, Plaintiff WEA has reached the conclusion that the problem is not that the Legislature is unaware of or unable to remedy the shortfalls, but rather that the Legislature has chosen to disregard its constitutional duty and will continue to do so. When the Legislature fails to perform its constitutional duty, and fails to listen, it leaves the Plaintiff no real choice but to pursue judicial remedies to enforce the affirmative mandate of the Wyoming Constitution and act to protect the constitutional right of Wyoming students to a complete, uniform, and high-quality education.

Constitutional Violations in Operations Funding

41. The contents of this Complaint demonstrate that the State has failed to meet its constitutional duty to fully and properly fund public education operations.

a. The inadequacy of funding for public education in Wyoming, as described in this Complaint, has resulted and continues to result in a

constitutionally inadequate educational opportunity for Wyoming students and violations of their constitutional right to a thorough and complete, uniform, and high quality educational opportunity.

b. The inadequacy of funding for public education in Wyoming as described in this Complaint results in unequal and disparate harms, limitations, and inadequacies of public education between students in different schools and school districts across Wyoming. This violates the constitutional right of Wyoming students to a complete, uniform, and high-quality educational opportunity.

c. The inadequacy of funding for public education in Wyoming as described in this Complaint violates Article 1, Section 23 of the Wyoming Constitution and Article 7 of the Wyoming Constitution, including but not limited to Sections 1, 7, 8, and 9 of that Article.

d. The inadequacy of funding for public education in Wyoming as described in this Complaint results in disparate impact and inequalities for Wyoming students and thus violates the equal protection clause of the

Wyoming Constitution,

Arbitrary, Inadequate funding of School Buildings and Facilities

42. The *Campbell* decisions make it clear that the State is constitutionally required to fund the construction and maintenance of modern public school facilities that are safe, efficient, in good condition, and suitable for educational activities to be conducted there.

43. *Campbell I* required the State to conduct an inventory of all school facilities to determine which facilities needed renovation or replacement. The State hired a professional company called MGT which conducted the required reviews and established a scoring system for priorities. The Supreme Court approved the methodology for evaluating building needs and then mandated: “All facilities must be safe and efficient. Safe and efficient facilities are those that attain a score of 90 or above for building condition, an educational suitability score, technological readiness score of 80 or above, and a score of 4 for building accessibility” *Campbell II*, ¶¶ 2,187. The Legislature established the School Facilities Commission as the State entity which would oversee the

process of scoring and prioritizing school facilities work and having the renovations or new construction done.

44. The Legislature did not establish any regular stream of revenue for school facilities costs, but instead relied on coal bonus money which is received when bids for leases are made for leases on federal lands. Relying on coal bonus payments proved to be essentially much like depending on winning a lottery. Revenue was at times substantial but other times sporadic and entirely inadequate as a stream of revenue to pay for the large inventory of facilities that needed renovation or replacement.

45. There was a long list of needed school building renovations or new construction, and the School Facilities Commission proceeded forward to address the highest priority needs projects. Eventually the stream of coal bonus money dried up, leaving little ongoing revenue for the large amount of school facilities renovations and new construction that still needed to be done. Despite this, the Legislature did not allocate a new funding source to pay for the needed work.

46. To avoid the problem of the large backlog of needed school renovations and new construction which had been identified under the methodology reviewed and approved by the Wyoming Supreme Court, the School Facilities Commission came up with a unique plan to essentially just eliminate that backlog (of remaining buildings needing replacement or major renovation) by arbitrarily changing their building evaluation methodology. The School Facilities Commission, under the guise of “asset preservation,” eliminated the requirement to evaluate buildings on the basis of their “suitability” for the educational activities to be conducted in the buildings. This change drastically altered the scores of buildings considered for renovation and replacement, causing a substantial portion of the buildings on the needs list to suddenly disappear from the list even though those buildings had been in need of renovation or replacement for years in most cases. The result of abandoning “suitability” was to eliminate (at least on paper) hundreds of millions of dollars’ worth of facilities costs that would otherwise need to be funded by the State.

47. When this happened, WEA pointed out to the School Facilities Commission that state statutes and the Supreme Court rulings required a scoring on a building's educational suitability as part of the evaluation for whether the building needed renovation or replacement. The Commission temporarily retreated from the change it had made to the criteria, but then sought and obtained legislative changes allowing it to omit educational suitability as a criterion in evaluating building renovation or replacement needs. The Commission does not currently score buildings for educational suitability even though the State is required to do so by the *Campbell* decisions.

48. The consequence of this is that many school buildings in Wyoming which are objectively unsuitable for educational use due to their age, condition, design, floorplan, construction, or other reasons are no longer eligible for renovation or replacement. This includes buildings which have layouts and designs which make it highly difficult or impossible to use the building in a way that provides adequate safety and security for students.

49. The decision to abandon consideration of the suitability of a building to the education mission actually carried out in that building has resulted in the current situation where, no matter how inappropriate a building might be to meet the needs of modern teaching and the delivery of a complete, high-quality education to students, the building would still be considered sufficient and not eligible for needed renovation or replacement.

50. Not only did the elimination of educational suitability considerations violate the mandate of *Campbell*, but it is also inherently arbitrary and capricious to evaluate a school building for use in education without consideration of how well it allows for needed educational functions to occur. No reasonable architect would design or approve a building without considering whether the building adequately serves the activities to be carried on in the building.

51. During the period when coal bonus money income was flush, there were many schools built and extensively renovated to meet the suitability standards. Numerous students in many places around the state

benefitted from having new or substantially renovated school facilities to learn in which enhanced their educational opportunity instead of damaging it. However, once the State eliminated the educational suitability criteria in deciding which facilities needed work, the result was that the change left a significant number of old and problematic schools untouched even though those schools had previously been identified as in need of replacement or renovation. The students in those inadequate, problematic buildings have been denied the same opportunity for new or substantially improved school buildings which other students in Wyoming had received prior to that point in time. The actions of the School Facilities Commission and the Legislature to eliminate consideration of educational suitability (after many years of doing renovations and building replacements using that criteria) created disparate and unequal learning environments for students between schools in a district and also between schools in different districts. As determined by the Wyoming Supreme Court, the quality of educational opportunities is affected by the nature of the facilities in which they are

conducted. Differences in the quality of buildings to learn in, as described herein, thus result in unequal access to educational opportunities by students and violate their constitutional right to a complete, uniform, and high-quality education.

52. Another of the unacceptably harmful impacts arising from the State's decision to stop considering educational suitability scores for building relates to the safety and security of students. Many older school buildings are configured in a manner that does not permit efficient application of necessary security - for example, older buildings often have main office areas in the center of a building, with classrooms then placed around the office area. As a result, any person entering the school would need to pass by multiple classrooms of students before reaching the main office area where staff would first encounter them to screen them or be alerted to a problem. While such schools routinely have signs on their entry doors saying that "visitors must report to the office," it is unlikely an intruder bent on harm would first report to the office. The layouts of many

older school buildings make it difficult, if not impossible, for the flow of traffic in or out of the building to be safely controlled, or to be able to restrict entry to only certain locations, both of which are recognized elements of establishing safer school buildings.

53. The negative impact of educational suitability on a student's educational opportunity can also be seen in from the limiting design and layout of older schools. Many older school buildings are made up basically of adjacent, rectangular shaped classrooms that have to be utilized with rows of tables or desks in limited arrangement. However, modern classrooms have more functional layouts and arrangements to accommodate computer stations; students working individually; breakout groups of students needing to work in different locations; physical features to connect with different learning styles; and other benefits to the delivery of education and the ability of students to learn. By failing to assess and act on a school building's unsuitability for education, the State is harming the ability of students to receive a complete, uniform, and high-quality modern

education, which is clearly why the *Campbell* cases required that educational suitability be considered and that buildings which were not sufficiently suitable for education needed to be renovated or replaced because they were not “safe and efficient” buildings for students to learn in.

54. The State’s discontinuance of scoring school buildings in the manner mandated by *Campbell* has created disparate and unequal educational opportunities in violation of the equal protection clause of the Wyoming Constitution. This practice also violates Article 1, Section 23 of the Wyoming Constitution and Article 7 of the Wyoming Constitution, including but not limited to Sections 1, 7, 8, and 9 of that Article.

55. The underfunding of both school operations and school facilities is the product of repeated deliberate decisions of the Legislature not to fully fund public education in Wyoming despite a clear constitutional mandate to do so. The Legislature has a pernicious financial incentive to not fully fund education until required to do so by a new court decision. The longer the Legislature delays and “studies” the problems, session after session,

without actually acting, then the more money the State saves by not complying with its constitutional obligations.

56. The Wyoming Supreme Court attempted to eliminate the need for additional court cases at the conclusion of the *Campbell* cases by explicitly requiring that the Legislature must 1) regularly adjust the amount of funding to reflect the effects of inflation (ECA) and 2) review at least every five years the components of a quality education and update funding model components and the levels of funding so—this was to make sure the model both reflects actual, current costs as well as to provide new funding for any innovations or changes in the nature of what constitutes a quality education. Unfortunately, neither of those requirements have been complied with by the Legislature in the manner contemplated and directed by the Supreme Court.

57. If the financing model had actually been adjusted for inflation as required, and if the model's funding components had been appropriately evaluated with needed changes to the components and needed increasing of

funding levels actually being done, then the current funding model could have been constitutionally compliant, and the harms and violations of rights set forth in this Complaint would not have occurred.

58. If the Legislature had appropriately followed the Court's mandates, then there also would have been no need for this case to be brought. Time and again the Legislature has dragged its feet, avoiding making essential changes for operations and facilities funding, and underfunding the necessary costs of education for years, until it has now become evident that only another challenge to the system in court will restore compliance with the Constitution.

59. This Court should provide relief in a manner that discourages the State's practice of withholding needed funding until after another court case is filed. As a part of that, this Court should grant retroactive relief to school districts for a reasonable amount of the funding that should have been delivered to them to date, should award the Plaintiff attorneys fees and costs for bringing this action, and should provide for such other

remedial action which will end the cycle of the State complying with its constitutional obligations *only* for the time right after a court decision is issued, and then, as time passes, stopping compliance for adequate funding and stalling on further action until and unless a later court action is brought. This has been the long and unfortunate history of the State, including for the cycles of time between the *Washakie* decision, the *Campbell* decision, and the present day.

60. While it is recognized that Wyoming has adopted the “American rule” regarding recovery of attorney’s fees in litigation, an exception should be made in this unique instance as part of an equitable remedy. Litigation to enforce the constitution is enormously expensive, time consuming and burdensome. Few average citizens could afford the cost of litigating school finance cases to enforce the rights of their children. Such litigation is necessary only because the legislature fails to comply with the constitution and the clear court mandates enforcing the constitution. If a Plaintiff prevails in establishing a significant violation of

the constitution, that Plaintiff should be made whole for having to bring the action. The provision of attorneys' fees and costs should be included in a judicial remedy both to reimburse those who had to go to court to force constitutional compliance and also as a partial deterrent to the Legislature against the approach of choosing to underfund education and waiting to see if someday a new lawsuit will be filed (an approach that allows the State to improperly "save" money that it was otherwise constitutionally obligated to spend for education funding for Wyoming students.)

61. This Court should provide for a retroactive payment to school districts of funding that should have been provided to those districts, but which was not. That required payment should include the amount of inadequate funding measured from at least the time of the filing of this case until the case's resolution, and it should also include an additional reasonable amount for at least some of the funding which was not provided to school districts in the past prior to the filing of this case. Such a remedy is justified by the willful and ongoing failure of the State to provide the

amount of educational funding clearly required and needed pursuant to the State's obligations under the Wyoming Constitution.

62. In its *Campbell* decisions, the Supreme Court required an ongoing inflation adjustment (ECA) to be made in order to keep the funding system current and cost-based and for the purpose of trying to avoid parties having to repeatedly bring new litigation as costs went up over time. As part of the remedy in this matter, this Court should provide that if a Plaintiff can establish that the Legislature has willfully withheld making an ECA or otherwise failed to comply with the *Campbell* mandates for applying an ECA, then this Court will provide for the retroactive payment of funding to districts that would have been provided if the ECA had been applied.

WHEREFORE, Plaintiff asks the Court for relief as follows:

1. That the Court declare that the State is in violation of the Wyoming Constitution by failing to fund public education as required by the Wyoming Constitution. That the Court declare that the State has violated both the

educational adequacy and equal protection provisions of the Wyoming constitution. That the Court declare that the failure to adjust the operational funding model for inflation, provide funding for other increases in costs, and provide new funding for additional needed components of education violates Articles 1 and 7 and the Equal Protection clause of the Wyoming Constitution. That the Court declare that, due to failures to comply with the constitution and the requirements of the Wyoming Supreme Court, the financing system is no longer cost-based or adequate. As to capital facilities, the Court should declare that the State's failure to apply the suitability and technology measures for assessing building needs, as required by the Supreme Court, results in inadequate, unsuitable buildings on an unequal basis and so violates Articles 1 and 7 and the Equal Protection clause of the Wyoming Constitution.

2. That the Court enter an affirmative order requiring the State forthwith to apply the External Cost Adjustments to the funding model that it has failed to make. That the Court enter an affirmative order that the State be required to make regular adjustments using a consistent methodology for measuring

inflation.

3. That the State be required to upgrade the salary schedule embedded in the finance model for professional employees at least to the level of competitive advantage over other states that existed in the model at the time it was originally adopted and approved by the Supreme Court. That the State be required to upgrade the rates of compensation in the finance model for educational support personnel and other employees to reflect competitive salaries for those positions.

4. That the State be required to add funding to the school finance model to pay for missing educational components including, but not limited to, the actual cost of security for public schools, school lunch costs in excess of federal assistance, and increased numbers of school counselors, social workers, nurses, tutors, and other necessary support personnel (including such services for students in elementary grades).

5. That the State be ordered to reinstate the requirement of measuring and considering the education suitability scores for school buildings and

facilities when determining which buildings need renovation or replacement. That the State be required to include in the educational suitability score considerations of safety and security as well as considerations of the nature of modern educational activities, instruction, and programs to be conducted in the buildings. That the State be required to use methodology for this consideration and scoring which is the same or substantially similar to that used originally by MGT. That the State then be required to fund the renovation or replacement of buildings which do not have a sufficiently high educational suitability score as referenced by the *Campbell* decisions.

6. That the State be required to establish a reliable funding source for capital construction costs, sufficient to promptly fund unmet building needs and to have building needs addressed in a consistent and prompt manner.

7. That, because of the repeated failure of the Legislature to keep public school funding current (a pattern that stretches over decades and is particularly in direct defiance of the Supreme Court's order to keep the model adjusted for inflation and current in its educational components), the Court

should enter an equitable remedy of requiring retroactive payment of funding not provided due to the failure to apply an ECA at least from the date of the filing of this action and for an additional reasonable period retroactively. As a further part of an equitable remedy, that the Court award any prevailing plaintiff reasonable attorneys' fees and costs.

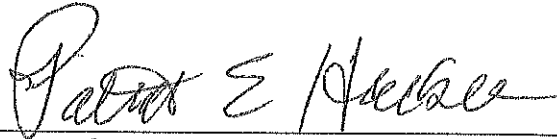
8. That the Court enter such further relief as is justified by the evidence and is otherwise just and calculated in a manner to discourage future legislatures from deliberately refusing to fund public schools as required by the constitution and to remedy past and ongoing violations of funding obligations and constitutional requirements in order to protect students' right to education under the Wyoming Constitution.

9. That the Court maintain continuing jurisdiction for sufficient time to assure that all orders entered in this case have been carried out.

10. That the Court award costs of this action.

DATED this 18th day of August, 2022

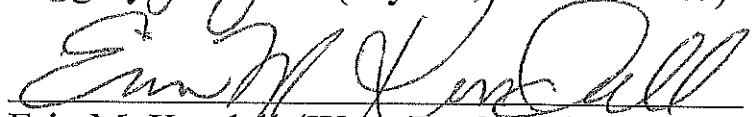
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