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STATE OF WYOMING  
COUNTY OF LARAMIE

) IN THE DISTRICT COURT  
) ss  
) FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION, a  
Wyoming Nonprofit Membership Corporation; JENY  
GARDNER, on behalf of herself and her minor child;  
CHRISTINA HUTCHISON, on behalf of herself and her  
minor children; KATHRYNE PENNOCK III, on behalf  
of herself and her minor children; KATHARINE AND  
ZACHARY SCHNEIDER, on behalf of themselves and  
their minor children; CHAD SHARPE AND KIMBERLY  
LUDWIG-SHARPE, on behalf of themselves and their  
minor child; and CHRISTINA VICKERS AND  
BRANDON VICKERS, on behalf of themselves and their  
minor children,

Civil Action No. 2025-CV-0203366

Plaintiffs,  
  
v.  
  
MEGAN DEGENFELDER, in her official capacity as  
Wyoming Superintendent of Public Instruction; CURTIS  
E. MEIER, JR., in his official capacity as Wyoming State  
Treasurer; and STATE OF WYOMING,  
  
Defendants.

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**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT**

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For the reasons below, Parents Nicolette and Travis Leck and Victoria Haight (“Parents”) respectfully move for leave to intervene as defendants to assert the defenses set forth in their proposed answer, a copy of which is attached to this motion, on the grounds set forth below.

**INTRODUCTION**

Parents are the parents of children who are eligible for and have applied for the Education Savings Account Program (“Program”) established and expanded by the Steamboat Legacy Scholarship Act (“Act”), Wyo. Stat. Ann. §§ 21-2-901–909. The Program, which provides education savings accounts for eligible students to fund qualified educational expenses, was enacted by the Wyoming legislature to improve primary and secondary education and to provide Wyoming families with increased educational options. *See generally id.* § 21-2-901 *et seq.* Parents are the intended and direct beneficiaries of the Program and are therefore, in essence, the real parties in interest.

Plaintiffs’ complaint seeks to enjoin the Program as unconstitutional. Parents accordingly seek party status, as intervenor-defendants, to defend the constitutionality of the Program they depend on to afford educational options that best fit their families. They are entitled to intervene as of right under Rule 24(a) of the Wyoming Rules of Civil Procedure. Alternatively, they should be permitted to intervene under Rule 24(b) of the Wyoming Rules of Civil Procedure. Not only do Parents have a strong interest in defending their families’ educational needs, but they also have a statutory right to intervene in this case. Indeed, parents of children participating in educational choice programs are

routinely granted intervention to defend the programs when they are challenged in court. *See infra* pp. 14–15 and 16 n.3. This case is no different, and intervention is warranted.

This motion is based on facts and law set forth here and on Parents’ declarations, attached as Exhibits A and B. The motion includes Parents’ proposed answer to Plaintiffs’ complaint, which Parents proffer for filing should this motion be granted. Parents are aware this Court has set Plaintiffs’ Motion for Preliminary Injunction for hearing on June 27, 2025, making any briefs responding to that motion due June 24, 2025. Parents intend to file a brief opposing the motion for preliminary injunction by that date and intend to be present and ready to participate in the preliminary injunction hearing.

### **STATEMENT OF FACTS**

#### **I. The Education Savings Account Program & Plaintiffs’ Challenge**

The Education Savings Account Program is an educational choice program enacted by the Wyoming legislature in 2024 and then expanded in 2025 to ensure all families can access the best education for their children. Participation is optional, and families can continue to attend their traditional public school. But if a family determines that is not the best option for their child, the Program creates additional opportunity and flexibility in education. It also helps address disparities in educational options to children throughout the state.

All school-aged students who have not graduated high school or received a high school equivalency certificate and are not enrolled in a public school are eligible for the Program. *See* Wyo. Stat. Ann. § 21-2-904(a). Starting with the 2025–2026 school year, under the Program, each student may receive up to \$7,000 deposited into their education savings account (“ESA”) annually to fund approved educational expenses. *Id.* § 21-2-903 (a). Parents and guardians can use Program funds to pay for a variety of educational expenses—including, for example, tuition and fees for various kinds of qualified schools, tutoring programs, and services and therapies; or for supplies like uniforms, technology, or textbooks and instructional materials. *See id.* § 21-2-904(b)(i).

The Program does not use any funds set aside for public schools. It is, instead, funded through separate appropriations from the general fund. The 2024 version of the Program appropriated twenty million dollars from the general fund to the ESAs expenditure account. H.B. 166 § 3. The 2025 expansion then appropriated an additional thirty million for the Program, again from the general fund. H.B. 199 § 3. The 2025 legislation also expressly prohibits funding the Program with any “county, city or school district tax revenues.” Wyo. Stat. Ann. § 21-2-903(d). Beginning the 2025–2026 school year, payments to approved ESAs will be disbursed on a quarterly basis for families to use. *Id.* § 21-2-903(c).

Plaintiffs—the Wyoming Education Association and nine Wyoming residents with school-aged children—filed this lawsuit on June 13, 2025, challenging the Program<sup>1</sup> on state constitutional grounds. Specifically, Plaintiffs argue that the Program violates Article VII, Sections 1 and 9; Article III, Section 36; and Article XVI, Section 6(a)(i), of the Wyoming Constitution. *See* Compl. ¶¶ 83–94, 95–110. Based on these claims, Plaintiffs ask this Court to declare the Program unconstitutional and issue an injunction prohibiting the State from preparing for, administering, or enforcing the Program, including by distributing any ESA funds to Wyoming families. *See* Compl. ¶¶ 111, 112.

## **II. Applicant Parents and Their Interest in the Program**

Parents Nicolette and Travis Leck and Victoria Haight are parents of children who applied to use the Program for the 2025–2026 school year. Declaration of Nicolette and Travis Leck, attached as Exhibit A, ¶ 12 and Declaration of Victoria Haight, attached as Exhibit B, ¶ 13. Indeed, both families applied to the Program immediately after the application portal opened. The Cascade Policy Institute has reported that the legislature appropriated enough funds for about 4,000 students this coming school year. Kathryn Hickok, *New Law Expands School Choice to All Wyoming Children*, CASCADE POLICY INSTITUTE (March 26, 2025), <https://cascadepolicy.org/education/new-law-expands-school-choice->

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<sup>1</sup> Plaintiffs specifically exempt the portions of the Program that allow funding for preschool programs from their challenge. *See* Compl. at 11 n.2.

[to-all-wyoming-children/](#). And according to a recent article by a scholar from the Mountain States Policy Center, about 3,500 students signed up in the first two weeks the portal was open. Marta Mossburg, *School Choice to Reshape Wyoming Students' Education*, LARAMIE BOOMERANG (June 6, 2025), [https://www.wyomingnews.com/laramieboomerang/opinion/school-choice-to-reshape-wyoming-students-education/article\\_ca72e22d-8127-4987-826c-e842b7d10e15.html](https://www.wyomingnews.com/laramieboomerang/opinion/school-choice-to-reshape-wyoming-students-education/article_ca72e22d-8127-4987-826c-e842b7d10e15.html). If those reports are accurate, both families are very likely to be approved for the program.

Accordingly, Parents are the Program's direct beneficiaries. They now seek to intervene in this case to defend the Program and their interests in it.

#### **A. Nicolette and Travis Leck**

Nicolette and Travis Leck live with their three children—rising seventh grade twins and a rising fourth grader—in Cody, Wyoming, where they moved nearly four years ago. Exhibit A, ¶¶ 2-4. They previously lived in Casper, Wyoming. *Id.* ¶ 4. In Casper, Nicolette's and Travis's children attended a classical public school that they loved. *Id.* ¶ 5. The educational and disciplinary policies of the classical school worked well for Nicolette's and Travis's children, who thrived in that environment. *Id.* But when the family moved to Cody, they were disappointed that no classical public schools were available. *Id.* ¶ 6. Despite this, Nicolette and Travis tried sending their children to the public school in Cody. *Id.*

Unfortunately, Nicolette and Travis learned that the public-school options in Cody did not work for their children. *Id.* ¶ 7. For one school year, Nicolette's and Travis's children attended public school in Cody, but the curriculum, testing, and learning environment at the public school did not align with their children's needs. *Id.* Nicolette and Travis gave the school a second chance, but by the end of the first week of the following school year, they transferred their children to private school. *Id.*

Nicolette's and Travis's children now attend a private school that also follows the classical style that their children thrived in. *Id.* ¶ 8. They now attend Veritas Academy, where the children have

been doing well. *Id.* ¶ 10. The academics at Veritas are more rigorous than at the public school, with nightly homework, fundamental math skills, music (two boys are learning violin and one guitar) and Latin. *Id.* ¶ 8. In addition, the performance feedback to parents is more regular, allowing Nicolette and Travis to discover where their children are having problems and help them learn at home. *Id.* ¶ 9. Veritas also subscribes to higher behavioral standards than public school, which eliminates classroom disruptions. *Id.* ¶ 8. Nicolette and Travis believe that continued enrollment at Veritas Academy is the best educational option for their children, and they intend to use the Program for that purpose. *Id.* ¶ 12.

The Leck children are eligible for the Program because they meet the statutory criteria. *Id.* In addition, the Lecks understand that Veritas Academy has been approved as a provider under the Program. *Id.* Nicolette and Travis have applied for and intend to use the Program so that their children can continue to attend Veritas Academy. *Id.* For the 2025–2026 school year, tuition for their children at Veritas will be \$8,000 each. *Id.* ¶ 11. Though Nicolette and Travis will do whatever they need to ensure their children can attend Veritas, the amount does place a significant financial burden on the family, particularly in light of the additional \$1,100 per month the family spends on tutors year-round. *Id.* To afford all this, Nicolette obtained a full-time job to provide a second income. *Id.* It is important to Nicolette and Travis that their children participate in the Program because Veritas Academy offers a better learning environment with stronger academics than the public school. *Id.* ¶ 8. Without the Program, it will be a significant financial hardship for Nicolette and Travis. *Id.* ¶ 11.

In addition, as Nicolette and Travis look ahead to high school, they see how the flexibility of the Program will be critical. *Id.* ¶ 14. Unfortunately, while Veritas has operated a high school, it is pausing that educational program owing to lack of physical space. *Id.* Nicolette and Travis hope the Program will encourage the creation of more high school education providers, but they also realize they may need to pay for curriculum, online courses, tutoring, and more. *Id.* ¶ 15. Nicolette and Travis

are grateful for the flexibility the Program affords in planning for their boys' educational future. *Id.* ¶¶ 14–15.

## **B. Victoria Haight**

Victoria Haight lives with her husband Sage and their four children in Casper, Wyoming. Exhibit B, ¶ 2. Two of Victoria's children are toddlers who will be too young to be eligible for the Program during school year 2025–2026. *Id.* But their oldest daughter will be in second grade and their oldest son will be in kindergarten. *Id.* ¶ 5.

For five years, Victoria taught in public school. *Id.* ¶ 4. Through that experience, she saw a lot of the wonderful and not-wonderful parts of public school in Wyoming. *Id.* She became concerned with the prevalence of behavior problems, including students' sharing of inappropriate materials on cellphones in school. *Id.* As a former public-school teacher, Victoria understands that public school may be a great option for many families, but it simply cannot succeed at being all things to all families, if only because many families desire educational content that is diametrically opposed to what other families want. *Id.* ¶ 9. But she thinks that should not mean government education benefits are available only to families who find their needs met by public schools. *Id.*

In that regard, because Victoria wants her children to have education infused with Christian religion, she knows public school is not the best option for her children. *Id.* ¶ 7. Victoria and Sage decided they wanted to send their children to a school with a strong moral and religious educational component and high disciplinary standards. *Id.* They have chosen to send their children to a small private religious school, Mount Hope Lutheran School. *Id.* In addition to the religious and moral education that Victoria thinks would be best for her children, it also follows a classical learning model. *Id.* Students at the school often read above grade-level—and well above the level Victoria could have taught students of the same age in public school. *Id.* ¶ 8. The school provides an environment where

her children are educated among families sharing the Haight's Christian worldview. *Id.* ¶ 7. It also provides a haven from technology, which in Victoria's experience facilitates child sexualization and cyberbullying. *Id.* In Mount Hope, she has found a school that educates well-rounded, polite citizens who willingly engage with adults and the world around them. *Id.*

For the 2025–2026 school year, the total tuition for her children to attend Mount Hope will be over \$8,000. *Id.* ¶ 12. For a one-income family such as hers, that cost represents a significant burden—a burden that will more than double by the time her two toddlers reach school age. *Id.*

Victoria's children are eligible for the Program because they meet the statutory criteria. *Id.* ¶ 13. Victoria has applied for and intends to use the Steamboat Legacy Scholarship, which would cover the full tuition for both children. *Id.* ¶ 12. It is important for Victoria that her children participate in the Program because Mount Hope provides a better learning environment and stronger academics than the public school, as well as an education that is compatible with the family's worldview. *Id.* ¶¶ 7–8. Without the Program, it would be more difficult of Victoria and her husband Sage to afford Mount Hope. *Id.* ¶ 12.

## ARGUMENT

This Court should allow Parents to intervene in this case as a matter of right or, alternatively, under the rule governing permissive intervention. Parents are raising children eligible for the Program and are, thus, the intended beneficiaries of it. Parents and guardians, as the intended beneficiaries of the educational choice programs, are routinely granted leave when their constitutionality is challenged. *See infra* pp.14–15 and 16 n.3. And intervention is specially warranted here because the statute grants Parents an unconditional right to intervene.

### **I. Parents are Entitled to Intervene as of Right for Two Reasons—They Have a Statutory Right and They are the Intended Beneficiaries of the Program.**

Parents are entitled to intervene as a matter of right. The Wyoming Rules of Civil Procedure provide that “the court *must* permit anyone to intervene” who:



- (1) is given an unconditional right to intervene by statute; or
- (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Wyo. R. Civ. P. 24(a) (emphasis added). Intervention is mandatory when *either* of these conditions is met. *See Basin Elec. Power Co-op v. State Bd. of Control*, 578 P.2d 557, 566 (Wyo. 1978) (“The word ‘or’ is usually used in the disjunctive sense, and when two clauses are expressed in the disjunctive, this generally indicates alternative, requiring separate treatment.”). Parents meet both.

#### **A. Parents Have an Unconditional Statutory Right to Intervene.**

The Steamboat Legacy Scholarship Act “give[s]” Parents “an unconditional right to intervene.” Wyo. R. Civ. P. 24(a)(1). The Act specifies that “[i]f any part of this act is challenged in a state court as violating either the state or federal constitutions, parents of eligible students and parents of ESA students *shall* be permitted to intervene in any lawsuit for the purposes of defending the ESA program’s constitutionality.” Wyo. Stat. Ann. § 21-2-909(c) (emphasis added).

Parents meet the criteria to intervene under this provision. First, each of the Parents is a “parent” as defined by the statute—“a resident of [Wyoming] who is the parent or legal guardian of an eligible student or ESA student . . .” *Id.* § 21-2-902(a)(v). *See also supra* pp. 5–8 (discussing Leck and Haight families). Second, Plaintiffs’ lawsuit challenges the Act “as violating . . . the state . . . constitution[.]” Wyo. Stat. Ann. § 21-2-909(c). *See generally* Compl. The lawsuit alleges the Program violates the constitutional guarantee for a uniform system of public education and prohibitions on aid to private entities. Compl. ¶¶ 83–94, 95–110.

Because Parents’ children are eligible for the Program and because this litigation challenges the constitutionality of the Program, the plain text of the Act established Parents “shall be permitted to intervene.” Wyo. Stat. Ann. § 21-2-909(c). The law does not permit the Court to rule otherwise. *Cf. In re LePage*, 2001 WY 26, ¶ 11, 18 P.3d 1177, 1180 (Wyo. 2021) (“Where a statute uses the mandatory

language ‘shall,’ a court must obey the statute as a court has no right to make the law contrary to what is prescribed by the legislature.”).

**B. Parents Have an Interest in this Litigation that may be Impaired or Impeded, and their Interest is not Adequately Represented by Existing Parties.**

Even if Parents did not have an unconditional statutory right of intervention—which they do—they would still be entitled to intervene as a matter of right in this action. They have “an interest relating to . . . the subject of the action,” and are “so situated that disposing of the action may as a practical matter impair or impede [their] ability to protect [their] interest[s].” Wyo. R. Civ. P. 24(a)(2). The Wyoming Supreme Court has created a four-part test to determine whether the conditions of Rule 24(a)(2) are met:

- (1) “the applicant must claim an interest related to the property or transaction which is the subject of the action”; (2) “the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede the applicant’s ability to protect that interest”; (3) “there must be a showing that the applicant’s interest will not be adequately represented by the existing parties”; and (4) “the application for intervention must be timely.”

*Concerned Citizens of Spring Creek Ranch v. Tips Up, LLC*, 2008 WY 64, ¶ 14, 185 P.3d 34, 39 (Wyo. 2008).

Parents meet each of these criteria.

*First*, Parents have the requisite interest to intervene. “A significant protectable interest is distinguished from a merely contingent interest, an interest shared by members of the public at large, or a mere concern in the outcome.” *Id.*, ¶ 17. As the parents of children who are eligible to participate in the Program, they are the intended beneficiaries of the Program and they have a current, significant interest in its continued existence that is more direct than the interests of the general public.

Although the Wyoming Supreme Court has not addressed how Rule 24 affects program beneficiaries, this Court may look to the decisions of the federal courts in applying Rule 24 because it mirrors the federal counterpart. *See id.*, ¶ 14 (relying on federal precedent in construing Rule 24). Indeed, “[b]ecause of the similarities between federal and Wyoming rules of civil procedure, [Wyoming

courts] look to federal authority interpreting a particular rule as an aid in applying the comparable Wyoming rule.” *Graus v. OK Invs., Inc.*, 2014 WY 166, ¶ 14, 342 P.3d 365, 369 (Wyo. 2014) (cleaned up). *See also Oldroyd v. Kanjo*, 2019 WY 1, ¶ 9, 432 P.3d 879, 882 (Wyo. 2019) (“Because the Wyoming Rules of Civil Procedure are patterned after the Federal Rules of Civil Procedure, federal court interpretations of their rules are highly persuasive in [Wyoming courts’] interpretation of the corresponding Wyoming rules.”) (cleaned up). This portion of Wyoming’s procedural rule for intervention as of right is identical to its federal counterpart. *Compare* Wyo. R. Civ. P. 24(a) (“[T]he court must permit anyone to intervene who . . . claims an interest relating to the property or transaction that is the subject of the action.”), *with* Fed. R. Civ. P. 24(a) (“[T]he court must permit anyone to intervene who . . . claims an interest relating to the property or transaction that is the subject of the action[.]”).

Federal courts have repeatedly held that the beneficiaries of a government program or law have the requisite interest to intervene as a matter of right when the program or law is challenged. *E.g.*, *Texas v. United States*, 805 F.3d 653, 660 (5th Cir. 2015) (allowing immigrant parents to intervene as the “intended beneficiaries of the challenged federal policy” deferring deportation of parents of U.S. citizens); *Flying J., Inc. v. Van Hollen*, 578 F.3d 569, 572 (7th Cir. 2009) (allowing Wisconsin retailers to intervene in a lawsuit challenging the state’s gasoline price-competition law because “[t]hey [we]re the statute’s direct beneficiaries”); *State of California ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006) (allowing health care providers to intervene to defend conscience protection law because “[t]hey [we]re the intended beneficiaries of th[e] law”); *Cotter v. Mass. Ass’n of Minority Law Enforcement Officers*, 219 F.3d 31, 37 (1st Cir. 2000) (permitting minority police officers to intervene to defend police department’s promotion of minority officers); *County of Fresno v. Andrus*, 622 F.2d 436, 438 (9th Cir. 1980) (allowing small farmers to intervene to defend rulemaking under reclamation act because farmers were “precisely those Congress intended to protect with the reclamation acts”); *Associated Gen.*

*Contractors of Am. v. Cal. Dep't of Transp.*, No. 09-01622, 2009 WL 5206722, at \*2 (E.D. Cal. Dec. 22, 2009) (“Intervenors have a protectable interest in the lawsuit, as they represent the intended beneficiaries of the government program at issue.”); *United States v. Dixwell Hous. Dev. Corp.*, 71 F.R.D. 558, 560 (D. Conn. 1976) (allowing housing project tenants to intervene to defend portions of the National Housing Act because “their interest as beneficiaries of two aspects of the . . . Act” was “sufficient to support intervention”).

Parents’ interest in this litigation is also inextricably intertwined with their fundamental liberty interest in “direct[ing] the upbringing and education of” their children. *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925); see also *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923) (recognizing the right of parents “to control the education of their own”). The very purpose of the program, after all, is to empower parents and guardians to exercise this liberty interest. The U.S. Supreme Court has repeatedly held that this liberty interest includes a parent’s right to choose the most appropriate schooling for her child.<sup>2</sup>

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<sup>2</sup> *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972) (recognizing “the right of parents to provide an equivalent education in a privately operated system” and that “the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society”); *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925) (recognizing the “liberty of parents and guardians to direct the upbringing and education of children under their control”); *id.* at 535 (“The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only.”); *Meyer v. Nebraska*, 262 U.S. 390, 399, 400 (1923) (holding that the Due Process Clause protects the liberty “to acquire useful knowledge . . . and bring up children,” including “the right of parents to engage [a private teacher] to instruct their children”); see also *Espinoza v. Mont. Dep’t of Revenue*, 591 U.S. 464, 486 (2020) (“[W]e have long recognized the rights of parents to direct ‘the religious upbringing’ of their children. Many parents exercise that right by sending their children to religious schools, a choice protected by the Constitution.” (citation omitted)); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (“In a long line of cases, we have held that . . . the ‘liberty’ specially protected by the Due Process Clause includes the right[] . . . to direct the education and upbringing of one’s children . . . .”); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality) (“The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.”).

*Second*, Plaintiffs’ lawsuit may impair or impede Parents’ ability to protect their interest. Plaintiffs’ aim is to enjoin the Program. If Plaintiffs prevail, Parents’ ability to participate in the Program will be extinguished. Parents are eligible for the Program and have applied for ESA awards for this coming school year, but if this Court grants Plaintiffs’ requested relief they will receive nothing.

As noted above, Parents have weighty constitutional and financial interests in the Program: It empowers Parents to “direct the upbringing and education of” their children, *Pierce*, 268 U.S. at 534–35, via the provision of financial aid. But Parents will not receive that aid if Plaintiffs prevail. “[A] lost opportunity to seek a government benefit”—including, specifically, participation in an educational choice program—is an “injury in fact” that satisfies even the stringent Article III standing requirements of the U.S. Constitution. *Carson ex rel. O.C. v. Makin*, 979 F.3d 21, 31 (1st Cir. 2020), *reversed on other grounds*, 596 U.S. 767 (2022).

And on a fundamental level, “[a]n applicant’s interest is plainly impaired if disposition of the action in which intervention is sought will prevent any future attempts by the applicant to pursue its interest.” James Wm. Moore et al., 6 *Moore’s Federal Practice* § 24.03 (3d ed. supp. 2007). That is the case here. Parents and their children not only stand to lose their aid—they “have no alternative forum where they can mount a robust defense.” *Lockyer*, 450 F.3d at 442. Should the Program be ruled unconstitutional, “the beneficiaries under the [Program]”—Parents and their children—“would have no chance in future proceedings to have its constitutionality upheld.” *Saunders, v. Superior Ct.*, 510 P.2d 740, 741–42 (Ariz. 1973). “This practical disadvantage to the protection of their interest . . . warrants their intervention as of right.” *Id.* at 742.

*Third*, Parents’ interests are not adequately represented by existing parties. *Cf. Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972) (holding that the burden on this element in the analogous federal rule “should be treated as minimal”). When the interests of an applicant for intervention are “potentially more narrow and parochial than the interests of the public at large,”

courts commonly assume the potential for disagreement. *Californians for Safe & Competitive Dump Truck Transp. v. Mendonca*, 152 F.3d 1184, 1190 (9th Cir. 1998). Courts nationwide recognize that an existing party cannot adequately represent another party when their interests differ. *See, e.g., id.* (“[B]ecause the employment interests of IBT’s members [in defending a law guaranteeing them a prevailing wage] were potentially more narrow and parochial than the interests of the public at large, IBT demonstrated that the representation of its interests by the named defendants-appellees may have been inadequate.”); *Nat’l Farm Lines v. I.C.C.*, 564 F.2d 381, 384 (10th Cir. 1977) (“We have here also the familiar situation in which the governmental agency is seeking to protect not only the interest of the public but also the private interest of the petitioners in intervention, a task which is on its face impossible.”); *Wildearth Guardians v. Salazar*, 272 F.R.D. 4, 15 (D.D.C. 2010) (“[I]t is well-established that governmental entities generally cannot represent the more narrow and parochial financial interest of a private party.”) (internal quotation marks omitted); *Ass’n for Fairness in Bus., Inc. v. New Jersey*, 193 F.R.D. 228, 232 (D.N.J. 2000) (allowing intervention where “the government represent[ed] numerous complex and conflicting interests” and “the parochial interests of the Proposed Defendants-Intervenors m[ight] not be adequately represented”) (internal quotation marks omitted). That is certainly true here: The only way Parents’ interests can be adequately represented in this litigation is for them to be part of it.

Past experience in educational choice litigation reaffirms that Parents cannot simply rely on the government to adequately represent their interests. For example, in *Arizona Christian School Tuition Organization v. Winn*, 563 U.S. 125 (2011), parent intervenors successfully argued that the plaintiffs challenging the educational choice program lacked standing, an issue that the state conceded. The state similarly conceded standing in *Duncan v. State*, 102 A.3d 913 (N.H. 2014), while the parent intervenors successfully argued that the statute conferring standing was unconstitutional. In *Kotterman v. Killian*, 972 P.2d 606 (Ariz. 1999), parent intervenors—not the state—urged and convinced the court to

confront the bigoted origins of the provision of the Arizona Constitution that the plaintiffs were using to attack the state’s educational choice program. And parent-intervenors’ argument about interpreting Tennessee’s Home Rule Amendment, a position the state only later embraced, proved decisive to upholding the state’s program. *See Metro. Gov’t of Nashville & Davidson Cnty. v. Tenn. Dep’t of Educ.*, 645 S.W.3d 141, 151–52 (Tenn. 2022) (noting that “[i]ntervenors, and now the State as well,” had advanced the argument).

*Finally*, this application is timely filed. “The test for determining whether an intervention application is timely is one of reasonableness—potential intervenors must be reasonably diligent in learning of a suit that might affect their rights, and upon so learning they need to act reasonably promptly.” *Kerbs v. Kerbs*, 2020 WY 92, ¶ 16, 467 P.3d 1015, 1020 (Wyo. 2020) (cleaned up). “The timeliness requirement is intended to prevent a *tardy* intervenor from derailing lawsuit that is *near completion*.” *Id.* (cleaned up) (emphases added). Here there is no plausible argument that the Parents did not act “reasonably promptly” or that they risk “derailing the lawsuit.” *Id.* Parents here moved to intervene just seven days (and four court business days) after Plaintiffs filed their complaint, and the lawsuit has not progressed in any meaningful sense. Indeed, this motion comes well within the time of Defendants’ answer or other responsive pleading, which has not been filed yet. *See* Wyo. R. Civ. P. 12(a). Parents seek to intervene specifically to defend the constitutionality of the Program, which has not yet been addressed on the merits. And, as noted above, they intervene in time to file a brief opposing Plaintiffs’ Motion for Preliminary Injunction and to participate in the June 27 hearing on that motion. In short, intervention here is timely because it comes at the outset of the case before the substance of the issues relevant to the intervention have been raised, let alone resolved. *Cf. Hirshberg v. Coon*, 2012 WY 5, ¶ 17, 268 P.3d 258, 263 (Wyo. 2012) (approving district court’s denial of intervention when applicants only moved to intervene after the final order had been entered and they learned there’d be no appeal); *Tips Up*, ¶ 16 (affirming denial intervention where the case had been

ongoing for months and the proposed intervenors only moved to intervene after they learned the parties were discussing settlement).

For these reasons, intervention as of right is warranted. *Cf. Id.*, ¶ 14 (“Intervention of right is construed broadly in favor of intervention.”).

## **II. Alternatively, Parents Should be Granted Permissive Intervention to Defend the Wyoming Education Savings Account Program.**

Parents alternatively seek permissive intervention under Wyoming Rule of Civil Procedure 24(b). Permissive intervention is granted upon timely motion when the applicant “has a claim or defense that shares with the main action a common question of law or fact.” Wyo. R. Civ. P. 24(b)(1)(B). “In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” *Id.* § 24(b)(3). Parents satisfy the conditions set forth in Rule 24(b), and intervention will not delay or prejudice adjudication of the parties’ rights.

*First*, Parents’ defenses share a question of law or fact in common with the main action. The central question of law here is whether the Program is constitutional, and the interests of Parents and their children are inextricably linked with the question of the Program’s constitutionality.

*Second*, Parents have acted quickly to prevent any delay. As noted above, *see supra* pp. 14–15, the motion to intervene comes within seven days (and four court business days) of filing Plaintiffs’ complaint, and Parents’ participation will not prejudice the adjudication of the rights of other parties. Rather, Parents’ participation will facilitate a thorough resolution of all issues in this case, providing a perspective on the Program that only they—the Program’s beneficiaries—can provide.

*Finally*, Parents believe that participation of their counsel will also assist this Court in its resolution of the questions before it. Parents’ counsel has represented intervening parents in the successful defense of over a dozen educational choice programs, at every level of federal and state



court.<sup>3</sup> Moreover, Parents' counsel is currently representing intervening parents in the defense of Tennessee's education savings account program, Ohio's voucher programs, Utah's education savings account program, and Alaska's correspondence program.

### CONCLUSION

In nearly every legal challenge to an educational choice program over the last three decades, parents who have sought to intervene to defend the program have been permitted to do so. If the Program is declared unconstitutional, Parents and many other Wyoming parents will forever lose the opportunity to protect their interest in the greater educational opportunity that the Program provides. To protect the educational future of their children, Parents should be allowed to intervene as defendants.

Parents, therefore, respectfully request that this Court grant them leave to intervene as defendants in this case.

### STATEMENT ON CONFERRAL

Pursuant to Rule 801(a)(7) of the Uniform Rules for District Courts of the State of Wyoming, counsel for Proposed Intervenor-Defendants conferred with counsel for Plaintiffs and

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<sup>3</sup> These programs include Arizona's individual tax credit scholarship program, *Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125 (2011); *Kotterman v. Killian*, 972 P.2d 606 (Ariz. 1999); Ohio's Pilot Project Scholarship Program, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002); *Simmons-Harris v. Goff*, 711 N.E.2d 203 (Ohio 1999); Douglas County, Colorado's voucher program, *Doyle v. Taxpayers for Pub. Educ.*, 582 U.S. 950 (2017) (mem.); West Virginia's educational savings account program, *State v. Beaver*, 887 S.E.2d 610 (W. Va. 2022); Tennessee's education savings account program, *Metro. Gov't of Nashville & Davidson Cnty. v. Tennessee Dep't of Educ.*, 645 S.W.3d 141 (Tenn. 2022); Georgia's tax credit scholarship program, *Gaddy v. Ga. Dep't of Revenue*, 802 S.E.2d 225 (Ga. 2017); North Carolina's voucher program, *Hart v. State*, 774 S.E.2d 281 (N.C. 2015); Alabama's tax credit scholarship program, *Magee v. Boyd*, 175 So. 3d 79 (Ala. 2015); New Hampshire's tax credit scholarship program, *Duncan v. State*, 102 A.3d 913 (N.H. 2014); Indiana's voucher program, *Meredith v. Pence*, 984 N.E.2d 1213 (Ind. 2013); Arizona's educational savings account program, *Niehaus v. Huppenthal*, 310 P.3d 983 (Ariz. Ct. App. 2013); Arizona's corporate tax credit scholarship program, *Green v. Garriott*, 212 P.3d 96 (Ariz. Ct. App. 2009); Illinois' tax credit program, *Toney v. Bower*, 744 N.E.2d 351 (Ill. App. Ct. 2001); *Griffith v. Bower*, 747 N.E.2d 423 (Ill. App. Ct. 2001); and Milwaukee's voucher program, *Jackson v. Benson*, 578 N.W.2d 602 (Wis. 1998); *Davis v. Grover*, 480 N.W.2d 460 (Wis. 1992).

counsel for the State Defendants regarding this motion. Counsel for State Defendants do not oppose the motion. Plaintiffs' counsel indicated they did not have sufficient information at this time to take a position on the motion and reserve the right to object.

**DATED:** June 20, 2025

Respectfully submitted,



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\*Application to appear *pro hac vice* submitted and pending.

\*\*Application to appear *pro hac vice* forthcoming.

## CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2025, I served the foregoing by email and by first-class mail, postage prepaid, and properly addressed to the following:

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STATE OF WYOMING  
  
COUNTY OF LARAMIE

) IN THE DISTRICT COURT  
) ss  
) FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION, a  
Wyoming Nonprofit Membership Corporation; JENY  
GARDNER, on behalf of herself and her minor child;  
CHRISTINA HUTCHISON, on behalf of herself and her  
minor children; KATHRYNE PENNOCK III, on behalf  
of herself and her minor children; KATHARINE AND  
ZACHARY SCHNEIDER, on behalf of themselves and  
their minor children; CHAD SHARPE AND KIMBERLY  
LUDWIG-SHARPE, on behalf of themselves and their  
minor child; and CHRISTINA VICKERS AND  
BRANDON VICKERS, on behalf of themselves and their  
minor children,

Plaintiffs,

Civil Action No. 2025-CV-0203366

v.

MEGAN DEGENFELDER, in her official capacity as  
Wyoming Superintendent of Public Instruction; CURTIS  
E. MEIER, JR., in his official capacity as Wyoming State  
Treasurer; and STATE OF WYOMING,

Defendants.

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**[PROPOSED] ANSWER AND AFFIRMATIVE DEFENSES OF INTERVENOR-  
DEFENDANTS TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

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Intervenor-Defendants Nicolette and Travis Leck and Victoria Haight (collectively, “Intervenor-Defendants”) state the following as their Answer and Affirmative Defenses to the Complaint. Intervenor-Defendants deny any allegation not specifically admitted below. For further response, Intervenor-Defendants state as follows:

**INTRODUCTION**

1. Pursuant to the Wyoming Uniform Declaratory Judgments Act (Wyo. Stat. Ann. §§ 1-37-101 through 1-37-115) and as a direct action to enforce the Wyoming Constitution, this lawsuit challenges the Steamboat Legacy Scholarship Act (“Voucher Program”), Wyo. Stat. Ann. §§ 21-2-901-909, which funds private education outside of the public school system that is not uniform and which does not meet other constitutional standards. Enacted in 2024 and expanded in the 2025 legislative session to make all K-12 students eligible statewide, the Voucher Program funds private education outside of the public schools in schools and settings that are not uniform or subject to any meaningful quality or accountability standards.

**ANSWER:** Intervenor-Defendants admit that the education savings account program, as defined in Wyo. Stat. Ann. §§ 21-2-901, was enacted in 2024 and that the Steamboat Legacy Scholarship Act was

enacted in 2025. The remaining allegations in Paragraph 1 are legal conclusions and Intervenor-Defendants therefore deny them.<sup>1</sup>

2. Under the Wyoming Constitution, education is sacrosanct. The Education Clause, Article VII, Section 1 of the Wyoming Constitution, requires that “[t]he legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction.” As interpreted by the Wyoming Supreme Court that language requires the State to provide a “thorough and uniform education of a quality that is both visionary and unsurpassed,” *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 19, ¶ 51, 19 P.3d 518, 538 (Wyo.), on reh’g, 2001 WY 90, ¶ 51, 32 P.3d 325 (Wyo. 2001) (*Campbell II*), one that represents “the best that we can do,” not merely “as best [the legislature] can amidst other competing priorities” *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238, 1279 (Wyo. 1995) (*Campbell I*). Fulfilling this mandate must be “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.” *Id.*

**ANSWER:** Intervenor-Defendants admit that Paragraph 2 contains language quoted from Article VII, Section 1 of the Wyoming Constitution, which speaks for itself. The remaining allegations in Paragraph 2 are legal conclusions and Intervenor-Defendants therefore deny them.

3. The paramount obligation of the State to provide a complete and uniform system of public instruction dates to Wyoming’s founding. Even before Wyoming became a state, Wyoming’s Irrevocable Ordinance required that “[t]he legislature shall make laws for the establishment and maintenance of systems of public schools which shall be open to all the children of the state and free

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<sup>1</sup>Throughout the Complaint, Plaintiffs identify the program they are challenging as the “Voucher Program” and the scholarships, or education savings accounts, provided by the program as “vouchers.” Such terminology is not used in the relevant statutes, and Intervenor-Defendants therefore do not admit its accuracy. To avoid confusion, however, Intervenor-Defendants will respond to the allegations in the Complaint without denying, in each paragraph it is used, the accuracy of the label.

from sectarian control.” That obligation was adopted into Article XXI, Section 28 of the current constitution, as one of several constitutional provisions addressing the State’s education obligations. Wyoming even provides for the right to education in its Declaration of Rights, in language that dates to the original 1889 Constitution and has never been altered. Wyo. Const. art. I, § 23. It goes on to provide specific requirements for education, including education funding, in the thirteen separately detailed provisions of Article VII. All told, the State’s obligation to provide for education receives more detailed treatment in the Wyoming Constitution than any other State obligation to provide a public service.

**ANSWER:** Intervenor-Defendants admit that paragraph 3 contains a quotation from Wyoming’s Irrevocable Ordinance, which speaks for itself. The remaining allegations in Paragraph 3 are legal conclusions and Intervenor-Defendants therefore deny them.

4. Recognizing this paramount commitment, in the *Campbell* cases the Wyoming Supreme Court found that “education is a fundamental right” in Wyoming, that “all aspects of the school finance system are subject to strict scrutiny,” and that “any state action interfering with [the right to equal educational opportunity] must be closely examined before it can be said to pass constitutional muster.” *Campbell II* at ¶ 42.

**ANSWER:** The allegations in Paragraph 4 are legal conclusions and Intervenor-Defendants therefore deny them.

5. The State’s compliance with this mandate is currently under challenge. In August of 2022, the Wyoming Education Association filed suit against the State of Wyoming, asserting that the State is violating the Wyoming Constitution by failing to adequately fund public schools. WEA’s complaint contends that by failing to grant periodic external cost adjustments (ECAs) and underfunding the state’s education model—even disregarding the state’s own commissioned experts’ recommendations for funding—the Legislature is violating the Wyoming Constitution and failing to fulfill its legal



responsibility to fund a high quality, equitable, cost-based public education system. *See generally, Complaint, Wyo. Educ. Ass'n v. State*, No. 200-788 (First Judicial District, Feb. 26, 2025).

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 and therefore deny them.

6. This February, following a bench trial, the First Judicial District Court agreed, holding that the model Wyoming uses to fund schools “is no longer cost-based. . . does not properly account for inflation and does not accurately estimate the cost of personnel needed to deliver the basket of goods” comprising the constitutionally required education, and does not contain a “reasonably accurate estimate of the cost of school districts’ personnel.” It also “does not properly assess the educational suitability of schools and it has allowed deficient and inadequate school facilities to be used to educate students for too long.” *Findings of Fact, Conclusions of Law and Order, Wyo. Educ. Ass'n v. State*, No. 200-788 (First Judicial District, Feb. 26, 2025).

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and therefore deny them.

7. While the ink was still drying on the District Court’s decision, the Wyoming Legislature enacted HB 199, which greatly expanded the existing Voucher Program to all students in Wyoming.

**ANSWER:** Intervenor-Defendants admit that the Wyoming Legislature enacted HB 199. Intervenor-Defendants admit the remaining allegations in Paragraph 7 only to the extent they are consistent with HB 199, which speaks for itself, and otherwise deny the allegations.

8. The Voucher Program violates the Wyoming Constitution in at least two ways.

- a. First, the Program violates multiple elements of the Education Article, Article VII §§ 1, 9 of the Wyoming Constitution, which commands that education be provided through a “complete and uniform system of public instruction,” and that Wyoming “create and maintain a thorough and efficient system of public schools, adequate to the proper instruction

of all youth of the state[.]” The Education Article provides “a guide to the legislature for planning, administering and financing an education system,” and sets a floor the state must meet in terms of class sizes, curriculum, standards for course content, and student assessment. *Campbell I* at 1279. The state cannot circumvent those requirements by funding private education that is not uniform and that meets none of the required state constitutional standards for education.

- b. Second, the Program is unconstitutional because it provides appropriated public funds to Wyoming residents and other private entities which are not under the control of the State in violation of Article III, § 36 of the Wyoming Constitution, which limits appropriations for “charitable, industrial, educational or benevolent purposes” to entities not under control of the State. By gratuitously funneling public funds to private individuals and entities, regardless of whether they are poor and regardless of whether that support is necessary, the Program also violates Article XVI, Section 6(a)(i) of the Wyoming Constitution, which provides that “Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall . . . [l]oan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor.”

**ANSWER:** The allegations in Paragraph 8 are legal conclusions and Intervenor-Defendants therefore deny them.

9. To prevent these violations of the Wyoming Constitution, Plaintiffs respectfully request that this Court enter an order declaring the Voucher Program unconstitutional and permanently enjoining the State, Superintendent of Public Instruction and State Treasurer from enforcing or implementing the Program and from distributing or expended any funds for or pursuant to the Program.

**ANSWER:** Intervenor-Defendants deny that there are any “violations of the Wyoming Constitution” at issue in this case. Intervenor-Defendants admit the remaining allegations in Paragraph 9 only to the

extent they are consistent with Plaintiffs' request for relief. Otherwise, Intervenor-Defendants deny the allegations in Paragraph 9.

### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over this action pursuant to Article V, Sections 1 and 10 of the Wyoming Constitution.

**ANSWER:** The allegations in Paragraph 10 are legal conclusions and Intervenor-Defendants therefore deny them.

11. This Court has personal jurisdiction over the Defendants, who are sued in their official capacities and whose offices are situated in Laramie County.

**ANSWER:** That "[t]his Court has personal jurisdiction over the Defendants" is a legal conclusion and Intervenor-Defendants therefore deny it. Intervenor-Defendants admit that Plaintiffs have sued Defendants in their official capacities. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 11 and therefore deny them.

12. Venue is proper in this Court pursuant to Wyo. Stat. Ann. § 1-5-104, because this cause of action arises in Laramie County, and all defendants maintain their headquarters in Laramie County, and all defendants maintain their headquarters in Laramie County.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that "defendants maintain their headquarters in Laramie County." The remaining allegations in Paragraph 12 are legal conclusions and Intervenor-Defendants therefore deny them.

### **PARTIES AND STANDING**

13. Plaintiff Wyoming Education Association (WEA) is a nonprofit membership corporation in the state of Wyoming. The approximately 5,000 members of WEA work as educators and educational

support personnel in Wyoming public schools, and have unique and direct knowledge, insight, and commitment when it comes to providing quality education for all Wyoming school children. WEA members are also taxpayers, and many are parents of children who attend public schools in districts across every county in Wyoming. WEA has been an advocate for public schools for more than 100 years, and its nonprofit purpose is to further public education and the education profession in Wyoming. WEA regularly appears before boards, commissions, state agencies and other entities as a spokesperson on behalf of public school students and public education issues. Because of its missions, membership, experience, and advocacy, WEA has a direct interest in the funding and operation of public schools and opposes the use of public funds to benefit private schools that operate in a manner inconsistent with the promise of public education and with the rights and restrictions regarding education and education funding found in the Wyoming Constitution.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and therefore deny them.

14. WEA was a principal party and plaintiff in each of the previous series of school finance cases known as the *Campbell* cases as well as *Wyo. Educ. Ass'n v. State*, and has been recognized in those cases and others as having standing to bring legal actions on behalf of Wyoming schoolchildren. *See e.g., Director of the Office of State Lands v. Merbanco*, 2003 WY 73 at ¶¶16-18, 70 P.3d 241, 247 (2008), citing *Washakie School District v. Herschler*, 606 P.2d 310, 317 (Wyo. 1980).

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that the “WEA was a principal party and plaintiff in each of the previous series of school finance cases known as the *Campbell* cases as well as *Wyo. Educ. Ass'n v. State*.” The remaining allegations in Paragraph 14 are legal conclusions and Intervenor-Defendants therefore deny them.

15. WEA brings this action to further and protect the rights of its members as educators, parents, and taxpayers. WEA members have direct knowledge, insight, and commitment to providing a uniform, thorough, and adequate education for all Wyoming school children. They are also parents of children who attend public schools, as well as taxpayers, with a direct interest in the education of their children in a uniform, thorough, and adequate manner consistent with the high standards and guarantees of the Wyoming Constitution are significant.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and therefore deny them.

16. Plaintiff Jeny Gardner is a resident of Park County, a Wyoming citizen and taxpayer, and the parent of a minor child with a disability. Her child attends a public school in Park County. Jeny's child has had an Individualized Education Plan ("IEP") under the federal Individuals with Disabilities Education Act and currently has a 504 plan under and receives special education services through his public school. Jeny's child also identifies as queer.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 and therefore deny them.

17. Plaintiff Christina Hutchison is a resident of Albany County, a Wyoming citizen and taxpayer, and the parent of minor children who attend public schools in Albany County, Wyoming. Some of her children have disabilities with either an IEP under the federal Individuals with Disabilities Education Act or a 504 plan under the federal Rehabilitation Act and so receive special services through the school district. Christina also works as a special education teacher in the school district where she resides.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and therefore deny them.

18. Plaintiff Kathryne Pennock III is a resident of Natrona County, Wyoming, a Wyoming citizen and taxpayer, and the parent of minor children with disabilities. Her children attend public schools in Natrona County. She has children who have IEPs under the federal Individuals with Disabilities Education Act and they receive special education services through their school district. Kathryne also works as an educational support person in the public school district.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 and therefore deny them.

19. Plaintiffs Katharine and Zachary Schneider are residents of Natrona County, Wyoming, Wyoming citizens and taxpayers, and parents of minor children who attend public school in Natrona County. Zachary is also employed as a teacher in Natrona County School District and Katharine is certified as a school counselor as well as a Licensed Professional Counselor (LPC) in private practice. One of their minor children is non-binary.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 and therefore deny them.

20. Plaintiffs Chad Sharpe and Kimberly Ludwig-Sharpe are residents of Natrona County, Wyoming citizens and taxpayers, and parents of a minor child who attends public school in Natrona County. That minor child has an Individualized Education Plan (“IEP”) under the federal Individuals with Disabilities Education Act and receives special education services through her public school. Chad is also employed as a teacher in Natrona County School District.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 and therefore deny them.

21. Plaintiffs Christina and Brandon Vickers are residents of Washakie County, Wyoming citizens and taxpayers, and parents of two minor children who attend public school in Washakie County. Both of those students have IEPs under the Individuals with Disabilities Education Act. One of their

children is trans-female. Both Christina and Brandon also are long-time teachers in the public school district in Washakie County.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21 and therefore deny them.

22. Plaintiffs Jeny, Christina Hutchinson, Kathryne, Chad, Kimberly, Christina Vickers, and Brandon choose to send their children to public school for reasons that include the benefit and support that their children's 504 plans provides, as well as for the educational opportunity that her children can receive through an established, quality curriculum; certified teachers and other professionals; and public accountability. These plaintiffs oppose the Voucher Program due to the harmful impact it will have on their children. The Voucher Program will harm students like plaintiffs' children because private schools receiving voucher funding can refuse admission to children with disabilities like plaintiffs' children and are not required to provide special education services or comply with IEP's. These plaintiffs are unaware of any private school in their area which would admit their children, let alone one that would provide the range of different special services and support their children require.

**ANSWER:** The allegations in the third sentence of Paragraph 22 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 22 and therefore deny them.

23. Additionally, the public schools are required to admit, educate, and provide protection against discrimination for children who identify as queer, transgender, or non-binary, including the children of Jeny, Katharine and Zachary, and Christina and Brandon. The Voucher Program will harm students like these plaintiffs' children because private schools receiving voucher funding can refuse admission to children on the basis of circumstances like their gender identity or sexual orientation. Plaintiffs Jeny,

Katharine and Zachary, and Christina and Brandon are unaware of any private school in their area which would admit her child, let alone provide the appropriate support and protection for that child.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that “the children of Jeny, Katharine and Zachary, and Christina and Brandon” “identify as queer, transgender, or non-binary.” The remaining allegations in the first and second sentences of Paragraph 23 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of Paragraph 23 and therefore deny them.

24. All the individual plaintiffs believe that public funds should be used to support public schools that their child and all other Wyoming children can attend, and object to the use of taxpayer public money at exclusive private voucher schools that may refuse to admit their children and that lack the same accountability, uniformity, and curriculum standards required at public schools. The individual plaintiffs also object to the donation of public funds to private entities that are not within the control of the State.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 and therefore deny them.

25. At the same time, the Voucher Program will have a negative impact on funding at the public schools the plaintiffs’ children attend and where plaintiffs Christina Hutchinson, Kathryne, Katharine, Zachary, Chad, Christina and Brandon work. As students leave the public school system using public funds provided through the Voucher Program, the public schools will lose funding under the Average Daily Member (“ADM”) formula, thereby resulting in fewer resources available to educate and support the students remaining in public schools like her children. As long-time parents, teachers and educators, Plaintiffs have seen the impact of inadequate funding for public schools, which will only be exacerbated by a further loss of funding.



**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 25 that plaintiffs' children attend public schools and that plaintiffs Christina Hutchinson, Kathryne, Katharine, Zachary, Chad, Christina and Brandon work in public schools. The remaining allegations in the first sentence of Paragraph 25, as well as the allegations in the second sentence of Paragraph 25, are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of Paragraph 25 and therefore deny them.

26. Defendant State of Wyoming has a constitutional duty to provide education and expend public funds only as constitutionally permitted. Plaintiffs bring 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.

**ANSWER:** The allegations in the first sentence of Paragraph 26 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants admit the allegations in the second sentence of Paragraph 26.

27. Defendant Megan Degenfelder is Wyoming Superintendent of Public Instruction. She is sued in her official capacity. The Voucher Program statute directs Superintendent Degenfelder to implement and administer the Program. Plaintiffs bring 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 Superintendent to enjoin her from implementing the Program.

**ANSWER:** Intervenor-Defendants admit the allegations in the first, second, and fourth sentences of Paragraph 27, except that Intervenor-Defendants deny that the ESA Program is correctly described as a Voucher Program. The allegations in the third sentence of Paragraph 27 are legal conclusions and Intervenor-Defendants therefore deny them.

28. Defendant Curtis E. Meier, Jr., is the Wyoming State Treasurer. He is sued in his official capacity. Defendant Meier and the State Treasurer's office are responsible for managing the State's general fund, which is instructed to issue funds to the Voucher Program participants. *See* Wyo. Stat. Ann. § 21-2-909. Plaintiffs bring 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 Treasurer to enjoin him from expending or distributing funds to any Voucher Program participants or recipients as well as funds for the operation of the Program itself.

**ANSWER:** Intervenor-Defendants admit the allegations in the first, second, and fourth sentences of Paragraph 28, except that Intervenor-Defendants deny that the ESA Program is correctly described as a Voucher Program. The allegations in the third sentence of Paragraph 28 are legal conclusions and Intervenor-Defendants therefore deny them.

#### **FACTUAL ALLEGATIONS**

##### **THE VOUCHER PROGRAM**

29. On March 21, 2024, Governor Gordon signed into law HB 166, creating the Voucher Program. The Voucher Program uses state general funds to create a separate state fund, the "education savings accounts expenditure account," which in turn will be parceled out into individual "education savings accounts" that eligible students' families can use to pay for a variety of "qualifying expenses," most significantly private school tuition and home schooling expenses. A copy of the enrolled act is attached to this Complaint as Exhibit A.

**ANSWER:** Intervenor-Defendants admit that Governor Gordon signed HB 166 on March 21, 2024. Intervenor-Defendants further admit that the Complaint includes an Exhibit A, which speaks for itself. Intervenor-Defendants deny that "private school tuition and home schooling expenses" are the "most significant[]" "qualifying expenses" under HB 166. The remaining allegations in Paragraph 29 are legal conclusions and Intervenor-Defendants therefore deny them.

30. Functionally, the private school tuition and home school funding provisions of HB 166 create a school voucher program.

**ANSWER:** The allegations in Paragraph 30 are legal conclusions and Intervenor-Defendants therefore deny them.

31. As initially passed by the Legislature, HB 166 made students of varying incomes level eligible for the ESA Program, with the value of the voucher decreasing with increasing household income. *See* HB 166 § 1. Students from households making up to 500 percent of the federal poverty level would have been eligible for some public funds under this structure. *Id.* But the Governor exercised his line-item veto power to remove all but the lowest income tier from the bill, with the result that eligibility was limited to students from families making no more than 150 percent of the federal poverty level. Wyo. Stat. Ann. § 21-2-903(a).

**ANSWER:** Intervenor-Defendants admit the allegations in the first and second sentences of Paragraph 31 only to the extent they are consistent with HB 166, which speaks for itself, and otherwise deny them. Intervenor-Defendants admit the allegations in the third sentence of Paragraph 30.

32. In a letter explaining his line-item veto, Governor Gordon expressed his support for the Voucher Program, but noted that there were “practical and constitutional complications” with the bill, namely that its provisions allowing for more expansive eligibility for families who are not poor were “in violation of Art. 16, § 6 of the Wyoming Constitution.”

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 32 only to the extent they are consistent with the letter described, which speaks for itself, and otherwise deny them.

33. The Legislature appropriated \$20 million through HB 166. HB 166 at Section 3. The Program was scheduled to begin distributing school vouchers for the 2025-26 school year.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 33 only to the extent they are consistent with HB 166, which speaks for itself, and otherwise deny them.

34. During the 2025 legislative session, before the program created by HB 166 was operational, the Legislature passed HB 199, the “Steamboat Legacy Scholarship Act,” which removed the income cap from the Voucher Program and made all students in Wyoming eligible for the Program. HB 199 § 2, codified at Wyo. Stat. Ann. § 21-2-904(a). Governor Gordon signed HB 199 into law on March 4, 2025. A copy of the enrolled act is attached to this Complaint as Exhibit B.

**ANSWER:** Intervenor-Defendants admit the allegations in the first sentence of Paragraph 34 only to the extent they are consistent with HB 199, which speaks for itself, and otherwise deny them. Intervenor-Defendants admit that Governor Gordon signed HB 199 on March 4, 2025. Intervenor-Defendants admit that attached to the complaint is an Exhibit B, which speaks for itself. Intervenor-Defendants deny the remaining allegations in Paragraph 34.

35. The Wyoming Department of Education (WDE) is currently accepting and reviewing applications for the Voucher Program.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 35, except that Intervenor-Defendants deny that the ESA Program is properly characterized as a Voucher Program.

36. The Voucher Program legislation does not provide a date by which the WDE must begin making payments to Voucher Program participants, however, the WDE intends to begin depositing initial voucher payments to registered families on July 1, 2025, and the Program is scheduled to begin operating for the 2025-2026 school year.

**ANSWER:** The allegation that “[t]he Voucher Program legislation does not provide a date by which the WDE must begin making payments to Voucher Program participants” is a legal conclusion and Intervenor-Defendants therefore deny it. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 36 and therefore deny them.

37. Under the Voucher Program, eligible students may receive up to \$7,000 per year in state tax revenues to pay “qualified schools” and “education service providers” for private school tuition and other eligible education expenses, using “education savings accounts” managed by the Superintendent. Wyo. Stat. Ann. § 21-2-903(a)(ii).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 37 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

38. Two types of entities may receive voucher payments under the Program: “qualified schools” and “education service providers.” As discussed above, for primary and secondary providers, “qualified school” is defined to include only “nonpublic” primary and secondary schools that operate in Wyoming. *Id.* at § 21-2-902(a)(vii). It includes online providers. *Id.* The broader category of “education service providers” includes qualified schools as well as non-school entities that provide qualifying services to voucher recipients. Wyo. Stat. Ann. §21-2-902(a)(iii).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 38 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

39. Students enrolled in public school are not eligible to participate in the Voucher Program. Rather, as a condition of participation, an eligible student’s parent must agree that the student will not enroll in public school and must “release[] the applicable school district from all obligations to educate the voucher student.” Wyo. Stat. Ann. § 21-2-904(b)(ii)(C).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 39 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

40. The eligible expenses enumerated in the Voucher Program statute are:

- a. tuition and fees at a qualified school;
- b. tutoring services;
- c. services provided by a public district or charter school, including individual classes and extracurricular activities;
- d. textbooks, curricula, or other instructional materials;
- e. computer hardware or other technological devices;
- f. educational software and applications;
- g. school uniforms;
- h. fees for examinations and exam preparation courses specified in the statute;
- i. tuition and fees for summer and after school programs;
- j. tuition, fees and other expenses related to attendance at a career or technical school;
- k. educational services and therapies including occupational, behavioral, physical, audiology, or speech-language therapies;
- l. higher education tuition and fees;
- m. fees for transportation to an education service provider;
- n. tuition and fees for “nongovernmental online learning programs”; and
- o. “any other educational expense” approved by the Superintendent which a participating family incurs in the education of the student.

Wyo. Stat. Ann. § 21-2-904(b)(i).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 40 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

41. Home schooling is not explicitly listed as an eligible expense in the statute, but the Program allows for reimbursement of all customary home schooling expenses, and the law provides that it shall

not “be construed to require a voucher student to be enrolled, full-time or part-time, in a nonpublic school.” Wyo. Stat. Ann. § 21-2-904(f).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 41 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

42. The statute delegates administration of the Program to the State Superintendent of Public Instruction (Superintendent). Wyo. Stat. Ann. § 21-2-906.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 42 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

43. The statute permits the Superintendent to contract with private organizations to administer all or part of the Voucher Program, including the payment system. *Id.* at § 21-2-906(a)(v)-(vi).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 43 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

44. Last year, the WDE chose a private “ESA System Provider” named Odyssey to supply a technology platform for the program. WDE has hired staff for general program management and fiscal management.

**ANSWER:** Intervenor-Defendants admit that Odyssey is the platform for the ESA Program. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 44 and therefore deny them.

45. To offset the costs of administering the Voucher Program, HB 166 made separate appropriations from the general fund to 1) create two temporary full-time positions at the department of education to administer the act, at a cost of \$480,000; and 2) provide for contractual services

necessary to implement the act, at a cost of \$400,000. HB 166 at § 4. HB 199 further allows the Superintendent to withhold up to five percent of Program funds during the first two school years the Program operates, and up to three percent in subsequent years for administrative expenses. Wyo. Stat. Ann. § 21-2-906(a)(xiii).

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 45 and therefore deny them. Intervenor-Defendants admit the allegations in the second sentence of Paragraph 45 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

46. HB 199 also authorizes the Superintendent to accept “gifts and grants from any source” to cover administrative costs of the Program or to fund vouchers. *Id.* at § 21-2-906(e).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 45 only to the extent they are consistent with HB 199, which speaks for itself, and otherwise deny the allegations.

47. Any student who resides in Wyoming, is eligible to attend but is not attending a public school, and has not received a high school diploma or equivalency certificate, may apply to receive a voucher under the Program. Wyo. Stat. Ann. § 21-2-904(a).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 47 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

48. The number of students participating in the Program each year is not capped, and will be limited only by the level of funding the Legislature chooses to appropriate. HB 166 appropriated \$20 million for the Program, and HB 199 appropriated \$30 million for the Program, meaning that the Program Account will begin the 2025-2026 school year with \$50 million, minus any funds for administrative expenses the Superintendent may choose to deduct.



**ANSWER:** The allegations in the first sentence of Paragraph 48 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants admit the allegations in the second sentence of Paragraph 48 only to the extent they are consistent with HB 166 and HB 199, which speak for themselves, and otherwise deny the allegations.

49. The majority of Voucher Program funds will be used to pay for eligible students to attend private schools and home schools. Of the services for which Program funds may be used, private school tuition is by far the most expensive, and public schools may receive only funds for certain classes and activities provided to non-public school students, and are not eligible to receive tuition vouchers.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 49. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that “private school tuition is by far the most expensive” “[o]f the services for which Program funds may be used.” The remaining allegations in Paragraph 49 are legal conclusions and Intervenor-Defendants therefore deny them.

#### **ACADEMIC AND FISCAL OVERSIGHT**

50. The Program statute provides for minimal academic and fiscal oversight of participating families and education service providers.

**ANSWER:** The allegations in Paragraph 50 are legal conclusions and Intervenor-Defendants therefore deny them.

51. Despite charging the Superintendent with administering the Program, the statute explicitly deprives her of any authority to ensure students utilizing the program receive a quality education. In

effect, the Program is a black box: funds will go in, but except in isolated instances the state and the public will have no way to know what is coming out.

**ANSWER:** The allegations in Paragraph 51 are legal conclusions and Intervenor-Defendants therefore deny them.

52. In order to participate in the Program, the parent of an eligible student must submit an application to the Superintendent, who “shall” approve the application if the student meets eligibility requirements, there are available funds, and the parent signs an agreement with the superintendent representing that the parent will use vouchers in accordance with the statute. Wyo. Stat. Ann. §§ 21-2-905(d), 21-2-904(b).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 52 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

53. Under this scheme, the Program largely relies on participating families to “certify” that they will ensure students receive an education and will comply with the terms of the program. The Superintendent has no discretion to review, much less deny, student applications based on the quality of education that will be provided under the Program.

**ANSWER:** The allegations in Paragraph 53 are legal conclusions and Intervenor-Defendants therefore deny them.

54. Parents utilizing the program, whether or not they are trained educators, are responsible for ensuring their eligible child receives instruction in “reading, writing, mathematics, civics, history, literature and science”, provided that “no parent shall be required to include any instruction that conflicts with the parent’s or the ESA student’s religious doctrines.” Wyo. Stat. Ann. § 21-2-904(b)(ii)(A).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 54 only to the extent they are consistent with the laws creating the ESA Program, which speak for themselves, and otherwise deny the allegations.

55. The Wyoming Legislature has established significant standards and oversight with regard to the nature and quality of education that Wyoming students are to receive in public schools as part of a thorough, uniform, and quality educational system. The legislature has established twelve core areas of knowledge in which school districts must provide instruction. Wyo. Stat. Ann. §21-9-101(b)(i). The legislature has also identified six core skills that all school districts are to help students develop. Wyo. Stat. Ann. §21-9-101(b)(iii). This educational knowledge and skills, often referred to as the educational “basket” of goods that public school districts are required to deliver and the State is required to fund, reflects standards of uniformity and quality across the state for Wyoming students. Finally, public schools must adhere to the State’s rigorous Content and Performance standards in delivering the educational basket of goods for all students.

**ANSWER:** The allegations in Paragraph 55 are legal conclusions and Intervenor-Defendants therefore deny them.

56. The Wyoming Legislature also requires instruction in the state and federal constitutions in public schools and requires students to be able to pass examinations on those constitutions in order to graduate. Wyo. Stat. Ann. 21-9-102.

**ANSWER:** The allegations in Paragraph 56 are legal conclusions and Intervenor-Defendants therefore deny them.

57. Under Wyoming Statute §21-2-304(a), public schools must be accredited by the State Board of Education under Wyo. Stat. Ann. §21-9-101 and §21-9-102. This requirement ensures that school districts use uniform student content and performance standards and that school districts deliver the educational basket to their students.

**ANSWER:** The allegations in Paragraph 57 are legal conclusions and Intervenor-Defendants therefore deny them.

58. As part of ensuring a uniform, thorough, and quality educational system, the State requires that school districts operate schools and classes for a minimum of 175 days. Wyo. Stat. Ann § 21-4-301(a). The State also requires public schools to employ only teachers who have been certified and endorsed by the Wyoming Professional Teaching Standards Board (PTSB). *See* Wyo. Stat. Ann. §21-2-303; Chapters 1-4 of the Rules of the Wyoming Professional Teaching Standards Board.

**ANSWER:** The allegations in Paragraph 58 are legal conclusions and Intervenor-Defendants therefore deny them.

59. Whereas public schools must adhere to standards for core knowledge, core skills, content and performance standards, school year length and teacher certification, the voucher statute provides no standards for the form or content of instruction in the required subjects.

**ANSWER:** The allegations in Paragraph 59 are legal conclusions and Intervenor-Defendants therefore deny them.

60. Parents must also ensure the student takes either statewide assessments administered under the assessment system for public schools or another nationally normed test. *Id.* at § 212904(b). But because the assessments used can vary, there will be no way to systematically evaluate and compare whether the Program provides any benefits in terms of student achievement.

**ANSWER:** The allegations in the first sentence of Paragraph 60 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants deny the allegations in the second sentence of Paragraph 60.

61. The only mechanisms the statute provides for the Superintendent to ensure families are complying with the terms of the Program are anonymous fraud reporting and a requirement that two percent of accounts be audited each year. *Id.* at §§ 21-2-906(a)(vi), (ix). Since there are no meaningful

academic requirements for the Program, as a practical matter these mechanisms will be primarily useful to target financial fraud rather than to ensure that students receive a quality education.

**ANSWER:** The allegations in the first sentence of Paragraph 61 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants deny the allegations in the second sentence of Paragraph 61.

62. Oversight of service providers, including “qualified schools,” is even less substantial than oversight over ESAs generally, and there is nothing in the Program statute to ensure the state receives a good return on its investment of voucher funds.

**ANSWER:** Intervenor-Defendants deny the allegations in Paragraph 62.

63. In order to receive funds, education service providers must satisfy just two requirements: they must be certified by the Superintendent, Wyo. Stat. Ann. § 21-2-906(a)(i), and they must agree not to share or refund voucher payments directly to parents. Wyo. Stat. Ann. § 21-2-907(a). There is no prohibition against private schools or other education service providers raising their tuition or fees so as to capture some, or all, of the amount of the voucher as additional profit.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 63 only to the extent they are consistent with the statutes creating the ESA Program, which speak for themselves, and otherwise deny them.

64. As part of the certification process the Superintendent must verify that private schools receiving Program funds will provide instruction in the required subjects—but that instruction need not meet any specific content standards. Wyo. Stat. Ann. § 21-2-906(a)(i). Nothing in the statute prevents instruction from being perfunctory, or worse.

**ANSWER:** Intervenor-Defendants admit the allegations in the first sentence of Paragraph 64 only to the extent they are consistent with the statutes creating the ESA Program, which speak for themselves,

and otherwise deny them. Intervenor-Defendants deny the allegations in the second sentence of paragraph 64.

65. There is no requirement that private schools participating in the Voucher Program be accredited. Moreover, while Wyoming law requires licensure for non-religious private schools, the vast majority of private schools eligible to participate in the Voucher Program will be religious, falling outside the state's licensure requirement. Nor will the vast majority of private schools eligible to participate in the program be licensed by the state, because Wyoming law only requires licensure for non-religious private schools.

**ANSWER:** The allegations in the first sentence of Paragraph 65 are legal conclusions and Intervenor-Defendants therefore deny them. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 65 and therefore deny them.

66. The statute imposes no other requirements on private schools or other education service providers regarding the education they provide. The Superintendent cannot screen service providers for quality, evaluate whether they will prepare students for higher education or the workforce, or ensure that they provide any real value at all.

**ANSWER:** The allegations in Paragraph 66 are legal conclusions and Intervenor-Defendants therefore deny them.

67. Once a service provider is "certified," they can only be barred from accepting vouchers if "the education service provider has (A) [i]ntentionally and substantially misrepresented information or failed to refund overpayment in a timely manner; or (B) [r]outinely failed to provide students with required educational goods or services." *Id.* at § 21-2-906(a)(x)(A)-(B).

**ANSWER:** The allegations in Paragraph 67 are legal conclusions and Intervenor-Defendants therefore deny them.

68. The Voucher Program statute contains numerous provisions designed to ensure that the Superintendent *refrain* from regulating service providers. For example, the statute states that the act cannot be construed to limit service providers' "independence or autonomy" *Id.* at § 21-2-907(b), (e).

**ANSWER:** The allegations in Paragraph 68 are legal conclusions and Intervenor-Defendants therefore deny them.

69. Service providers must be "given maximum freedom to provide instruction and services in their usual and customary manner." *Id.* at § 21-2-907(c). And the Superintendent may not "impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the ESA program." *Id.* at § 21-2-907(e).

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 69 only to the extent they are consistent with the statutes creating the ESA Program, which speak for themselves, and otherwise deny them.

70. The Program statute does not require private schools or other service providers to provide a sound basic education, let alone one that is "thorough and uniform" or "of a quality that is both visionary and unsurpassed," *Campbell II* at 538. Private and home schools participating in the Program will be free not only to depart from the standard state curriculum, but to teach pseudoscience, creationism, conspiracy theories or other instruction unrooted in facts and common understandings.

**ANSWER:** The allegations in Paragraph 70 are legal conclusions and Intervenor-Defendants therefore deny them.

71. In sum, the Voucher Program does nothing to ensure that participating students receive adequate educational instruction. The Program has no meaningful check or quality control related to the curriculum or instruction provided to Wyoming students in the Voucher Program. To the contrary, the statute affirmatively ties the state's hands in exercising oversight over the Program, by providing that the act cannot be construed to limit service providers' "independence or autonomy" or "expand

the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the ESA program.” Wyo. Stat. Ann. § 21-2-907(b), (e).

**ANSWER:** Intervenor-Defendants deny the allegation in the first sentence of paragraph 71. The remaining allegations in Paragraph 71 are legal conclusions and Intervenor-Defendants therefore deny them.

72. In addition, under the terms of the Voucher Program, participating private schools are not required to disclose information that might help parents evaluate the quality of their services, such as rankings, ratings, accreditation status or history, or test scores.

**ANSWER:** The allegations in Paragraph 72 are legal conclusions and Intervenor-Defendants therefore deny them.

73. Instead of requiring accountability from education service providers, the law requires parents to assume the risk of evaluating educational quality provided under the Program, while at the same time doing nothing to facilitate disclosure of information that would help them make that evaluation.

**ANSWER:** Intervenor-Defendants deny the allegations in Paragraph 73.

74. Home schooling students are subject to even fewer safeguards than they would be absent Program participation, given that the Program provides that a voucher student receiving “individualized instruction” in a “non-school” setting is not subject to the state regulations concerning a home-based educational program contained in Wyo. Stat. Ann. § 21-4-101(a)(v). Wyo. Stat. Ann. § 21-2-904(f).

**ANSWER:** The allegations in Paragraph 74 are legal conclusions and Intervenor-Defendants therefore deny them.

75. Nothing in the Voucher Program statute ensures that students with special needs who participate in the Program will receive appropriate services. Accepting an ESA constitutes a parental



placement under the Individuals with Disabilities Act (“IDEA”). Wyo. Stat. Ann. § 21-2- 906(a)(iv). Parentally placed students receive less protection and are entitled to fewer services when compared with students who remain in public schools or students placed in a private school on the state’s initiative.

**ANSWER:** Intervenor-Defendants deny the allegations in the first sentence of Paragraph 75. The remaining allegations in Paragraph 75 are legal conclusions and Intervenor-Defendants therefore deny them.

76. Fiscal oversight over the Program is minimal and is largely confined to ensuring that funds flow to service providers for their intended use. For example, the Superintendent may engage in limited rulemaking to prohibit service providers from accepting ESA payments if they have engaged in misrepresentation, failed to refund overpayments, or failed to provide students with required goods or services, *id.* at § 21-2-906(a)(x). And the Superintendent may issue rules to facilitate fraud reporting. *Id.* at § 21-2-906(c). But any rulemaking must be calculated to “simplify[] parental access to the program” and encourage service provider participation, *id.* at § 21-2-906(d)—not ensure transparency, accountability, or quality. And otherwise, the Superintendent’s authority to regulate education service providers and participating schools is explicitly limited by the voucher statute as described *supra* at paragraphs 61-68.

**ANSWER:** The allegations in Paragraph 76 are legal conclusions and Intervenor-Defendants therefore deny them.

77. Public schools are subject to extensive financial reporting requirements and must comply with the 243-page Wyoming School Budgeting, Accounting and Reporting Manual. But “qualified schools” and other service providers who receive vouchers are not required to submit even the most cursory information to the Superintendent. They are not required to conduct audits, comply with best practices concerning budgeting, apply generally accepted accounting principles or auditing standards, or

demonstrate that they are solvent enough to survive for the duration of the school year in which they intend to accept public funds.

**ANSWER:** The allegations in Paragraph 77 are legal conclusions and Intervenor-Defendants therefore deny them.

78. For the 2024-2025 school year, private school tuition in Wyoming cost upwards of \$8,800 on average, and ranges from \$5,420 to \$33,500.<sup>15</sup> These estimates do not account for other “educational expenses” such as fees, required services, transportation, and materials that families must pay as a condition of admission. As such, on average families participating in the Voucher Program can expect to pay hundreds or thousands of dollars out-of-pocket for their child’s education on top of the amounts paid by the state.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in the first and second sentences of Paragraph 78 and therefore deny them. Intervenor-Defendants deny the allegations in the third sentence of Paragraph 78.

79. The Voucher Program statutes impose no requirements on “qualified schools” to control costs for families participating in the Program. Unlike public schools, which are free, under the terms of the Program “qualified schools” may charge tuition in excess of the \$7,000 provided by the voucher, require existing private school students to apply for vouchers as a condition of continued enrollment, or increase tuition in response to the new state subsidy the Program provides.

**ANSWER:** The allegations in Paragraph 79 are legal conclusions and Intervenor-Defendants therefore deny them.

80. Unlike Wyoming public schools, which educate all resident students, Voucher Program service providers and qualified schools will be permitted to refuse admission or continued enrollment to voucher students based on their identity, abilities, or educational record.

**ANSWER:** The allegations in Paragraph 80 are legal conclusions and Intervenor-Defendants therefore deny them.

81. The Voucher Program statute's provisions include a broad and explicit license to discriminate, by stating that service provider cannot be required to alter its "creed, practices, admission policy or curriculum" in order to accept public funds under the Program. Wyo. Stat. Ann. § 21-2-907(f). There is no exception to this policy, even if the service provider has a policy of discriminating on the basis of race, color, national origin, religion, sex, age, marital status, disability, pregnancy, sexual orientation, gender identity, or political affiliation.

**ANSWER:** Intervenor-Defendants deny the allegations in Paragraph 81.

82. On information and belief, the majority of private schools in Wyoming are not open to all children. They are selective in their admissions and retention policies and reserve the right to refuse admission or continued enrollment on various grounds, including but not limited to religion, sex, sexual orientation, gender identity, academic history, disciplinary history, and disability status. At least some participating private schools will in fact deny admission to voucher students based on one or more of these factors.

**ANSWER:** Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 82 and therefore deny them.

#### **FIRST CLAIM FOR RELIEF**

#### **VIOLATION OF ART. 7 §§ 1 & 9 OF THE WYOMING CONSTITUTION**

#### **(DECLARATORY AND INJUNCTIVE RELIEF)**

83. Paragraphs 1-82 are incorporated here by reference.

**ANSWER:** Intervenor-Defendants incorporate all responses to Paragraphs 1-82 by reference.

84. Plaintiffs bring this claim against all Defendants for purposes of seeking declaratory and injunctive relief.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 84.

85. Article VII, Section 1 of the Wyoming Constitution declares that “[t]he legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary.”

**ANSWER:** Intervenor-Defendants admit that Paragraph 85 includes a quotation from Article VII, Section 1 of the Wyoming Constitution, which speaks for itself, and otherwise deny the remaining allegations.

86. Article VII, Section 9 of the Constitution further requires the legislature to “make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state . . .” and makes public school attendance mandatory for children ages six to eighteen unless they are “educated by other means.”

**ANSWER:** Intervenor-Defendants admit that Paragraph 86 includes quotations from Article VII, Section 9 of the Wyoming Constitution, which speaks for itself, and otherwise deny the remaining allegations.

87. The Constitution may restrict the Legislature either “expressly” or by “necessary implication.” *Brown v. Clark*, 47 Wyo. 216, 34 P.2d 17, 18 (1934).

**ANSWER:** The allegations in Paragraph 87 are legal conclusions and Intervenor-Defendants therefore deny them.

88. Under Article VII, Sections 1 and 9, “education is a fundamental right,” “all aspects of the school finance system are subject to strict scrutiny,” and “any state action interfering with [the right to education] must be closely examined before it can be said to pass constitutional muster.” *Campbell II* at 535.

**ANSWER:** The allegations in Paragraph 88 are legal conclusions and Intervenor-Defendants therefore deny them.

89. The Constitution requires the state to provide education to students that is “of a quality that is both visionary and unsurpassed,” *Campbell II* at 538. Among other things, a quality education “must include”:

- a. Small schools, small class size, low student/teacher ratios, textbooks, low student/personal computer ratios.
- b. Integrated, substantially uniform substantive curriculum decided by the legislature through the State Superintendent of Public Instruction and the State Board of Education with input from local school boards.
- c. Ample, appropriate provision for at-risk students, special problem students, talented students.
- d. Setting of meaningful standards for course content and knowledge attainment intended to achieve the legislative goal of equipping all students for entry to the University of Wyoming and Wyoming Community Colleges or which will achieve the other purposes of education.
- e. ‘Timely and meaningful assessment of all students’ progress in core curriculum and core skills regardless of whether those students intend to pursue college or vocational training.’ *Id.*

**ANSWER:** The allegations in Paragraph 89 are legal conclusions and Intervenor-Defendants therefore deny them.

90. Fulfilling its education mandate must be “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.

**ANSWER:** The allegations in Paragraph 90 are legal conclusions and Intervenor-Defendants therefore deny them.

91. These constitutional mandates limit the Legislature’s discretion in fulfilling its educational obligations. It may delegate implementation of its education obligation to public school boards only “[s]o long as the constitutional mandates of a complete and uniform public instruction system and a thorough and efficient public school system which delivers proper instruction are met.” *Id.* at 1272. And it cannot allow “local school districts to establish [] minimum standards and then evaluate for themselves whether they have met those standards” thus “creating forty-nine autonomous education systems.” *Campbell I* at 1262-63.

**ANSWER:** The allegations in Paragraph 91 are legal conclusions and Intervenor-Defendants therefore deny them.

92. By necessary implication, the Legislature cannot outsource its obligation to provide education in a manner that would circumvent or frustrate its paramount constitutional duty, or by using private schools as a conduit to “do indirectly what it cannot do directly.” *Witzenburger v. State ex rel. Wyoming Cmty. Dev. Auth.*, 575 P.2d 1100, 1117 (Wyo. 1978). *See also Powers v. State*, 2014 WY 15, ¶ 22, 318 P.3d 300, 308 (Wyo. 2014) (“what may not be done directly cannot be accomplished by indirection”).

**ANSWER:** The allegations in Paragraph 92 are legal conclusions and Intervenor-Defendants therefore deny them.

93. The Voucher Program violates Article VII, Sections 1 and 9 by creating separate systems of education that are not uniform, thorough, efficient, adequate, or open to all Wyoming youth. Each voucher established under the Program will function as its own autonomous education system and will not be subject to any meaningful state standards or oversight.

**ANSWER:** The allegations in Paragraph 93 are legal conclusions and Intervenor-Defendants therefore deny them.

94. By implementing the Voucher Program, Defendants would violate Article VII, Sections 1 and 9 of the Wyoming Constitution.

**ANSWER:** The allegations in Paragraph 94 are legal conclusions and Intervenor-Defendants therefore deny them.

## **SECOND CLAIM FOR RELIEF**

### **VIOLATION OF ART. III, § 36 AND ART. XVI, § 6(A)(I)**

#### **OF THE WYOMING CONSTITUTION: AID TO PRIVATE ENTITIES**

#### **(DECLARATORY AND INJUNCTIVE RELIEF)**

95. The allegations in Paragraphs 1-94 are incorporated here by reference.

**ANSWER:** Intervenor-Defendants incorporate all responses to Paragraphs 1-94 by reference.

96. Plaintiffs bring this claim against all defendants for purposes of seeking declaratory and injunctive relief.

**ANSWER:** Intervenor-Defendants admit the allegations in Paragraph 96.

97. Article III, Section 36 of the Wyoming Constitution provides that “[n]o appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.”

**ANSWER:** Intervenor-Defendants admit that Paragraph 97 includes a quotation from Article III, Section 36 of the Wyoming Constitution, which speaks for itself, and otherwise deny the remaining allegations.

98. “[I]t is elementary that the Legislature cannot levy a tax or make an appropriation except only for public purposes,” *State v. Carter*, 30 Wyo. 22, 29; 215 P. 477, 479 (1923).

**ANSWER:** The allegations in Paragraph 98 are legal conclusions and Intervenor-Defendants therefore deny them.

99. The Wyoming Supreme Court explained that a public purpose “is of general benefit to and for the welfare of all.” *Unemployment Comp. Comm'n v. Renner*, 59 Wyo. 437, 143 P.2d 181, 188 (1943).

**ANSWER:** The allegations in Paragraph 99 are legal conclusions and Intervenor-Defendants therefore deny them.

100. Contrary to Article III, Section 36, the Voucher Program provides appropriated funds, ostensibly for an educational purpose, to private individuals and private entities who are not under the control of the state, let alone who are under the “absolute control” of the state.

**ANSWER:** The allegations in Paragraph 100 are legal conclusions and Intervenor-Defendants therefore deny them.

101. The Voucher Program does nothing to ensure that participating students receive meaningful education benefits, including that students receive instruction in the core statutory educational programs, in the statutorily defined core of knowledge and skills, or at the State-established standards for curriculum. The Voucher Program does nothing to ensure that participating students are taught by a qualified teacher, that they receive instruction for a sufficient length of time, or that they be able to demonstrate basic proficiencies.

**ANSWER:** Intervenor-Defendants deny the allegation in Paragraph 101 that “[t]he Voucher Program does nothing to ensure that participating students receive meaningful education benefits.” The



remaining allegations in Paragraph 101 are legal conclusions and Intervenor-Defendants therefore deny them.

102. The Voucher Program does nothing to ensure that the quality of education participating students receives benefits the public as a whole, including, but not limited to, preparing students for secondary education, for careers, for employment, or for becoming functional citizens of Wyoming.

**ANSWER:** Intervenor-Defendants deny the allegations in Paragraph 102.

103. The Voucher Program does nothing to prevent private schools and education service providers from raising their tuition and fees in order to capture some or all of the voucher as additional profit or income. The Voucher Program does not guarantee that recipients will be able to enroll in or pay for any education at a school or other setting with their voucher amount.

**ANSWER:** The allegations in Paragraph 103 are legal conclusions and Intervenor-Defendants therefore deny them.

104. The Program statute affirmatively ties the state's hands in exercising oversight over the Program, by providing that the act cannot be construed to limit service providers' "independence or autonomy" or "expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the ESA program." *Id.* at § 21-2-907(b), (e).

**ANSWER:** The allegations in Paragraph 104 are legal conclusions and Intervenor-Defendants therefore deny them.

105. The Superintendent is only empowered to bar education service providers for misconduct, *Id.* at § 21-2-906(a)(x) and cannot screen them for quality or ensure that they prepare students for higher education or the workforce—or that they provide any real value at all.

**ANSWER:** The allegations in Paragraph 105 are legal conclusions and Intervenor-Defendants therefore deny them.

106. The Voucher Program licenses and subsidizes private discrimination by stating that participating schools and service providers cannot be required to alter their “creed, practices, admission policy or curriculum” in order to accept Program funds. Id. at § 21-2-907(f). Most private schools can and will screen out or otherwise marginalize students based on a host of characteristics from academic ability, to religion, to sexual orientation.

**ANSWER:** Intervenor-Defendants deny the allegations in Paragraph 106.

107. The statutory restrictions discussed herein and in the foregoing incorporated paragraphs which prevent the imposition or exercise of standards, oversight, or control by the State over Program participants (including education service provides) demonstrate clearly that those who receive voucher funds are—in the most literal sense—not within the control of the State, contrary to Article III, Section 36.

**ANSWER:** The allegations in Paragraph 105 are legal conclusions and Intervenor-Defendants therefore deny them.

108. Article XVI, Section 6(a)(i) of the Wyoming Constitution declares that “[n]either the state nor any county, city, township, town, school district, or any other political subdivision, shall . . . [l]oan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor.”

**ANSWER:** Intervenor-Defendants admit that Paragraph 108 contains a quotation from Article XVI, Section 6(a)(i) of the Wyoming Constitution, which speaks for itself, and otherwise deny the remaining allegations.

109. The Voucher Program violates Article XVI, Section 6(a)(i) by making donations of public funds to individuals, associations, or corporations through vouchers. There is no income or other restriction in the Voucher Program which would make it support for the poor, although the presence of such a restriction would not make the Voucher Program constitutional as the availability of a public

education system to all Wyoming children, regardless of income, makes vouchers unnecessary for support of the poor.

**ANSWER:** The allegations in Paragraph 109 are legal conclusions and Intervenor-Defendants therefore deny them.

110. For the reasons discussed herein and in the preceding paragraphs incorporated herein, the Voucher Program violates Section XVI, Section 6(a)(i), Article VII, Sections 1 and 9, and Article III, Section 36 of the Wyoming Constitution, and the case law interpreting those articles. Thus, by implementing the Voucher Program, the Defendants will violate Section XVI, Section 6(a)(i), Article VII, Sections 1 and 9, and Article III, Section 36 of the Wyoming Constitution.

**ANSWER:** The allegations in Paragraph 110 are legal conclusions and Intervenor-Defendants therefore deny them.

#### **RELIEF REQUESTED**

For the foregoing reasons, Plaintiffs request that this Court:

111. Declare that the Voucher Program (namely the Steamboat Legacy Scholarship Act found in Wyo. Stat. Ann. §§ 21-2-901-909) violates the Wyoming Constitution;

**ANSWER:** No response is required as this prayer for relief contains no allegations of fact or law. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to the relief requested.

112. Preliminarily and permanently enjoin Defendants and their officers, employees, officials, agents, appointees, or successors from preparing for, administering, and enforcing the Voucher Program;

**ANSWER:** No response is required as this prayer for relief contains no allegations of fact or law. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to the relief requested.

113. Waive any security requirement for any injunction issued under Wyoming Rule of Civil Procedure 65(c);

**ANSWER:** No response is required as this prayer for relief contains no allegations of fact or law. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to the relief requested.

114. Retain jurisdiction over this action for sufficient time to assure that all orders entered in this case have been carried out; and

**ANSWER:** No response is required as this prayer for relief contains no allegations of fact or law. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to the relief requested.

115. Grant any further relief this court deems necessary and proper.

**ANSWER:** No response is required as this prayer for relief contains no allegations of fact or law. To the extent a response is required, Intervenor-Defendants deny that Plaintiffs are entitled to the relief requested.

#### **GENERAL DENIAL**

Intervenor-Defendants deny each and every allegation not specifically admitted herein.

#### **AFFIRMATIVE DEFENSES**

1. Intervenor-Defendants reserve the right to assert any affirmative defense to the extent that facts discovered in the courts of this litigation support such an affirmative defense.
2. The Plaintiffs' claims fail, in whole or in part, because they fail to state a claim upon which relief can be granted.
3. Intervenor-Defendants request this Court enter a final judgment in favor of Defendants and Intervenor-Defendants as follows:
  - a. dismissing Plaintiffs' claims with prejudice;

- b. denying Plaintiffs' requests for permanent and preliminary injunctions;
- c. awarding Intervenor-Defendants any and all such other relief as the Court deems just and equitable, including, but not limited to, an award of attorneys' fees and costs to the extent provided by Wyoming law.

Respectfully submitted,

/s/

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*Attorneys for Proposed Intervenor-Defendants*

\*Application to appear *pro hac vice* submitted and pending.

\*\*Application to appear *pro hac vice* forthcoming.

# EXHIBIT A

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ATTORNEYS FOR PROPOSED INTERVENOR-DEFENDANTS

STATE OF WYOMING

COUNTY OF LARAMIE

)  
) ss  
)

IN THE DISTRICT COURT

FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION, a Wyoming  
Nonprofit Membership Corporation; JENY GARDNER,  
on behalf of herself and her minor child; CHRISTINA  
HUTCHSON, on behalf of herself and her minor chil-  
dren; KATHRYNE PENNOCK III, on behalf of herself  
and her minor children; KATHARINE AND ZACHARY  
SCHNEIDER, on behalf of themselves and their minor  
children; CHAD SHARPE AND KIMBERLY LUDWIG-  
SHARPE, on behalf of themselves and their minor child;  
and CHRISTINA VICKERS AND BRANDON VICK-  
ERS, on behalf of themselves and their minor children,

Plaintiffs,

v.

MEGAN DEGENFELDER, in her official capacity as  
Wyoming Superintendent of Public Instruction; CURTIS  
E. MEIER, JR., in his official capacity as Wyoming State  
Treasurer; and STATE OF WYOMING,

Defendants.

Civil Action No. 2025-CV-0203366

**DECLARATION OF NICOLETTE AND TRAVIS LECK**

State of Wyoming )  
 ) ss.  
First Judicial District )

**We, Nicolette and Travis Leck, declare as follows:**

1. We are adults over the age of 18 years, have personal knowledge as to all matters contained herein, and are fully competent to make this declaration.
2. We are a married couple living in Cody, Wyoming. Travis works as a petroleum engineer and Nicolette works in aviation marketing. Nicolette grew up in Wyoming and attended public schools across the state and received two associates degrees from a Wyoming community college before obtaining a bachelor's degree.
3. We have three sons, twins T.L. and M.L. (age 12) and C.L. (age 8). T.L. and M.L. are rising seventh graders and C.L. is a rising fourth grader.
4. We met in Cody, Wyoming, in 2006, but lived in Casper, Wyoming, when our children turned school age. We moved back to Cody with our family in September 2021.
5. When we lived in Casper, our children had school choice available and attended a classical public school—Fort Caspar Academy. We liked Fort Caspar Academy for its high time on task, higher expectations for behavior and academics, structured environment, Core Virtue character development program, high parental involvement, and traditional math and reading curriculums. Test scores at Fort Caspar Academy have consistently been higher than most other public elementary schools in Wyoming. Our twins thrived at Fort Caspar Academy.
6. When we moved to Cody, no similar classical education public school option existed. Nonetheless, our children at first attended our local public school in Cody.
7. Our children attended a local public school for one year, plus one week the next year. But by that point we were convinced the curriculum, testing, and learning environment at the public elementary school did not match what our children needed. We tried to address our concerns with the school board at the end of the first year and were told “I recognize and support your parental right to choose the best educational environment for your children and family.” *See Attachment 1.* In short, we missed the classical education environment. So, we made the very difficult financial decision to move our children from public school to the only in-person classical school option in Cody, a private classical school, Veritas Academy.



8. Veritas Academy meets our children's educational needs through high behavioral and academic expectations. The high behavioral standards eliminates classroom disruptions. Demanding coursework and nightly homework teach students time-management skills. Veritas Academy uses Saxon Math, the same math program as the public classical school in Casper, which builds a solid, cumulative foundation in fundamental computational skills. Students also take Latin, which not only provides grounding in ancient literature and culture, but also helps our children learn the spelling roots of common words. Reading and spelling are taught with an Orton-Gillingham approach that uses explicit, direct, sequential, systematic, multi-sensory instruction, a program similar to the one used at the classical public school in Casper. The students in all grade levels have specific instruction in history, language arts, literature, and science. Upper middle-school students (7<sup>th</sup> and 8<sup>th</sup>) have specific instruction in logic. Classroom distractions are limited, there are no tablets or computers until high school. Movies are limited to books the children have read and studied. Veritas Academy also engages our children in music, with two of our boys learning violin and the other learning guitar.

9. Veritas Academy not only provides outstanding curriculum but also frequently tests students in all academic courses and supplies immediate feedback to parents. When parents see our children's test results, we can identify challenging subjects and work with the children at home if necessary.

10. In the Veritas Academy classical environment, all three of our children are happier with their educational experience and are now, again, thriving at school.

11. Tuition at Veritas Academy for the 2025-2026 school year will be \$8,000 each for each of our three children. In addition, we pay for private tutoring for two children, which comes to \$1,100 per month, year-round. To afford private school tuition and tutoring, Nicolette obtained a full-time job. We will make sure our children attend Veritas Academy and receive the best education for them individually, no matter what, but these education costs impose a significant financial burden on our family.

12. We understand that Veritas Academy has been approved by the Wyoming Department of Education to be a provider under the Steamboat Legacy Scholarship Act Wyo. Stat. Ann. §§ 21-2-901-909 ("Act"). We plan to use the Education Savings Account Program ("Program") established and expanded by the Act, to cover tuition at Veritas Academy. We signed up immediately once the enrollment portal went live. Our eligibility has been confirmed, and we should learn by June 25<sup>th</sup> whether we have been confirmed for participation. We understand that the legislature appropriated enough funds for about 4,000 students this coming school year. According to news reports, about 3,500 students signed up in the first two weeks. If that is true, we are confident our participation will be confirmed.

13. We are extremely grateful for the Program because it will allow us to make judgments about what our children need for a complete education—including tutoring—or specialized programs. The Program will allow families like ours access to classical options that already exist in our smaller communities and options that may become available in the future. The only current access to public classical schools in Wyoming are in the bigger communities like Casper and Cheyenne.

14. The flexibility that Program enables will become especially important as our children get older. While Veritas Academy provides our family with an educational home through junior high school, it is unlikely to be available for high school. Veritas Academy has operated a classical, college-prep high school, but it has now paused that program owing to lack of space.

15. Accordingly, the path for our children in high school is unclear. We are hopeful that the Program will prompt more education providers to offer options for high school so that we can find the college prep academic coursework we think best suits each of our children. We are also grateful that the Program gives us options for our children for high school, as it will be critical to paying for curriculum, online courses, specialized online school options, and tutoring.

Pursuant to WY Stat §1-2-104, we certify under penalty of false swearing that the foregoing is true.

Nicolette Leck  
Nicolette Leck

June 17, 2025  
Date

Travis Leck  
Travis Leck

6-17-25  
Date

Cody, Wyoming  
City and State

# ATTACHMENT

1

----- Original message -----

From: Stefanie Bell [REDACTED]

Date: 5/25/22 7:56 AM (GMT-07:00)

To: Nikki Leck [REDACTED]

Subject: Re: Curriculum and Testing

Mrs. Leck,

The Board has received your email; please accept my response as Chair Nelson is unavailable at this time.

Your email shares that you miss Casper and Fort Caspar Academy, a school that synced with your educational philosophy and expectations. You write that the public school opportunities in Casper offered differing curriculums. Each was "diverse and each had their own, unique curriculum." Not every school will be like Fort Caspar Academy, neither in Casper nor in Cody.

In response to your request for a classical curriculum, the Board will consider your parental concerns as we continue to monitor the performance of our schools and district.

The Board's highest goal in 2021-22 was to:

Begin the school year with a comprehensive Pandemic learning recovery plan that targets improved academic achievement for all students.

- Develop strategies to address learning loss incurred through the Pandemic.
- Implement strategies designed to address district achievement gaps.
- Establish and implement a system of support to address the social and emotional health of students and staff.

As we end the school year, we strive for continuous improvement for our district and its students.

Your email details many contrasts with our schools that are accurate -

We do not have a dress code. We evaluate elementary students based on their progress on state standards rather than a grade point system. We do not expect lengthy homework for kindergarten or elementary students. Our schools are not classical academies.

I believe that every school system and each school can improve as we continue to support our teachers in providing an excellent education for all students. I recognize and support your parental right to choose the best educational environment for your children and family.

Stefanie Bell, Vice-Chairman

Park County School District Number 6

Cody, WY 82414

[REDACTED]

On Tue, May 24, 2022 at 2:29 PM Nikki Leck [REDACTED] wrote:

To Whom It May Concern,

A very similar version of this letter was sent to Brian Schroeder, State Superintendent, in March of this year.

We moved last fall (August 2021) from Casper back to Cody where we have lived numerous times before. This time, we have three boys in school, twins in 3<sup>rd</sup> grade and one in kindergarten. In Casper, our twins attended Fort Caspar Academy, a classical, PUBLIC school. Casper was school of choice and schools were diverse and each had their own, unique curriculum. Some taught dual languages, some had a fairly relaxed approach to teaching, and some were like Fort Caspar Academy (and Casper Classical Academy at the middle school level).

Fort Caspar used Saxon Math, starting the kindergarteners at the 1<sup>st</sup> grade level. Saxon Math covered a wide variety of math concepts, every single day. They required two-three memorized recitations each quarter, said in front of the class, starting the third week of kindergarten with the Pledge of Allegiance. And they did testing, and lots of it, every single week. There were two math tests (math facts and an assessment), spelling tests (30 words per week by the end of kindergarten), phonogram tests based on Spalding, language tests, grammar tests, reading comprehension tests, and word analysis tests. These were directly translated into a letter grade/percentage that kids could be proud of working towards. I guarantee that no student left that elementary school with test anxiety or public speaking anxiety. They also had a very strong focus on values including responsibility, hope, respect, diligence, honesty, courage, gratitude, faithfulness, compassion, forgiveness, and humility. They had very high expectations, both for behavior and academics, and the majority of the kids met those expectations. I knew we had a special public school, but I didn't fully realize exactly how special.

Then, we moved to Cody. I never expected that a Wyoming school district would be like this. My third graders are doing less math than they did in kindergarten. They started with addition and subtraction units that never even involved carrying numbers over. Then they had a multiplication unit that never made it to double digits. Then they ended that and moved onto a division unit, never making it to remainders. Then they ended that and moved onto a fractions unit. The units only involve number lines, drawing pictures, and different ways to overthink a math problem. One method of dividing  $32/8$ ? Writing out four subtraction problems starting with  $32-8=24$ ;  $24-8=16$ ;  $16-8=8$ ; and  $8-8=0$ , run out of subtraction problems – the answer must be four because that was the number of subtraction problems to get to zero. Some kids don't do great getting 20 different ways to do a problem; please save the alternate methods for the kids that struggle.

Saxon Math started with number lines and drawing pictures, but then quickly moved on to doing the math, with daily reinforcement of the concepts behind the math (one picture per day). The Cody math program doesn't ever move onto actually doing the math and once they move on from a unit, they don't go back to it that year. Saxon Math provided diverse and reinforcing math every single day. Starting division? The work for the day includes division, but it also includes drawing a picture, reading a clock, a thermometer, addition, subtraction, multiplication, decimals, money, algebra, writing checks, and real life story

problems. We have started supplementing math at home with the 4<sup>th</sup> grade Saxon Math book they would have been using at Fort Caspar Academy (and the 1<sup>st</sup> grade math book for my kindergartener).

The 3<sup>rd</sup> graders finally started working on spelling in the middle of the year. However, spelling on every day papers is very rarely corrected and students are not expected to spell correctly, even if the word is somewhere on the page. Every week the test includes “high frequency words” that a lot of the kids are struggling with. Last week the list included “my” and “be”. A 3<sup>rd</sup> grader should not be struggling with how to spell those words. They are also not expected to write in complete sentences. At some major level, something is not working.

Then, let’s talk about the “report card” “grades” that are based on one assessment per subject per trimester? This assessment is taken at school and can never leave the school. The report card comes home with 1, 2, 3, or 4 for the subject. But, what they completely fail to mention, is that a lot of the time, a 4 isn’t even possible because the district hasn’t made a way to earn a 4. Or like last trimester, a 4 in math was possible, but only if they got one extra “advanced” problem correct. There is nothing sent home for parents to help the student study for these assessments and they do not send copies of the assessments home, even if you ask, so you can help them prepare for that single future assessment. In first grade, my A and B student suddenly brought home D’s one week. We quickly addressed the problem – seating arrangements had changed that week and he was sitting next to a kid that talked ALL of the time, even during tests. He got moved the next week and his grades were back up. One assessment per trimester doesn’t allow for corrections like that so it is absolutely not a fair assessment of how a student is actually doing.

The Fort Caspar grades REALLY meant something. The kids could be proud of working hard every single day to earn those grades. They covered a lot of material and parents could be involved in making sure they were learning it because not only did their everyday work come home, but every single test came home. In Cody, there is a lot of mention and effort put into preparing for the state tests. School basically stopped here for three weeks and as soon as those were over, it seemed like teaching stopped for the entire year. At Fort Caspar, those state tests were just one more test that week and never seemed to be the focus of teaching because the normal, everyday curriculum prepared the students.

I sincerely hope that you use your positions to get back to a more classical way of teaching with classical curriculums that have been proven to work, like Saxon Math and a strong phonogram/spelling program. Personally, I don't think my kids should be an experiment in different, and not even better, ways to do things. Give the control of curriculums and testing back to the individual schools, teachers, and parents. I also hate to say it, but if the public schools cannot teach classical curriculums, I hope that some day soon, I'll be able to take our tax money to a private school that does. I understand providing a struggling student with different ways to look at a math problem, but it shouldn't be the first and only way to find the solution. Recitations should be mandatory – I wish I would have had to do those so that public speaking was just normal. Spelling and grammar are very important and consistent testing is important. I attended Wyoming schools as a child in Rock Springs, Glenrock, and Wright. I am so, so disappointed in the curriculum, especially math and spelling, and “grading” in Cody and I never expected or anticipated so little out of a Wyoming school district.

In Casper, the twins had a mandatory 1 hour (or more) of homework each night, even in kindergarten, that wasn't even part of their report card grades. Even with that, the extreme amount of tests, and the super high expectations for behavior and dress codes, they would both go back to the other school in a heartbeat. They are entirely different students and both feel like they completely lost a year here as third graders and instead of moving forward, went backward.

Sincerely,

Nikki Leck



# EXHIBIT B

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ATTORNEYS FOR PROPOSED INTERVENOR-DEFENDANTS

STATE OF WYOMING

COUNTY OF LARAMIE

)  
) ss  
)

IN THE DISTRICT COURT  
FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION, a Wyoming  
Nonprofit Membership Corporation; JENY GARDNER,  
on behalf of herself and her minor child; CHRISTINA  
HUTCHSON, on behalf of herself and her minor  
children; KATHRYNE PENNOCK III, on behalf of  
herself and her minor children; KATHARINE AND  
ZACHARY SCHNEIDER, on behalf of themselves and  
their minor children; CHAD SHARPE AND KIMBERLY  
LUDWIG-SHARPE, on behalf of themselves and their  
minor child; and CHRISTINA VICKERS AND  
BRANDON VICKERS, on behalf of themselves and  
their minor children,

Plaintiffs,

v.

MEGAN DEGENFELDER, in her official capacity as  
Wyoming Superintendent of Public Instruction; CURTIS  
E. MEIER, JR., in his official capacity as Wyoming State  
Treasurer; and STATE OF WYOMING,

Defendants.

Civil Action No. 2025-CV-0203366

## DECLARATION OF VICTORIA HAIGHT

State of Wyoming )  
 ) ss.  
First Judicial District )

I, Victoria Haight, declare as follows:

1. I am an adult over the age of 18 years, have personal knowledge as to all matters contained herein, and am fully competent to make this declaration.
2. My husband, Sage, and I live in Casper, Wyoming, with our four children V.H. (age 7), M.H. (age 5), L.H. (3) and F.H. (2).
3. Sage works as a draftsman and I am a former public-school teacher, now a homemaker.
4. I taught English to middle schoolers (6<sup>th</sup> and 8<sup>th</sup> graders) for five years in public schools in Casper and Cheyenne. As a public-school teacher, I saw both positive and negative aspects of public-school education. Unfortunately, I witnessed many behavioral problems among students, including in-person bullying, cyber-bullying and students sharing inappropriate material on their phones.
5. In the fall of 2025, our son M.H. will be in kindergarten, and our daughter V.H. will be in second grade.
6. Public education is the right option for many families, but I am concerned that the behavioral problems I have seen in public school would interfere with my children's learning.
7. My husband and I have decided that we want our children to have a religious education. We have chosen a small private religious school, Mount Hope Lutheran School, that provides a classical learning model. By choosing Mount Hope, we can educate our children among families with similar values and an agreed moral code that emphasizes Christ and minimizes technology. In our experience, this approach to education protects children from sexualization and cyberbullying and encourages them to interact with others around them with greater civility and openness. Mount Hope is focused on creating well-rounded citizens and good human beings—kids who will greet you politely, look you in the eye, and ask to hold your baby.
8. In addition, the academics at Mount Hope Lutheran are better than our local public school. I am aware that middle school children at Mount Hope routinely read above grade level—and well above the literature I could teach as a public middle school teacher. Mount Hope creates a culture of high expectations of students, parents and educators alike.
9. From my experience as a public-school teacher, I know that public schools try to meet every need of every child but doing that well is just not possible. Some families like mine need education

infused with Christian religion, which is not available at public school. Indeed, some families will have priorities for their children's education that are diametrically opposed to the interests of other families. A single public school cannot provide what all families need, but that should not mean some families must carry on without any government support for their children's education.

10. The Education Savings Account Program ("Program") established and expanded by the Steamboat Legacy Scholarship Act ("Act"), Wyo. Stat. Ann. §§ 21-2-901-909, extends government educational benefits to families who do not— and, as in my family's case, cannot— find a public school that meets their needs. It means more options for more people without degrading public schools that many people love.

11. We understand that Mount Hope has been approved by the Wyoming Department of Education to be a provider under the Steamboat Legacy Scholarship Act Wyo. Stat. Ann. §§ 21-2-901-909 ("Act").

12. The Program affords my family the flexibility to make private school work with two children in school now, and two more coming in just a few years. Fortunately, the Program amount will cover the full tuition for both of our children at Mount Hope. For the 2025-2026 school year, the total tuition for our children at Mount Hope will be over \$8,000. For a one-income family such as ours, that cost represents a significant financial burden. And by the time our younger two children are in school, we could be looking at tuition bills nearing \$30,000 per year, well beyond what we will be able to afford. The Program represents a financial load off my shoulders.

13. We applied for the Program as soon as the portal was open, and we received an email confirming that our family is eligible. We expect final confirmation that our family is enrolled in the Program by June 25, 2025. We understand that the legislature appropriated enough funds for about 4,000 students this coming school year. According to news reports, about 3,500 students signed up in the first two weeks. If that is true, we are confident our participation will be confirmed.

14. As a former public-school student and public-school teacher, I appreciate that many families love their public schools. But I also realize that public schools are not the best fit for every family. Yet all families pay taxes and accordingly deserve government support for their children's education— not just those families who find that public schools meet their needs. The Program extends government support for education to all families.

Pursuant to WY Stat §1-2-104, I certify under penalty of false swearing that the foregoing is true.

Victoria Haight  
Victoria Haight  
Casper WY  
City and State

6/18/25  
Date