

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

APRYLE YOUNG, ELISE McINTOSH,) Case No.
DUSTIN PARK, JILL SMILEY,)
CRYSTAL BOEHM, DAVID P. BICHELL,) Judge
TERRY JO BICHELL, LISA MINGRONE,)
CLAUDIA RUSSELL, and INEZ) COMPLAINT
WILLIAMS,)
) DEMAND FOR JURY TRIAL
)
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; TENNESSEE DEPARTMENT)
OF EDUCATION; and LIZZETTE)

REYNOLDS, in her official capacity as)
Education Commissioner for the Tennessee)
Department of Education,)
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I. INTRODUCTION

1. Tennessee’s enactment of a universal private school voucher program is incompatible with its constitutional duty to provide an adequate education to all the state’s children through a single system of free public schools.

2. The Education Freedom Scholarship Act (“Universal Voucher Law”), T.C.A. §§ 49-6-3501-3512,, which went into effect in the 2025-2026 school year, makes all students who are entitled to attend a Tennessee public school eligible to receive state funding for private K-12 education. If the program is permitted to stand, it will continue to drain funds from under-resourced public schools and send hundreds of millions in taxpayer dollars to unregulated private schools.

3. This complaint alleges that the Universal Voucher Law violates the Education Clause of the Tennessee Constitution in two ways. First, the Education Clause requires that the legislature provide for public education through a single system of free public schools. But the private schools funded by vouchers necessarily fall outside that system. Moreover, voucher schools need not adhere to the same academic, accountability, governance, and anti-discrimination requirements as public schools, and they are not free. The Education Clause does not permit the legislature to fund private schools outside the public school system.

4. Second, the Tennessee Constitution’s Education Clause requires the legislature to maintain and support a public school system in which all students have the opportunity to receive an adequate education. Fundamental resource deficits and poor student outcomes across Tennessee demonstrate that the State was already failing to provide sufficient funding and resources to public schools to fulfill this constitutional duty, before implementation of

the universal voucher program. The Universal Voucher Law further reduces funding for public schools below this already inadequate level, thus further depriving students of the resources necessary to ensure the adequate educational opportunities guaranteed by the Tennessee Constitution.

II. JURISDICTION AND VENUE

5. 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.

6. 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.

7. 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

A. Parent and Taxpayer Plaintiffs

8. Plaintiff Apryle Young is a resident of Shelby County, Tennessee. She is a parent of a child enrolled in Shelby County Schools. Ms. Young pays state and local taxes in Shelby County, including car registration and renewal taxes.

9. Plaintiff Elise McIntosh is a resident of Shelby County, Tennessee. She is a parent of a child enrolled in Shelby County Schools. Her child is classified as a student with

disabilities who receives special education services. Her child also identifies as LGBTQ+. Ms. McIntosh pays state and local taxes in Shelby County, including car registration and renewal taxes.

10. 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 multiple disabilities who receives special education services. Mr. Park also volunteers as a Surrogate Parent on behalf of students with disabilities in foster care in Blount County Schools. Mr. Park owns real property and pays state and local taxes in Blount County, including property taxes.

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

12. 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 real property and pays state and local taxes in Hamilton County, including property taxes.

B. Taxpayer Plaintiffs

13. Plaintiffs David P. Bichell and Terry Jo Bichell are residents of Davidson County, Tennessee. The Bichells own real property and pay state and local taxes in Davidson County, including property taxes. The Bichells' son attended Metro Nashville Public Schools and was classified as a student with disabilities and received special education services, and has since graduated.

14. Plaintiff Lisa Mingrone owns real 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 at 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 real 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.

C. Defendants

17. 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.

18. 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 Universal Voucher Law authorizes the State Board of Education to promulgate rules to implement the purposes of the law. T.C.A. § 49-6-3512. 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.

19. 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 Universal Voucher Law, the TDOE is responsible for the administration and implementation of the voucher program. T.C.A. § 49-6-3503(a). The TDOE is located at 710 James Robertson Parkway, Nashville, Tennessee 37243. Service on the Department may be perfected by delivering a copy of the summons and complaint to the Attorney General.

20. Defendant Lizzette 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 Universal Voucher Law. *Id.*; T.C.A. § 49-6-3504. 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 Guarantee of a System of Public Schools

21. The Tennessee Constitution guarantees all children in the State the opportunity to obtain an education in “a system of free public schools.” Tenn. Const. Art XI, §12; *see also Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 140-41 (Tenn. 1993) (“*Tenn. Small Sch. Sys. P*”) (recognizing the State’s “obligation to maintain and support a system of free public schools that affords substantially equal educational opportunities to all students”).

22. 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 postsecondary educational institutions, including public institutions of higher learning, as it determines.

23. The Education Clause thus distinguishes between K-12 schools, for which the legislature “shall provide for a system of free public schools,” and higher education, for which it “may establish and support” individual post-secondary educational institutions which may “includ[e]” public institutions. The drafters of the Education Clause, in other words, provided for a mixed public-private system for higher education but not for K-12 education.

24. When drafters of the 1978 amendments to the Tennessee Constitution were debating the language of the Education Clause at the Constitutional Convention, a delegate proposed inserting the word “public” between “such other” and “post-secondary.” The Journal of the Debates of the Limited Constitutional Convention of 1977, 408 (Sept. 28, 1977) (*i.e.*, “The General Assembly may establish and support such other [public] post-secondary educational institutions . . .”). The proposal was roundly rejected because delegates recognized the inclusion of the word “public” would preclude the State from funding private postsecondary institutions. *Id.* at 409, 411.

25. The Tennessee Constitution thus requires the State to fulfill its constitutional duty to K-12 students by providing a system of free public schools and does not allow for the State to maintain and support any K-12 schools outside the system of public schools.

B. Tennessee Constitution’s Guarantee of an Adequate Education

26. The Tennessee Supreme Court has further recognized that “the General Assembly shall maintain and support a system of free public schools that provides, at least, *the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.*” *Tenn. Small*

Sch. Sys. I, 851 S.W.2d at 150–51 (emphasis added). The Court held that “this is an enforceable standard for assessing the educational opportunities provided . . . throughout the state.” *Id.* at 151.

27. Therefore, the State must adhere to this standard of constitutional adequacy, and anything less than a free public education that provides “the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life” violates Tennessee’s Constitution. *Id.* at 150-51.

C. Tennessee School Funding Statutes

28. In 1995, the Tennessee Supreme Court found that the Basic Education Program (“BEP”), the State’s then-existing school funding statute, was designed and enacted by the General Assembly to fulfill the adequacy mandate in the Tennessee Constitution. *Tenn. Small Sch. Sys. v. McWherter*, 894 S.W.2d 734, 738 (Tenn. 1995) (“*Tenn. Small Sch. Sys. II*”).

29. In 2022, Tennessee enacted the Tennessee Investment in Student Achievement Act (“TISA”) to replace the BEP as the statutory formula for determining the amount and distribution of funding necessary to maintain and support the State’s system of free public schools. T.C.A. § 49-3-101, *et seq.* TISA was purportedly enacted to ensure adequate funding for public schools. T.C.A. § 49-3-103(a).

30. 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 learning needs (*e.g.*, students with disabilities and English learners). T.C.A. §49-3-105.

31. 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.

D. Universal Voucher Law

32. 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.¹

33. Under the Universal Voucher Law, the State is required to provide a voucher to any eligible student who applies, subject to legislative appropriation. T.C.A. § 49-6-3503(b).

34. An eligible student is defined as any student who is entitled to attend a public school, with limited exceptions. T.C.A. § 49-6-3502. The statute imposes no family income limitation and no requirement that a student must have previously attended a public school in order to qualify for a voucher.

35. In the 2025-2026 school year, the universal voucher program authorizes the issuance of up to 20,000 vouchers statewide. Of those – and only in the 2025-2026 school year – 10,000 vouchers are reserved for students who either (1) have an annual household income not exceeding 300 percent of the federal free or reduced-price lunch eligibility

¹ 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. Defendants did not respond.

guidelines (equivalent to \$178,434 for a family of four in 2025-2026);² or (2) are eligible for the State’s pre-existing targeted voucher program, the Tennessee Education Savings Account Pilot Program (“Targeted Voucher Law”); or (3) are eligible for Tennessee’s pre-existing voucher program for students with disabilities. T.C.A. § 49-6-3504(a)(1). The remaining 10,000 vouchers are available for any eligible student, T.C.A. § 49-6-3504(a)(2), including students who attended private schools in the prior school year and students who are currently enrolled in high-performing public schools.

36. In the 2025-2026 school year, 42,827 applications were submitted for the universal voucher program.³

37. A student participating in the universal voucher program must use the voucher funds to pay for private school tuition and fees. Remaining funds may be used for additional private educational expenses such as 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 costs; fees for certain postsecondary courses or exams; and educational therapy services. T.C.A. § 49-6-3505(b)-(c).

38. 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

² Federal Register, *Child Nutrition Programs: Income Eligibility Guidelines*, <https://www.federalregister.gov/documents/2025/03/13/2025-03821/child-nutrition-programs-income-eligibility-guidelines#p-15>.

³ Tennessee Department of Education, *TDOE Announces Successful Implementation of Education Freedom Scholarship Program* (Sept. 19, 2025), <https://www.tn.gov/education/news/2025/9/19/tdoe-announces-successful-implementation-of-education-freedom-scholarship-program.html>.

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 school⁴ approved by the commissioner of education. T.C.A. § 49-6-3502(4)(B); T.C.A. § 49-6-3001(c)(3)(A)(iii).

39. Each subsequent school year, the universal voucher program cap increases by 5,000 vouchers, provided that in the preceding year, the number of voucher applications exceeded 75 percent of the maximum number of vouchers for that year. T.C.A. § 49-6-3504(b)(1).

40. The Tennessee General Assembly Fiscal Review Committee has projected that demand will be sufficient to trigger the annual increases in the program’s maximum capacity.⁵

41. The Universal Voucher Law includes a “hold harmless” provision, which provides that for a local education agency (“LEA”) that experiences disenrollment and is to receive a lesser TISA allocation for the current school year than in the immediately preceding school year, TDOE must allocate additional funds such that the LEA receives the same TISA allocation it received in the previous year. T.C.A. § 49-3-108(i).

⁴ Category I private schools are those “approved individually by the Department of Education,” Category II private schools are those “approved by an agency whose ability to accredit schools in Tennessee is approved by the State Board,” and Category III private schools are those which “are regionally accredited.” Tenn. Comp. R. & Regs. § 0520-07-02-.01-.04.

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

V. FACTUAL ALLEGATIONS

A. The Universal Voucher Law Impermissibly Supports Private Schools Outside the State’s Single System of Public Education

1. Admission, Academic, and Accountability Requirements for Public Schools Do Not Apply to Voucher Schools

42. The Universal Voucher Law diverts state funding to private schools statewide that are by definition not part of the system of free public schools.

43. Unlike public schools, these private voucher schools are not required to serve all students who wish to attend.

44. Further, participating private schools are not required to comply with the academic standards imposed on public schools. Private schools accepting voucher funds are not required to follow the state curriculum, meet state teacher licensure standards, or comply with Tennessee’s third-grade reading retention law.

45. The Universal Voucher Law also allows participating private schools to operate without the governance, accountability, and transparency requirements that apply to public schools. For example, private schools are not required to administer the full Tennessee Comprehensive Assessment Program (TCAP), which public schools must do; instead, they may opt for a national standardized test, not comparable to the TCAP, and in only two subjects – Math and English Language Arts. T.C.A. § 49-6-3507(a)(1). The Tennessee General Assembly Fiscal Review Committee predicts that most participating

schools will select the national test option, thereby avoiding state-level performance oversight and comparison to public school outcomes.⁶

46. Additionally, the State is not required to collect – and in fact has not released⁷ – comprehensive data on participating schools or voucher recipients, such as family income, race, disability status, prior public-school enrollment, or students’ zoned public school district. Without this key demographic data, the State cannot evaluate who benefits from the public funds spent on the program, whether the program advances equity, or how voucher participants perform compared to their public-school peers.

47. The Universal Voucher Law directs public funds to support private educational institutions that lack the transparency, accountability, and quality standards required of Tennessee’s constitutionally mandated system of free public schools.

2. The Universal Voucher Law Explicitly Lacks Anti-Discrimination and Civil Rights Protections for Students and Families

48. Private schools participating in the universal voucher program may refuse admission or continued enrollment, or otherwise discriminate, based on students’ or families’ disability status, religious beliefs, language proficiency, family income, gender identity, sexual orientation, academic ability, or other factors. By contrast, Tennessee’s public schools are obligated to admit all students and provide equitable educational opportunities regardless of background or ability.

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

⁷ Melissa Brown, *Tennessee won’t say how many students are enrolled in new voucher program*, Chalkbeat Tennessee (Sept. 17, 2025), <https://www.chalkbeat.org/tennessee/2025/09/17/state-wont-release-student-voucher-data/>.

49. The Universal Voucher Law contains no provisions whatsoever to ensure that taxpayer funds will not support discriminatory policies and practices by voucher schools or other private education providers.

50. The Universal Voucher Law does not even prohibit discrimination based on race, color, or national origin.

51. Instead, the law expressly states that accepting voucher funds does not require participating schools to alter their “creed, practices, admission policies, . . . or curriculum.” T.C.A. §49-6-3508(c). This language grants private schools a broad license to exclude, discipline, and expel students based on their identities, disabilities, or family circumstances that do not align with a school’s religious, moral, or other criteria.

52. Students with disabilities who use vouchers lose the comprehensive rights and protections guaranteed to them in public schools. The law permits participating private schools to refuse to provide special education services. Furthermore, it explicitly states that a voucher 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 instead is entitled only to the more limited “equitable services” afforded to private school students under the federal Individuals with Disabilities Education Act (IDEA). T.C.A. § 49-6-3509(b). Students using vouchers also lose other special education rights under IDEA and other state and federal laws, including disciplinary protections and the right to a due process hearing to resolve special education disputes. *See, e.g.*, 34 C.F.R. § 300.140.

53. Furthermore, private schools participating in the voucher program are not subject to Tennessee’s statutory protections against bullying, intimidation, and harassment, T.C.A. § 49-6-4501 *et seq.*, leaving voucher students without the safeguards the State requires for their public school peers.

54. In addition, unlike students in public schools, voucher students do not have due process rights in disciplinary procedures. T.C.A. § 49-6-3401.

55. In practice, many Tennessee private schools that qualify for voucher participation maintain exclusionary policies.

56. 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.”⁸

57. Christ’s Legacy Academy, a Category II and IV private school in McMinn County, requires that parents write a statement of faith and attest, as part of their application, that they “are believers in Christ and . . . have personally accepted Him as Lord,” are active members of a church, and “endeavor[] to maintain a Christian home where Biblical principles are nurtured.”⁹

58. 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 in “inappropriate sexual behavior (including but not limited to premarital sexual relations,

⁸ Evangelical Christian School, *Applying to ECS*, <https://www.ecseagles.com/admissions/apply> (last accessed Nov. 20, 2025).

⁹ Christ’s Legacy Academy, *Application Procedures and Information*, https://www.christslegacyacademy.org/_files/ugd/873237_b7de91b738044fcea1e55fc682813008.pdf.

homosexual, 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.”¹⁰ 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.¹¹

59. 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.”¹²

60. 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 accommodations by the School,” and that “[t]he admission, instruction, and retention of

¹⁰ Briarcrest Christian School, “2025-2026 High School Parent/Student Handbook,” at 33, 36, <https://resources.finalseite.net/images/v1753112936/briarcrestcom/o8po35vnlzjkszlspdh/HSSStudentParentHandbook.pdf>.

¹¹ Briarcrest Christian School, “Biblical Principles,” <https://www.briarcrest.com/admissions/student-and-family-policies/biblical-principles>.

¹² Providence Christian Academy, *Parent Student Handbook 2024-2025*, <https://providencechristian.com/wp-content/uploads/2024/11/Parent-Student-Handbook-2024-2025-.pdf>.

students with disabilities, students with special needs, and students who are English Language Learners cannot be guaranteed.”¹³

61. 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.¹⁴

62. 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.”¹⁵

3. Unlike Tennessee’s Constitutionally Mandated Public Schools, the Private Schools Participating in the Voucher Program Are Not Free

63. Private schools, unlike public schools, charge tuition.

64. Even using a voucher will not fully cover the cost of tuition at many private schools eligible to participate in the program. The \$7,295 voucher amount for the 2025-26 school year does not cover base tuition at 80% of the private schools where voucher students

¹³ Christ the King School, *Parent and Student Handbook 2025-2026*, at 9, https://cdnsm5-ss11.sharpschool.com/UserFiles/Servers/Server_610718/File/2025-2026%20Student%20Handbook.pdf.

¹⁴ Holy Rosary Academy, *Admissions Overview*, <https://www.holyrosary.edu/admissions-overview> (last accessed Nov. 20, 2025).

¹⁵ Brainerd Baptist School, *Brainerd Baptist School Student Handbook*, at 5, <https://drive.google.com/file/d/1FJa62yeEvQdT-utfK6dlhlCRlSkOseVj/view>.

are enrolled.¹⁶ The average private school tuition in Tennessee is \$13,630 for elementary schools and \$14,768 for high schools – roughly double the voucher amount.¹⁷

65. Moreover, there are numerous essential resources provided for free in public schools that families using vouchers to attend private school would have to cover with the voucher or, often, pay for themselves. Some examples include transportation, uniforms, books, meals, and special education services.

4. Under the Universal Voucher Law, Private Schools Participating in the Voucher Program Are Explicitly Not Agents of the State and Must Be Given “Maximum Freedom”

66. In stark contrast to public schools, private schools participating in the universal voucher program are autonomous and not agents of the State. T.C.A. § 49-6-3508(a).

67. The Universal Voucher Law does not allow for imposition of “any additional rules, regulations, or requirements on private schools” that participate in the voucher program beyond those “narrowly tailored to enforce” the limited program requirements. T.C.A. § 49-6-3508(b).

68. The Universal Voucher Law goes so far as to say that these private schools “must have the maximum freedom to provide for the educational needs of recipients without government control.” T.C.A. § 49-6-3508(c).

¹⁶ Rachel Wegner, *Tennessee school vouchers benefit mostly religious schools in high-population counties*, The Tennessean (Sept. 30 2025), <https://www.tennessean.com/story/news/education/2025/09/30/tennessee-school-vouchers-religious-schools-large-counties-tuition-costs/85782837007/>.

¹⁷ *Best Tennessee Private Schools (2025-26)*, Private School Review – Tennessee, <https://www.privateschoolreview.com/tennessee> (last accessed Nov. 20, 2025).

69. The Universal Voucher Law diverts taxpayer dollars to schools outside Tennessee’s system of free public education. These private schools are not subject to the same academic, accountability, transparency, governance, or anti-discrimination requirements as public schools, and they are not free. The Universal Voucher Law violates the Tennessee Constitution’s requirement that the State fulfill its mandate to provide the opportunity for an adequate education to all children specifically by funding a single system of free public schools.

B. The Universal Voucher Law’s Diversion of Public Funds to Private Schools Harms Public School Students

70. The State has a constitutional duty to ensure that all students can receive an adequate education. To meet its constitutional responsibility, the General Assembly must maintain and support a system of free public schools that provides every child “the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.” *Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 150-51 (Tenn. 1993).

71. However, owing to inadequate state education funding, Tennessee public schools already suffer from fundamental resource deficits, such as insufficient numbers of qualified teachers and specialized staff and shortages of essential school supplies, that are critical to the provision of an adequate education. These resource deficits have not been resolved by TISA.

72. Moreover, poor student outcomes across the state demonstrate that public schools lack the resources necessary to provide all students with an adequate education. By diverting state funding to private schools, the Universal Voucher Law exacerbates both

resource and outcome deficits by further reducing funding for public schools. Thus, students are further deprived of the teachers, support staff, services, and other resources needed to afford them the adequate education to which they are entitled under the Education Clause of the Tennessee Constitution.

1. Tennessee’s Public School Students Are Already Suffering from Inadequate Resources

73. State reports confirm that the State fails to provide its public schools with adequate funding. According to the 2025 TDOE TISA annual report, more than two-thirds of school district leaders surveyed across the state found TISA’s base funding amount to be too low for their districts, and almost half found that TISA provided them inadequate funding for literacy support.¹⁸ District leaders reported concern that TISA funding was insufficient to meet the State’s minimum teacher salary targets.¹⁹ District leaders also reported concern regarding escalating transportation expenses and rising demand for student mental health services, neither of which are annually accounted for in TISA.²⁰

74. Statewide, students are far too likely to experience insufficient instruction. More than one-third of Tennessee’s students are taught by an inexperienced teacher, defined

¹⁸ Tennessee Department of Education, *2023-24 Tennessee Investment in Student Achievement (TISA) Annual Report*, at 7 (Jan. 2025), https://www.tn.gov/content/dam/tn/education/tisa-resources/2023-24_Tennessee_Investment-Student_AchievementTISAAnnual_Report.pdf (66.9% of district leaders surveyed suggesting an increase to the base amount).

¹⁹ *Id.* at 13 (“While districts reported using TISA funds to address mandated salary increases, many expressed concerns about the adequacy of current funding to meet the \$50,000 minimum salary goal by 2026- 2027 without affecting other budgeting priorities.”).

²⁰ *Id.* at 14.

as one with less than two years of experience.²¹ Furthermore, *more than half* are taught by a teacher deemed ineffective.²² These disparities are not evenly distributed: students from low-income families and students of color are significantly more likely to be assigned to inexperienced or ineffective teachers, compounding existing inequities in educational opportunity.²³

75. Moreover, as a result of inadequate state funding, schools across the state lack essential resources that are critical to providing the opportunity for an adequate education to all students, no matter their needs. For example, districts statewide experience teacher shortages; insufficient training and professional development opportunities; lack of special education services; deteriorating facilities; overcrowded classrooms; shortages of instructional materials, laptops, and other technology; and a lack of essential staff including support staff, school nurses, social workers, and counselors. The following three districts provide examples of such deficiencies.

²¹ Tennessee Department of Education, *2024-2025 Student Access to Effective Educators State Level Report*, https://www.tn.gov/content/dam/tn/education/data/2024-25_State_Report-Student_Access_to_Effective_Teachers.pdf (34.7% non low-income students taught by an inexperienced teacher; 40.6% low-income students taught by an inexperienced teacher).

²² *Id.* (51.5% non low-income students taught by an ineffective teacher; 54.2% low-income students taught by an ineffective teacher). “Ineffective” is defined as teachers who scored 1 or 2 on the Tennessee Value-Added Assessment System, which measures growth in student proficiency over time. Tennessee Department of Education, *Tennessee Value-Added Assessment System*, <https://www.tn.gov/education/districts/federal-programs-and-oversight/data/tvaas.html> (last accessed Nov. 20, 2025).

²³ *Id.*

a. Hamilton County Schools

76. Inadequate state education funding has resulted in Hamilton County Schools suffering deficiencies in key resources necessary to adequately serve its students. In the 2025-2026 school year, Hamilton County Schools had to cut 11 percent of the districtwide staff, negatively impacting student support services (such as those for homeless students), instructional support, and technology.²⁴ The district also eliminated \$1.6 million from its exceptional education program for students with disabilities, resulting in cuts to that program's staff and services.²⁵

b. Shelby County Schools

77. Owing to inadequate state education funding, Shelby County Schools lacks essential educational resources, including shortages of teachers – with 300 vacancies reported in July 2025²⁶ – as well as shortages of nurses and substitute teachers for students with disabilities. Many students across the district suffer in schools with excessive class sizes, rendering it impossible for them to receive the attention and help necessary to learn successfully. Schools in the district lack sufficient books, laptops, and other technology.

²⁴ Hamilton County Schools, *Reducing Central Office Positions and Centralized Budget in FY26* (May 8, 2025), <https://docs.google.com/document/d/1w6D3qX1nTJGpitVHuciFWf9nIstGAvfQ-XML4zWfKf4/edit?tab=t.0> (last accessed Nov. 20, 2025).

²⁵ Hamilton County Schools, *Exceptional Education Positions* (May 8, 2025), https://docs.google.com/document/d/1dQncB-kRIgtf6x6n_teN5SCDGd0AgdGzWYHMRe2qbaM/edit?tab=t.0 (last accessed Nov. 20, 2025).

²⁶ Jordan James, *Teacher shortage impacts Metro Schools, seeks to hire 170+ educators*, WSMV (Jul. 23, 2025), <https://www.wsmv.com/2025/07/23/teacher-shortage-impacts-metro-schools-seeks-hire-170-educators/> (last accessed Nov. 20, 2025).

Furthermore, the school buildings are inadequate, with, for example, insufficient cooling and heating, making it difficult for students to focus on learning.

c. Metro Nashville Public Schools

78. As a result of insufficient state funding, Metro Nashville Public Schools lacks critical educational resources necessary to provide students with an adequate education. The district faces shortages of teachers, with 170 vacancies reported as of July 2025.²⁷ Moreover, the district has shortages of specialized staff – including special education teachers, speech-language pathologists, school psychologists, counselors, occupational and physical therapists, special education support aides, and administrators. The district has 50 vacancies for special education support aides.²⁸ Student-counselor ratios in the district are well above the recommended ratios, impeding the ability of students to receive the services they need to learn successfully. Caseloads are excessively high for other professionals as well, such as school psychologists. Moreover, the district suffers from shortages of essential school supplies, books, technology, and professional development opportunities. These deficiencies are compounded by persistently high rates of teacher turnover, further undermining the stability and quality of instruction.

²⁷ *Id.*

²⁸ Metro Nashville Public Schools (job portal), <https://nashville.taleo.net/careersection/ex3/jobsearch.ftl?lang=en> (last accessed Nov. 20, 2025).

79. The shortages in state education funding and, consequently, key educational resources in these districts and across the state have been persistent over many years and acknowledged by state reports.²⁹

80. Although the State purportedly enacted TISA, the current school funding formula statute, to address inadequacies in the previous funding scheme,³⁰ it has failed to do so. TISA fails to adequately account for, and provide funding for, the basic costs of educating all students generally, and especially those students with higher needs.

81. Prior to enacting TISA, the State failed to conduct any assessment of the level of funding required to ensure that all students, regardless of their needs, would receive the opportunity for a constitutionally adequate education.

82. 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 the 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

²⁹ Tennessee Advisory Commission on Intergovernmental Relations, *K-12 Public Education Funding and Services* (Jan. 2020), 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*, https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/bepcommitteeactivities/2021/2021%20BEP%20Report_FINAL.pdf.

³⁰ Tennessee Department of Education, *2023-2024 Tennessee Investment in Student Achievement (TISA) Annual Report*, at 3 (Jan. 2025), https://www.tn.gov/content/dam/tn/education/tisa-resources/2023-24_Tennessee_Investment-Student_AchievementTISAAnnual_Report.pdf.

based on economic disadvantage.³¹ As a result, 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.³² Thus, TISA does not adequately fund districts to serve all economically disadvantaged students.

83. 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 wages across LEAs. In addition, while the previous education funding system included grants intended to supplement district budgets where the cost of living is higher than the state average, TISA currently lacks such grants.³³ The General Assembly has not appropriated any funds to date to account for geographic cost of living differences.

84. TISA, in both design and operation, does not provide a sufficient level of funding to ensure that all students receive a constitutionally adequate education. The resulting resource deficits, as detailed above, deny students the opportunity to receive the adequate education that the State must guarantee.

³¹ See, e.g., Nashville Public Education Foundation, How TISA Affects MNPS, <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.”).

³² *Id.*

³³ 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), <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.”).

2. As a Result of Inadequate State Funding, Student Outcomes in Tennessee Are Inadequate

85. Tennessee’s student outcomes demonstrate that the state’s public schools lack the resources necessary to meet the State’s constitutional obligation to provide all students with an adequate education.

86. The State administers the Tennessee Comprehensive Assessment Program (TCAP) to evaluate student proficiency in tested subjects and determine grade-level advancement. T.C.A. § 49-6-3115. TCAP is intended to “hold [the State] accountable to serving all students fairly”³⁴ and “inform decisions at the state level and help state and district leaders determine how to allocate resources, better invest in schools, and identify where [they] may need to offer additional support.”³⁵

87. Performance levels of “approaching” and “below” expectations on TCAP are considered below grade level.³⁶

88. The State uses TCAP to determine whether students are prepared to advance to the next grade level in some cases. State law requires that students scoring below grade-level on the TCAP in English/Language Arts (ELA) be retained in third grade and not

³⁴ Tennessee Department of Education, *Student Assessment in Tennessee*, <https://www.tn.gov/education/districts/lea-operations/assessment.html> (last accessed Nov. 20, 2025).

³⁵ Tennessee Department of Education, *Assessment FAQ*, <https://www.tn.gov/education/districts/lea-operations/assessment/tnready/assessment-faq.html> (last accessed Nov. 20, 2025).

³⁶ *Id.*

promoted to the next grade level, subject to certain exceptions. T.C.A. § 49-6-3115. In 2025, well over half – 58.4% – of the state’s third-graders performed below grade-level in ELA.³⁷

89. More than half of students in all grades scored below grade-level in ELA.³⁸ Nearly two-thirds (61%) of students in all grades scored below grade-level in math.³⁹ In addition, more than half of high school students scored below grade-level in U.S. History.⁴⁰

90. These poor outcomes demonstrate the State’s failure to meet the constitutional adequacy standard, that is, to provide “the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.” *Tenn. Small Sch. Sys. I*, 851 S.W.2d at 150-51.

91. Again, the following three districts highlight the failure of the State to guarantee this right to public school students.

a. Hamilton County Schools

92. As detailed above, owing to inadequate state funding, Hamilton County Schools cannot provide sufficient educational resources to ensure that students receive an adequate education. In Hamilton County Schools, 46% of students are White, 29% are Black, and 21% are Latino.⁴¹ Thirty-four (34%) percent of the district’s students are

³⁷ Tennessee Department of Education, *2025 TCAP State Results*, <https://tdepublicschools.ondemand.sas.com/state/assessment> (last accessed Nov. 20, 2025).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* (60.5% of students scoring “below” or “approaching” expectations).

⁴¹ Tennessee Department of Education, *Hamilton County Schools, About This District*, <https://tdepublicschools.ondemand.sas.com/district/00330> (last accessed Nov. 20, 2025).

economically disadvantaged, 12% are English Learners and 14% are students with disabilities.⁴²

93. Due to inadequate resources, the district's student outcomes are sub-par. In 2025, only 39.3% of all Hamilton County students met TCAP expectations in ELA,⁴³ with only 46.3% of high schoolers meeting expectations.⁴⁴ Students with higher needs, who require additional educational services, fare even worse. For example, only 18.3% of economically disadvantaged students, 12% of English Learners, and 10% of students with disabilities met TCAP expectations in ELA.⁴⁵

94. In 2025, only 37.8% of all Hamilton County students met TCAP expectations in math,⁴⁶ with only 30.1% of high school students meeting expectations.⁴⁷ Again, students with higher needs, who require additional educational services, fare even worse. For

⁴² *Id.*

⁴³ Tennessee Department of Education, *2025 TCAP Results, Hamilton County, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

⁴⁴ Tennessee Department of Education, *2025 TCAP Results, Hamilton County, Elementary, Middle, and High School Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

⁴⁵ Tennessee Department of Education, *2025 TCAP Results, Hamilton County, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

⁴⁶ Tennessee Department of Education, *2025 TCAP Results, Hamilton County, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

⁴⁷ Tennessee Department of Education, *2025 TCAP Results, Hamilton County, Elementary, Middle, and High School Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

example, only 18% of economically disadvantaged students, 19.9% of English Learners, and 12% of students with disabilities met TCAP expectations in math.⁴⁸

b. Metro Nashville Public Schools

95. Inadequate resources also result in low achievement for Metro Nashville Public Schools students. In the district, 24% of students are White, 38% are Black, and 34% are Latino.⁴⁹ Thirty-one (31%) percent of the district's students are economically disadvantaged, 29% are English Learners and 14% are students with disabilities.⁵⁰

96. In 2025, only 31.8% of the district's students met TCAP expectations in ELA,⁵¹ with only 33.9% of high school students meeting expectations.⁵² Students with higher needs, who require additional educational services, fare even worse. For example, only 17.6% of economically disadvantaged students, 14% of English Learners, and 7.2% of students with disabilities met TCAP expectations in ELA.⁵³

⁴⁸ Tennessee Department of Education, 2025 TCAP Results, *Hamilton County, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00330/assessment> (last accessed Nov. 20, 2025).

⁴⁹ Tennessee Department of Education, *Metro Nashville Public Schools, About This District*, <https://tdepublicschools.ondemand.sas.com/district/00190> (last accessed Nov. 20, 2025).

⁵⁰ *Id.*

⁵¹ Tennessee Department of Education, 2025 TCAP Results, *Metro Nashville Public Schools, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment> (last accessed Nov. 20, 2025).

⁵² Tennessee Department of Education, 2025 TCAP Results, *Metro Nashville Public Schools, Elementary, Middle, and High School Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment>, (last accessed Nov. 20, 2025).

⁵³ Tennessee Department of Education, 2025 TCAP Results, *Metro Nashville Public Schools, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment> (last accessed Nov. 20, 2025).

97. In 2025, only 29.6% of all the district's students met TCAP expectations in math,⁵⁴ with only 22.3% of high schoolers meeting expectations.⁵⁵ Again, students with higher needs, who require additional educational services, fare even worse. For example, only 16.4% of economically disadvantaged students, 18% of English Learners, and 8% of students with disabilities met TCAP expectations in math.⁵⁶

c. Shelby County Schools

98. Owing to inadequate state funding, student outcomes are also insufficient in Memphis-Shelby County Schools. In the district, 5% of students are White, 74% are Black, and 19% are Latino.⁵⁷ Fifty-three (53%) percent of the district's students are economically disadvantaged, 13% are English Learners and 11% are students with disabilities.⁵⁸

99. In 2025, only 24.6 % of all the district's students met TCAP expectations in ELA,⁵⁹ with only 27.4% of high schoolers meeting expectations.⁶⁰ Students with higher

⁵⁴ Tennessee Department of Education, *2025 TCAP Results, Metro Nashville Public Schools, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment> (last accessed Nov. 20, 2025).

⁵⁵ Tennessee Department of Education, *2025 TCAP Results, Metro Nashville Public Schools, Elementary, Middle, and High School Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment> (last accessed Nov. 20, 2025).

⁵⁶ Tennessee Department of Education, *2025 TCAP Results, Metro Nashville Public Schools, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00190/assessment> (last accessed Nov. 20, 2025).

⁵⁷ Tennessee Department of Education, *Memphis Shelby County Schools, About This District*, <https://tdepublicschools.ondemand.sas.com/district/00792> (last accessed Nov. 20, 2025).

⁵⁸ *Id.*

⁵⁹ Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Schools, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

needs, who require additional educational services, fare even worse. For example, only 20.2% of economically disadvantaged students, 17.8% of English Learners, and 6.7% of students with disabilities met TCAP expectations in ELA.⁶¹

100. In 2025, only 21.2% of all the district's students met TCAP expectations in math,⁶² with only 17.3% of high schoolers meeting expectations.⁶³ Again, students with higher needs, who require additional educational services, fare even worse. For example, only 17.6% of economically disadvantaged students, 21.2% of English Learners, and 7.4% of students with disabilities met TCAP expectations in math.⁶⁴

101. Because public school students in these districts and districts across the state already suffer from inadequate state funding, districts cannot afford to provide the critical school staff, services, and programs necessary to ensure that all students learn successfully. As a result, student achievement levels are unacceptably low. Depriving districts of even more public funding by diverting state funding to private school vouchers only exacerbates

⁶⁰ Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Public Schools, Elementary, Middle, and High School Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

⁶¹ Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Schools, Student Group Results, Overall ELA*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

⁶² Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Schools, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

⁶³ Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Public Schools, Elementary, Middle, and High School Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

⁶⁴ Tennessee Department of Education, *2025 TCAP Results, Memphis Shelby County Schools, Student Group Results, Overall Math*, <https://tdepublicschools.ondemand.sas.com/district/00792/assessment> (last accessed Nov. 20, 2025).

this insufficiency and will serve as a further barrier to the provision of a constitutionally adequate education.

3. The Universal Voucher Law Exacerbates Underfunding and Under-Resourcing by Diverting Funds from Public Schools

102. Every Tennessee school district is subject to loss of state funding as a result of the Universal Voucher Law. Already, in the 2025-2026 school year, students in 86 of Tennessee's 95 counties received a voucher.⁶⁵

103. The Universal Voucher Law encourages students to leave the public school system. Because TISA funding for public schools relies, in large part, on total enrollment, each student who exits a public school to use a voucher reduces the district's funding allocation. T.C.A. § 49-3-105.

104. Each public-school student who uses a universal voucher reduces the district's funding by at least the TISA base amount, plus any additional weighted funding associated with that student.

105. Moreover, the Universal Voucher Law deprives public school districts of funding by reducing the overall level of public funding available to invest in public schools. Evidence shows that states with less money in the public fisc invest less in public schools.⁶⁶

⁶⁵ Tori Gessner, 'What are you actually hiding?': Tennessee lawmaker weighs lawsuit over school voucher transparency, parents praise program, 6NewsOnYourSide (Sept. 23, 2025), <https://www.wate.com/news/education-schools/what-are-you-actually-hiding-tennessee-lawmaker-weighs-lawsuit-over-school-voucher-transparency-parents-praise-program/?nxsparam=9>.

⁶⁶ Danielle Farrie & David G. Sciarra, *600 Billion Lost: State Disinvestment in Education Following the Great Recession*, Education Law Center (2021), [https://edlawcenter.org/assets/\\$600%20Billion/\\$600%20Billion%20Lost.pdf](https://edlawcenter.org/assets/$600%20Billion/$600%20Billion%20Lost.pdf).

106. Furthermore, for Hamilton County Schools, Metro Nashville Public Schools and Shelby County Schools, the harm of the Universal Voucher Law compounds the deprivation of state funds caused by the State’s enactment of the Targeted Voucher Law, T.C.A. § 49-6-2601, *et seq.* Under the Targeted Voucher Law, the State has already deprived these three districts of tens of millions of dollars in state education funding that was intended to meet the State’s obligation to provide an adequate education to students in those public school districts.

107. In the 2025-2026 school year, 20,000 vouchers were distributed pursuant to the Universal Voucher Law,⁶⁷ costing the State at least \$145.9 million.

108. The Universal Voucher Law mandates that, subject to appropriation, every eligible applicant must be provided with a voucher equal to the TISA base funding amount. T.C.A. § 49-6-3505; T.C.A. § 49-3-104(2). The fiscal impact of the Universal Voucher Law will grow each year as both the TISA base funding amount and the voucher program’s enrollment cap increase. The Tennessee General Assembly Fiscal Review Committee estimates that the law will cost the State \$188.1 million in the 2026–2027 school year and approximately \$1 billion during its first five years of operation.⁶⁸ By 2041, the program could fund as many as 100,000 vouchers annually. T.C.A. § 49-6-3504(b)(1).

⁶⁷ Tori Gessner, *Majority of school vouchers awarded to students in urban, wealthy areas of Tennessee, data shows*, WATE.com (Oct. 4, 2025), <https://www.wate.com/news/education-schools/majority-of-school-vouchers-awarded-to-students-in-urban-wealthy-areas-of-tennessee-data-shows/>.

⁶⁸ Tennessee General Assembly Fiscal Review Committee, *SB 6001 – HB 6004 Fiscal Note*, at 5-6 (Jan. 23, 2025), <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

109. Meanwhile, school districts must pay fixed costs to operate their schools, regardless of enrollment decline due to the Universal Voucher Law. These fixed costs include facilities repair and maintenance, teacher and staff pensions, debt service, long-term contracts, and school libraries. Districts cannot reduce these fixed costs proportionate to the enrollment loss.

110. Moreover, even variable costs – such as staffing, programs, and services – cannot be reduced in full proportion to the number of students who exit. A loss of students across multiple classrooms or schools does not allow a district to eliminate teaching positions or programs, yet it still results in reduced state funding. Consequently, districts cannot offset the financial losses caused by the Universal Voucher Law through operational reductions.

111. The strains on district budgets from the Universal Voucher Law are compounded when students participate in the voucher program and then return to a public school. Under the law, those voucher funds are not restored to the district, but instead revert to the State Treasury for reallocation to a new voucher applicant. T.C.A. § 49-6-3506; T.C.A. § 49-6-3504(b). Return of voucher students to public schools is not uncommon.

112. Additionally, because the Universal Voucher Law permits private schools to deny enrollment or services to students with higher needs, including students with disabilities, it will likely increase the concentration of higher need, more costly-to-educate students in public schools, which are already left with less money available to meet students' educational needs.

113. Nothing in the law prevents families from receiving vouchers to subsidize an educational choice they were already able to afford. The State will continue to divert public dollars to the voucher program that could otherwise work to fulfill its constitutional public education duty – all the while using these public funds to subsidize private education for families who already could afford and already did cover the cost of private school tuition. The reduction in funds available to districts further impedes their ability to provide essential educational resources to ensure that students receive a constitutionally adequate education.

4. The Hold Harmless Provision Does Not Prevent Harm to Public Schools or the Students Who Attend Them

114. The Universal Voucher Law’s so-called “hold harmless” provision, even where it applies, does not meaningfully compensate for the loss of funds from public schools. That provision merely guarantees that if a district experiences disenrollment, it will not receive less TISA state funding than in the prior year. T.C.A. § 49-3-108(i). Because TISA allocations are expected to grow annually, affected districts will lose the benefit of those increases year after year. Moreover, only districts that experience sufficient disenrollment to reduce their total allocation below the previous year’s amount qualify for hold-harmless funds.

115. As a result, only a small fraction of school districts will receive any relief through the hold harmless provision. The Tennessee General Assembly Fiscal Review Committee estimates that in 2025-2026 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.⁶⁹

116. In 2026-2027, it is projected that only 15 of Tennessee’s 147 school districts will qualify for hold harmless funds, with an estimated \$5,323,643 in “hold harmless” allocations.⁷⁰

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of the State’s Obligation to Maintain and Support a Single System of Public Schools Under the Education Clause of the Tennessee Constitution)

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

118. Plaintiffs hereby incorporate paragraphs 1-25 and 32-69 as if fully set forth herein.

119. Article XI, §12 of the Tennessee Constitution 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’s mandate is singular and specifies public education: it does not permit the General Assembly to maintain and support schools outside the system of free public schools.

120. The Universal Voucher Law violates this constitutional mandate by diverting public funds to participating private schools that are not and cannot be part of the Tennessee system of free public schools.

⁶⁹ Tennessee General Assembly Fiscal Review Committee, *SB 6001 – HB 6004 Fiscal Note*, at 5-6 (Jan. 23, 2025), <https://www.capitol.tn.gov/Bills/114/Fiscal/SB6001.pdf>.

⁷⁰ *Id.*

121. Participating private schools are not subject to the same governance, quality, accountability, or transparency mandates, nor the same anti-discrimination requirements, that apply to Tennessee’s system of public schools. They are expressly exempt from the obligation to enroll and educate all students. They may deny admission or otherwise discriminate based on race, disability, religion, English proficiency, LGBTQ+ status, academic ability, or other criteria. They are not required to provide services that public schools must offer under state and federal law, including special education and related supports. They are not bound by state requirements to protect students from bullying, harassment, or intimidation. Unlike public schools, they are not free. And they are explicitly *not* agents of the State and are guaranteed “maximum freedom” under the Universal Voucher Law.

122. By diverting public funds to the universal voucher program, the Universal Voucher Law funds schools outside the system of public education. The schools authorized under the law to participate in the voucher program and therefore receive public funds are not, and cannot be, part of Tennessee’s constitutionally mandated “system of free public schools.”

123. Accordingly, the Universal Voucher Law violates the General Assembly’s mandate under Article XI, § 12 to fulfill its obligation to provide K-12 education by maintaining and supporting a single system of free public schools.

SECOND CAUSE OF ACTION

(Violation of the Requirement of an Adequate Public Education for Every Child Under the Education Clause of the Tennessee Constitution)

124. This claim is brought by a subset of plaintiffs: Elise McIntosh, Apryle Young, Dustin Park, Jill Smiley, and Crystal Boehm against all Defendants.

125. Plaintiffs hereby incorporate paragraphs 1-20, 26-41, and 70-97 as if fully set forth herein.

126. Under the Tennessee Constitution, the State must “maintain and support a system of free public schools” that provides every child with an adequate education. Tenn. Const. art. XI, § 12; *Tenn. Small Sch. Sys. I*, 851 S.W.2d 139, 150–51.

127. An adequate education is one that provides “the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.” *Tenn. Small Sch. Sys. I*, 851 S.W.2d at 150–51. Anything less than this violates Tennessee’s Constitution.

128. The Universal Voucher Law violates this constitutional guarantee. The State already fails to deliver a constitutionally adequate education in far too many cases. State underfunding results in deficiencies in educational staff, services, and programs that are critical to enabling all children to learn successfully. As a result of these deficiencies in key educational resources, achievement in Tennessee public school districts is inadequate.

129. By diverting state funding away from public schools, and by reducing the amount of public funding available for public schools, the Universal Voucher Law deprives students of the teachers, support staff, services, and learning environments necessary to ensure the adequate educational opportunities guaranteed by the Tennessee Constitution.

130. The law’s limited “hold harmless” provision does not remedy these losses. It merely preserves prior-year funding levels for a small number of districts and fails to account for rising costs or the cumulative impact of annual voucher expansion.

131. Because the Universal Voucher Law incentivizes funding loss for districts as well as reduces funding available for public schools, resulting in the deprivation of resources necessary to provide a constitutionally adequate education, it violates the Education Clause of the Tennessee Constitution, Article XI, § 12

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 Universal Voucher Law violates the Tennessee Constitution's Education Clause;

B. That the Court issue temporary and permanent injunctions preventing the enforcement of the Universal Voucher Law; and

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

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

[illegible]

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