

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

OKLAHOMA EDUCATION ASSOCIATION;)	
INDEPENDENT SCHOOL DISTRICT NO.)	
I-07 OF ROGERS COUNTY, OKLAHOMA,)	
a/k/a FOYIL PUBLIC SCHOOLS;)	
INDEPENDENT SCHOOL DISTRICT NO.)	
I-41 OF OKLAHOMA COUNTY, OKLAHOMA,)	
a/k/a WESTERN HEIGHTS PUBLIC SCHOOLS;)	
and INDEPENDENT SCHOOL DISTRICT NO.)	
I-05 OF TULSA COUNTY, OKLAHOMA, a/k/a)	Case No.
JENKS PUBLIC SCHOOLS,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
STATE OF OKLAHOMA, <i>ex rel.</i> THE)	
OKLAHOMA LEGISLATURE; SENATOR)	
MIKE MORGAN, In His Official Capacity as)	
President Pro Tempore of the Oklahoma State)	
Senate; and REPRESENTATIVE TODD HIETT,)	
In His Official Capacity as Speaker of the)	
House of Representatives of the Oklahoma)	
Legislature,)	
)	
Defendants.)	

PETITION FOR DECLARATORY & INJUNCTIVE RELIEF

COME NOW the Plaintiffs, Oklahoma Education Association, Foyil Public Schools, Western Heights Public Schools, and Jenks Public Schools, and for their causes of action against the Defendants, State of Oklahoma, *ex rel.* the Oklahoma Legislature, Senator Mike Morgan, in his official capacity as President Pro Tempore of the Oklahoma State Senate, and Todd Hiatt, in his official capacity as Speaker of the House of Representatives of the Oklahoma Legislature, allege and state as follows:

INTRODUCTION

1. This is an action for declaratory and injunctive relief based, *inter alia*, on the right guaranteed by the Oklahoma Constitution that every child in the State receive a uniform opportunity to a basic, adequate education according to the standards set by the State of Oklahoma. Plaintiffs contend that the Oklahoma Legislature is violating this constitutional mandate because the current levels of education funding established by the State of Oklahoma do not provide all Oklahoma students an equal opportunity for a constitutionally adequate education.

2. The Plaintiffs in this case are not seeking a declaration that the distribution of State funding through the current state-aid formula is unconstitutional, that the Oklahoma Constitution requires equal expenditures per pupil, or that the current system of ad valorem taxation and revenue distribution to local school districts is unconstitutional; instead, the Plaintiffs are alleging that the current levels of education funding – for both instructional and capital needs – are inadequate and that such inadequacies deprive Oklahoma’s children of the uniform opportunity to receive the public education prescribed by the Oklahoma Constitution.

3. This lawsuit challenges the current levels of education funding for general operating or instructional issues and challenges the current levels and method of funding for facilities or capital improvements available to Oklahoma’s 540 school districts. The Plaintiffs contend that the current levels of funding for education in Oklahoma are not adequate or sufficient to ensure that every school district in Oklahoma is able to meet the contemporary educational standards established for every child. Plaintiffs further contend that by failing to adequately and equitably fund education, direct harm is suffered by many of the 633,000 children enrolled in Oklahoma’s public school systems and the Oklahoma Legislature is violating the provisions of the Oklahoma Constitution

which require the establishment and maintenance of a system of free public schools wherein all the children of the State may be educated. The Plaintiffs seek declaratory and injunctive relief against the State of Oklahoma, *ex rel.* the Oklahoma Legislature to redress violations of the rights and mandates set forth in the Oklahoma Constitution

JURISDICTION AND VENUE

4. This Court has jurisdiction to provide declaratory relief pursuant to OKLA. STAT. tit. 12, § 1651, *et seq.* and to provide injunctive relief pursuant to OKLA. STAT. tit. 12, § 1381, *et seq.*

5. Venue lies in this Court pursuant to OKLA. STAT. tit. 12, § 133 because this action alleges claims against public officers or entities for their failure to perform acts in their public office and because the alleged acts and omissions occurred within Oklahoma County, Oklahoma.

PARTIES

6. Plaintiff Oklahoma Education Association (“OEA”) is a non-profit association that represents approximately 40,000 active and retired public school employees in the State of Oklahoma. Founded in 1889 prior to statehood, the OEA represents all levels of education employees in the public school systems of the State of Oklahoma – school administrators, classroom teachers, and education support personnel. A strategic objective of the OEA is to secure commitment to the intrinsic value of public education in Oklahoma, promote public education as a basic right and increase Oklahoma’s financial investment in public schools. Quality teaching and learning in Oklahoma’s classrooms is a primary focus of the OEA in its mission to promote the cause of quality public education in Oklahoma. The OEA brings this action in its corporate capacity and on behalf of its individual members and the students they serve. The individual members of the OEA are employed in virtually all of Oklahoma’s 540 school districts; reside in virtually all of

Oklahoma's 77 counties; are state and local taxpayers; are parents of children attending the public schools in the State of Oklahoma; and share in the common values of the OEA.

7. Plaintiff Independent School District No. I-07 of Rogers County, Oklahoma, a/k/a Foyil Public Schools ("FPS"), is a body corporate and politic organized under the laws of the State of Oklahoma and is authorized to sue and be sued in its corporate name. FPS is a small school district located in a rural setting in Rogers County, Oklahoma. FPS provides a PK-12 education for school age children residing within the confines of FPS. FPS serves approximately 650 students and employs approximately 53 certified staff who are responsible for implementing the educational process and the educational philosophy adopted by the Board of Education of FPS – that education is an inherent right, a privilege, and a duty of the individual. FPS is under an obligation by reason of the constitution and statutes of the State of Oklahoma to provide a proper and adequate education for school age children residing within the confines of the school district boundaries. FPS brings this action as a body corporate and politic as well as on behalf of the students it serves and the patrons existing within the boundaries of the school district.

8. Plaintiff Independent School District No. I-41 of Oklahoma County, Oklahoma, a/k/a Western Heights Public Schools ("WHPS"), is a body corporate and politic organized under the laws of the State of Oklahoma and is authorized to sue and be sued in its corporate name. WHPS is an independent school district located on the southwest side of Oklahoma City, Oklahoma and provides PK-12 educational services for school age children residing within the confines of the school district boundaries. WHPS has an enrollment of approximately 3,000 students and employs approximately 260 certified staff who provide educational services for four elementary (PK-5) buildings, one middle school (6-8), and one high school (9-12). The goal of WHPS is to educate every student for

success. WHPS is under an obligation by reason of the constitution and statutes of the State of Oklahoma to provide a proper and adequate education for school age children residing within the confines of the school district boundaries. WHPS brings this action as a body corporate and politic as well as on behalf of the students it serves and the patrons residing within the boundaries of the school district.

9. Plaintiff Independent School District No. I-05 of Tulsa County, Oklahoma, a/k/a Jenks Public Schools (“JPS”), is a body corporate and politic organized under the laws of the State of Oklahoma and is authorized to sue and be sued in its corporate name. JPS encompasses not only the city of Jenks, but also large portions of south and west Tulsa, Oklahoma. JPS has the eleventh largest student population in the state and is comprised of 39 square miles. Since its official inception in 1908, when there existed a single school on a central campus, JPS now consists of nine schools on five separate campuses. JPS employs a faculty and staff of approximately 1,240 individuals who provide educational services for the PK-12 school enrollment of approximately 9,300 students. The mission statement adopted by the Board of Education of JPS is that JPS, inspired by a tradition of excellence, is committed to the shared responsibility of preparing all learners for productive, responsible citizenship in an ever changing world. JPS is under an obligation by reason of the constitution and statutes of the State of Oklahoma to provide a proper and adequate education for school age children residing within the confines of the school district boundaries. JPS brings this action as a body corporate and politic as well as on behalf of the students it serves and the patrons residing within the boundaries of the school district.

10. Defendant State of Oklahoma is a governmental entity which has its seat of government in Oklahoma City, Oklahoma County, Oklahoma. The Oklahoma Legislature

constitutes the legislative branch of the State of Oklahoma and the legislative authority of the State of Oklahoma is vested in the Oklahoma Legislature, consisting of a senate and house of representatives.

11. Defendant Senator Mike Morgan is the President Pro Tempore of the Oklahoma State Senate and is named in his representative and official capacity as President Pro Tempore of the Oklahoma State Senate.

12. Defendant Representative Todd Hiatt is the speaker of the Oklahoma House of Representatives and is named in his representative and official capacity as the Speaker of the House of Representatives of the Oklahoma Legislature.

FACTUAL ALLEGATIONS

13. The right to an adequate and proper free public education is a basic and fundamental right which is a guarantee by the Oklahoma Constitution to all children of school age in the State of Oklahoma. The Oklahoma Constitution guarantees a basic, adequate education according to the standards established by the State and guarantees uniformity of opportunity to all children of the State to receive at least the degree of instruction embraced by the minimum educational program established by the State.

14. The Plaintiff School Districts, as well as all school districts in Oklahoma, are under an obligation by reason of the constitution and statutes of the State of Oklahoma to provide a proper and adequate education for all school age children residing within the confines of their respective school districts. In order to do so, however, the Plaintiff School Districts, as well as all school districts in the State of Oklahoma, must receive funding from the State of Oklahoma in an amount which is sufficient to provide a proper and adequate education for school age children residing within the

confines of their respective school districts. The State of Oklahoma, by and through the Oklahoma Legislature, has failed to provide a level of funding to the Plaintiff School Districts, as well as all school districts in Oklahoma, which is sufficient to provide for the cost of a basic, adequate education required by the standards set by the State. As a result, students enrolled in Oklahoma school districts are denied their fundamental right to a basic, adequate education as required by the Oklahoma Constitution.

I. EDUCATION AND ITS FUNDING UNDER OKLAHOMA LAW

15. The establishment of a system of public education is set forth in the Oklahoma Constitution, which states that:

Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control; and said schools shall always be conducted in English; Provided, that nothing herein shall preclude the teaching of other languages in said public schools.

OKLA. CONST., art. 1, § 5.

16. The Oklahoma Constitution places the obligation of establishing and maintaining a system of public schools upon the Oklahoma Legislature, by providing that: “[T]he Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.” OKLA. CONST., art. 13, § 1.

17. The Oklahoma Constitution further requires that the supervision of the public school system established and maintained by the Oklahoma Legislature be vested in the State Board of Education. That provision prescribes that the:

Supervision of instruction in the public schools shall be vested in a Board of Education, whose powers and duties shall be prescribed by law. The Superintendent of Public Instruction shall be President of

the Board. Until otherwise provided by law, the Governor, Secretary of State, and Attorney General shall be ex-officio members and with the Superintendent, compose said Board of Education.

OKLA. CONST., art. 13, § 5.

18. The State Board of Education is the governing board of the State Department of Education and the powers and duties of the State Board of Education are codified in OKLA. STAT. tit. 70, § 3-104. The State Board of Education does not have the constitutional or statutory authority to appropriate funds for the maintenance of public schools in Oklahoma – a power reserved to the Oklahoma Legislature. The State Board of Education performs, *inter alia*, the ministerial duty of distributing lump-sum appropriations made by the Oklahoma Legislature for the funding of public schools in Oklahoma pursuant to the rules and regulations adopted by the State Board of Education and the statutes prescribed by the Oklahoma Legislature. The State Board of Education and the State Superintendent of Public Instruction are not named as defendants in this action because their respective powers and duties with regard to the state levels of school funding in Oklahoma are largely ministerial in nature.

19. The Oklahoma Legislature has declared that the general improvement of the public schools in the State of Oklahoma and the provision of the best possible education opportunities for every child in Oklahoma are primary goals in establishing a system for funding common education.

Specifically, the Oklahoma Legislature has adopted the following principles:

1. The education of our children is more than the performance of a duty or act of love. It is these things and also the highest expression of enlightened self-interest by the people of Oklahoma. Education is our finest investment.
2. The system of public schools should be designed to strengthen and encourage local responsibility for control of public education. Local

school districts should be so organized, financed and directed that they can provide full educational opportunities for all children. The maximum public autonomy and responsibility for public education should remain with the local school districts and the patrons of such districts.

3. It is the responsibility of the state on behalf of the people of Oklahoma to establish, maintain, and continually improve the public schools of Oklahoma. In furtherance of this responsibility, the people of Oklahoma through the state have the responsibility to support financially the public schools.

4. Effective local control requires that local school districts contribute to the support of school budgets in proportion to their respective abilities.

5. The system of public school support should assure that state and local funds are adequate for the support of a realistic foundation program. It is unrealistic and unfair to the children of the less wealthy districts to provide less state support than is necessary for full educational opportunities.

6. The system of public school support should encourage local school districts to provide and support improved educational programs.

7. The system of public school support should make provisions for the apportionment of state funds to local school districts on a strictly objective basis that can be computed as well by the local districts as by the state.

8. The system of public school support should effect a partnership between the state and each local district, with each participating in accordance with its relative ability. The respective abilities should be combined to provide a financial plan between the state and the local school district that will assure full educational opportunities for every child in Oklahoma.

9. State support should be extended to all local districts regardless of wealth, for this not only develops a sense of broader responsibility, but also creates flexibility taxwise permitting the exercises of local initiative. State support should, to assure equal educational opportunity, provide for as large a measure of equalization as possible among districts. The taxing power of the state should be utilized to

raise the level of educational opportunity in the financially weakest districts of the state.

10. The system of public school support should provide for an equitable system of state and local sharing in the foundation program. The degree of local sharing should be based, as nearly as possible, on the true ability of the local district, so that each may contribute uniformly to the foundation program.

OKLA. STAT. tit. 70, § 18-101.

20. The Oklahoma Legislature has designed a system of financing public elementary and secondary education in Oklahoma which relies primarily on three sources of revenue: local and state revenue and limited funding from the federal government.

21. State sources of revenue for education funding in Oklahoma include various taxes designated for school purposes, proceeds from the permanent school fund, and monies allocated for specific programs or expenditures.

22. The state generated revenue is distributed to Oklahoma school districts through a state-aid formula administered by the State Board of Education. The Oklahoma Legislature annually appropriates an amount of money for common education. The revenue is distributed through the state-aid formula which consists of a complex calculation that takes into account various factors, including the net assessed evaluation of the real and personal property within a particular school district; the number of enrolled students; a “weighting” system which considers the added costs of serving students with special or high cost needs, “at risk” or economically disadvantaged students, and English language learner students; and other statutory specific conditions that are used to reflect the added costs of providing services in certain school districts. OKLA. STAT. tit. 70, §§ 18-107 to 18-125.

23. The local sources of revenue for financing public education consist of various ad valorem taxes levied upon the real and personal property within the school district boundaries. Each county in Oklahoma is required to levy a specific ad valorem tax on the dollar valuation of all taxable property within the county for school district purposes. Local school districts can also levy additional ad valorem taxes upon a certification of need by the board of education of a local school district. The maximum ad valorem tax levy allowed for a school district's general operating fund is 35 mills on the value of the taxable property located within a particular school district. OKLA. CONST., art. 10, § 9.

24. The Oklahoma Constitution allows for additional ad valorem taxes to be raised for erecting or repairing school buildings and for related capital need expenditures. OKLA. CONST., art. 10, § 10. The Oklahoma Constitution limits the ability of a local school district to incur, in any one year, an indebtedness above a certain percentage of the valuation of taxable property within the local school district for all educational related purposes. OKLA. CONST., art. 10, § 26.

25. The Oklahoma Constitution also contains a provision for a common school building equalization fund that is intended to provide a source of funding, other than local ad valorem taxes, to aid local school districts in acquiring school buildings. OKLA. CONST., art 10, § 32.

26. The Oklahoma Legislature also enacted OKLA. STAT. tit. 11, § 22-159, which allows local municipalities to support public school systems located in whole or in part within the corporate limits of the municipality by the expenditure of municipal revenues in furtherance of municipal support for any such public school system. Since the inception of this legislative enactment in 1999, municipal sales tax revenues have been utilized by three municipalities known to the Plaintiffs for the purpose of assisting in the construction of new and/or the improvement of existing public school

facilities located within the boundaries of the particular municipalities.

27. Because local sources of revenue are derived primarily from ad valorem taxes, the amount of revenue available for instruction or capital uses varies greatly among the 540 school districts in the State of Oklahoma. This variation is primarily caused by the difference in property wealth, upon which the tax is based, among Oklahoma's school districts. These wealth differences affect the amount of revenue per pupil which each school district in Oklahoma can raise for the support of its schools.

28. The variation in property wealth also affects the amount of indebtedness which a local school district may incur for acquiring and improving school sites, constructing and equipping school buildings, and acquiring school furniture and equipment. The impact of these limitations, coupled with the constitutional prohibition limiting the total indebtedness of a local school district, results in maximum levels of indebtedness that vary greatly between wealthy and poorer school districts.

29. The third source of revenue for funding public education in Oklahoma are federal funds which are provided by the federal government primarily on a categorical basis and are restricted to the specific uses designated by federal law. Federal funding comprises a small percentage of the revenues received by Oklahoma's school districts and such funds have no impact upon the receipt of state-aid through the school funding formula. OKLA. STAT. tit. 70, § 18-104.

II. STANDARDS BASED CURRICULA AND ACCOUNTABILITY

30. The Oklahoma Legislature adopted a "standards based" reform of Oklahoma's elementary and secondary education system with the enactment of HB 1017 in 1990. The 1990 legislative enactments imposed a variety of "standards" upon local school districts and required "accountability" of local school districts with regard to meeting those standards.

31. Since 1990, the Oklahoma Legislature has continued to enact additional education “reforms” which effectively set standards for curriculum, standards for students performance and qualification of teachers, and standards for school sites and school districts. Coupled with these standards, the Oklahoma Legislature has imposed accountability requirements on students, teachers, school sites and school districts by the development of certain student achievement measurements as well as other assessment procedures that are specifically tied to those standards.

32. Curricular standards for the instruction of students in Oklahoma’s public schools are adopted by the State Board of Education. The core curriculum is designed to teach the competencies for which students are tested by the Oklahoma School Testing Program, OKLA. STAT. tit. 70, § 1210.505, *et seq.*, and should prepare all students for employment and/or post-secondary education. OKLA. STAT. tit. 70, § 11-103.6.

33. The curriculum that is adopted by a local board of education must include the skills and competencies, as well as the core curricula areas, that are specified in the Priority Academic Student Skills (“PASS”) standards that have been adopted by the State Board of Education. OKLA. STAT. tit. 70, § 11-103.6.

34. The performance and progress of a local school district is measured by an Academic Performance Index (“API”). The API measures attendance rates, drop-out rates, results from the Oklahoma School Testing Program, Advance Placement participation, graduation rates, ACT scores and college remediation rates. An overall API score, as well as sub-scores for individual indicators, are assigned to each school and school district in Oklahoma. Test results from the Oklahoma School Testing Program account for a minimum of sixty percent of the value of the API Index.

35. The API measures the performance and progress of a school or school district based

upon three categories of factors. Results from the Oklahoma School Testing Program – consisting of test scores for certain grade levels and an end of instruction test in certain subjects, comprise the highest weight in the API formula. School completion – consisting of attendance, graduation, and drop-out rates, accounts for ten percent of the API formula. Academic excellence – consisting of Advance Placement participation, ACT scores, and college remediation rates, is the third category of data used to compile the API. OKLA. STAT. tit. 70, § 3-150. These “outcomes” are utilized by the Oklahoma State Department of Education to determine whether a school site or school district is meeting or exceeding minimum student performance standards.

36. In addition to the state standards and accountability measures, Congress passed the reauthorization of the Elementary and Secondary Education Act of 1965 (“ESEA”), the principle federal statute providing federal funds for primary and secondary education at the state and local levels. The 2001 reauthorization of the ESEA is titled the “No Child Left Behind Act” (“NCLB”), 20 U.S.C. § 6301, *et seq.* The NCLB generally requires increased and/or expanded academic and testing requirements for Oklahoma students, and increased and/or expanded educational programs, educational standards, and/or educational activities in order to comply with the NCLB requirements.

37. The State of Oklahoma has received approval from the United States Department of Education to use elements of the state mandated API to measure Adequate Yearly Progress (“AYP”), a central element of the NCLB. Statewide performance targets focusing primarily on the academic achievement of students in reading and math, as well as other educational measures, are set for each required indicator to determine whether a school or school district achieves AYP, which can result in sanctions for a school or school district that fails to achieve the AYP mandates set forth in the NCLB. OKLA. STAT. tit. 70, § 1210.541.

III. UNDER-FUNDED COST OF MEETING STATE STANDARDS

38. Oklahoma's school funding system fails to provide resources that are adequate to ensure each student attending schools in Oklahoma the opportunity to obtain the basic, adequate education guaranteed them by the Oklahoma Constitution and statutes in support thereof. Oklahoma's school funding system fails to provide each student attending public schools in Oklahoma an equal opportunity to meet the academic standards set by law.

39. Oklahoma's statewide education standards and system of accountability measures whether students are receiving the education guaranteed them by the Oklahoma Constitution and statutes in support thereof. Oklahoma's school funding system fails to provide the level of funding necessary to achieve the standards and objectives set by law. The school funding system in Oklahoma fails to ensure that all students are equipped with the educational tools to meet state standards, thereby depriving thousands of Oklahoma children an equal opportunity to obtain the adequate education guaranteed to all students by the constitution and laws of the State of Oklahoma.

A. "Costing Out" Studies

40. Education adequacy "costing-out" studies determine the amount of money actually needed to make available all of the educational services required to provide every child an opportunity to meet the applicable state education standards. Costing-out studies have been undertaken in approximately 30 states, including Oklahoma, in an effort to obtain the rationally-based, objective cost to provide all students a genuine opportunity to meet learning standards adopted by the state. These studies have been the primary impetus for adequacy and equity school funding litigation that has occurred in approximately 35 states since 1990.

41. The National Education Association ("NEA") conducted a costing-out study of school

finance equity and adequacy utilizing the “student achievement” approach in determining adequate levels of education spending in Oklahoma. The November, 2003 NEA Costing-Out Study concluded that Oklahoma’s level of educational funding was Seven Hundred Ninety Three Million Dollars (\$793,000,000) below the actual cost required to provide Oklahoma’s children an adequate education as defined by the standards set by the state. (NEA Oklahoma Costing-Out Study, November, 2003).

42. The NEA completed a subsequent costing-out study in June, 2005 which utilized the same methodology and which concluded that the under-funded levels of education spending in Oklahoma had increased to Nine Hundred Eight Million Dollars (\$908,000,000). The June, 2005 NEA Costing-Out Study updated the original analysis set forth in the November, 2003 examination of school finance equity and adequacy in Oklahoma and concluded that the gap in state funding levels necessary to pay for the actual cost of meeting Oklahoma’s educational standards had increased by over One Hundred Million Dollars (\$100,000,000). (NEA Oklahoma Costing-Out Study, June, 2005).

43. The Oklahoma Legislature appropriated funds to the Legislative Service Bureau in 2003 and 2004 for the purpose of contracting with an independent education consultant to conduct a study of the adequacy of Oklahoma’s state-aid formula for funding public schools. HB 1767, 49th Leg., 1st Sess. (Ok. 2003); HB 2012, 49th Leg., 2nd Sess. (Ok. 2004).

44. The Legislative Service Bureau contracted with an education consulting firm, Augenblick, Palaich & Associates, Inc. (“APA”), for the purpose of conducting a costing-out study of the adequacy of school funding in Oklahoma. APA was authorized by the Legislative Service Bureau to conduct a costing-out study utilizing the “successful school district” methodology and a subsequent costing-out study using the “professional judgment” methodology. APA has conducted

costing-out studies to determine adequacy levels of education funding in approximately seventeen states and has provided qualified expert testimony in nine states where adequacy and equity in school funding litigation has occurred.

45. APA completed the “successful school district” costing-out study in November, 2004 (APA Oklahoma Costing-Out Study, November 2004) and APA completed the “professional judgment” costing-out study in April, 2005 (APA Oklahoma Costing-Out Study, April, 2005).

46. Neither the Legislative Service Bureau or the Oklahoma Legislature has publicly released the November, 2004 APA Oklahoma Costing-Out Study or the April, 2005 APA Oklahoma Costing-Out Study. However, after comparisons of the costing-out studies completed by APA in other states (notably Kansas, Colorado, Maryland, and Nebraska) with similar costing-out studies performed by the NEA, Plaintiff’s have a reasonable and good faith belief that the results of the November, 2004 APA Oklahoma Costing-Out Study and the April, 2005 APA Oklahoma Costing-Out Study conclude that Oklahoma’s education funding levels are inadequate in an amount at least equal to, if not greater than, the conclusions set forth in the respective NEA costing-out studies for Oklahoma.

47. APA conducted a third examination of the adequacy of education funding in Oklahoma in 2005 which utilized the base, per-student costs and student weights that had been identified through adequacy studies conducted in the states of Nebraska and Kansas. Because the Oklahoma-specific funding formulas developed by APA for the Oklahoma Legislature have not been publicly released, APA applied the formulas developed for Nebraska and Kansas in similar studies and applied those calculations to Oklahoma’s funding levels and the demographics of Oklahoma’s school districts and students. (APA Oklahoma Costing-Out Study, January 2006).

48. A comparison of the Oklahoma school district funding and demographic data with the base, per-student cost and student weights that were identified through APA's adequacy studies conducted in Nebraska concludes that school districts in Oklahoma are underfunded in the amount of Nine Hundred Eight Million Dollars (\$908,000,000). (APA Oklahoma Costing-Out Study, January, 2006).

49. A comparison of the Oklahoma school district funding and demographic data with the base, per-student cost and student weights that were identified through adequacy studies conducted by APA in Kansas concludes that school districts in Oklahoma are underfunded in the amount of One Billion Four Hundred Million Dollars (\$1,400,000,000). (APA Oklahoma Costing-Out Study, January, 2006).

50. The January, 2006 APA Oklahoma Costing-Out Study concluded that the amounts for the base, per-pupil cost, and student weight adjustments, currently received by Plaintiff FPS through the state-aid formula are between Three Thousand Dollars (\$3,000) and Three Thousand Five Hundred Dollars (\$3,500) per student below the base per-pupil amount of funding required to provide a basic, adequate education under the standards set by law. (APA Oklahoma Costing-Out Study, January 2006).

51. The January, 2006 APA Oklahoma Costing-Out Study concluded that the amounts for the base, per-pupil cost and student weight adjustments currently received by Plaintiff WHPS through the state-aid formula are between Three Thousand Seven Hundred Dollars (\$3,700) and Three Thousand Eight Hundred Dollars (\$3,800) per student below the base per-pupil amount of funding required to provide a basic, adequate education under the standards set by law. (APA Oklahoma Costing-Out Study, January, 2006).

52. The January, 2006 APA Oklahoma Costing-Out Study concludes that the amounts for the base, per-pupil cost and student weight adjustments currently received by Plaintiff JPS through the state-aid formula are between Two Thousand Three Hundred Dollars (\$2,300) and Two Thousand Six Hundred Dollars (\$2,600) per student below the base, per-pupil amount of funding required to provide a basic, adequate education under the standards set by law. (APA Oklahoma Costing-Out Study, January, 2006).

53. The Plaintiff School Districts, as well as students attending the Plaintiff School Districts, are each individually and specifically provided an amount of education funding by the Oklahoma Legislature that is below the reasonable and objectively determined cost for providing an adequate education for each student that meets the standards set by the State of Oklahoma.

54. The OEA, and its membership, are also directly impacted by the statewide under-funding of Oklahoma's public schools. School administrators, teachers, and other school employees are denied the instructional resources necessary to provide the educational standards set by the State of Oklahoma, because of the inadequate funding, and are unable to provide a uniform educational opportunity to all students in Oklahoma as required by the Oklahoma Constitution.

B. Capital Needs Surveys

55. APA conducted a fourth study which consisted of a survey of the cost of school capital needs for school districts in Oklahoma. That study considered building capacity issues, building repair and new building needs and references a prior 2000 survey indicating that the cost of unfunded school system infrastructure needs in Oklahoma exceeded Two Billion Dollars (\$2,000,000,000). The APA Capital Needs Survey estimates that the total cost of current capital needs for the construction or repair of facilities for school districts in Oklahoma exceeds Three Billion Dollars

(\$3,000,000,000). (APA Oklahoma Capital Facilities Survey, January, 2006).

56. The capital needs for Oklahoma's school system cannot be met by local property taxes alone, nor can these demands be met without both equitable and additional funding for capital needs. The failure of the Oklahoma Legislature to provide funding for the capital needs of Oklahoma's school districts has resulted in an education funding system that ignores the need for construction and renovation of school buildings and other facilities as well as the provision of modern equipment and technology which are essential to provide a basic, adequate education as required by the Oklahoma Constitution.

IV. HARM TO OKLAHOMA SCHOOL DISTRICTS AND CHILDREN

A. Instructional Issues

57. The failure to the Oklahoma Legislature to fulfill its constitutional obligation to provide resources for common education that are adequate to meet the minimal base per-pupil expenditure required to achieve at least the basic, adequate education standards established by the State has denied Oklahoma's children an equal opportunity for, *inter alia*, the following:

- a. attending schools that meet state mandated class size limitations;
- b. attending schools that have updated textbooks and instructional tools;
- c. attending schools that have a sufficient number of textbooks and instructional tools for all students enrolled;
- d. attending schools that offer adequate curricular opportunities;
- e. attending schools that offer adequate extra-curricular opportunities; and
- f. attending schools that offer adequate specialized programs for students at risk; adequate specialized programs for students with learning and other disabilities; adequate specialized programs for remedial learning; and adequate specialized programs for students

with limited English language proficiency.

58. The failure of the Oklahoma Legislature to provide resources for common education that are sufficient to meet at least the basic, adequate education standards set by the State has resulted in harm to Oklahoma's school districts because school districts are denied the resources necessary to fund the mandates set by the Oklahoma Legislature. Oklahoma school districts must comply with the "unfunded" or "partially funded" mandates imposed upon them by the Oklahoma Legislature, or risk sanctions or other penalties, and are forced to expend resources that are allocated for other instructional purposes to met such mandates – resulting in a constant funding "crisis" for Oklahoma's public schools.

59. The failure of the Oklahoma Legislature to fulfill its constitutional obligation to provide resources for common education that are adequate to meet the minimal base per-pupil expenditure required to achieve at least the basic, adequate education standards established by the State is illustrated by, *inter alia*, the following:

- a. School districts increasingly rely upon the charity of private foundations, local businesses, parent/teacher organizations, and private individuals to purchase paper and other essential supplies necessary to provide an adequate education for Oklahoma's children and many districts would not be able to purchase paper and essential supplies without such charitable support;
- b. School districts increasingly rely upon the charity of private foundations, local businesses, parent/teacher organizations, and private individuals to purchase instructional and other pedagogical tools necessary to provide an adequate education for Oklahoma's children and many districts would not be able to purchase instructional and other pedagogical tools without such charitable support;
- c. Over ninety percent of Oklahoma's teachers are required to personally

purchase instructional materials, paper, and other essential supplies for the children in their classrooms because of the lack of resources in the school districts within which they teach. The Oklahoma Legislature has formally recognized this practice and has enacted a tax credit for Oklahoma teachers who purchase classroom supplies and materials that are necessary to provide a basic, adequate education for Oklahoma's children;

- d. Student fund raising activities, historically reserved for raising resources for extra-curricular activities, are now used by the majority of Oklahoma school districts to raise funds for the purchase of essential consumables and instructional materials necessary for providing a basic, adequate education for Oklahoma's children;
- e. Thousands of Oklahoma's certified teachers conduct classes in classrooms that exceed the state mandated class size limitations because school districts are not provided adequate funding to meet such class size mandates;
- f. Thousands of Oklahoma children attend schools or school districts that are forced to exceed class size limitations because of inadequate funding;
- g. Thousands of Oklahoma children attend schools or school districts that are unable to provide each child an individual textbook because of inadequate funding;
- h. The appropriation for common education by the Oklahoma Legislature for fiscal year 1995 constituted 38.1 percent of the total general budget appropriation for the State of Oklahoma. The appropriation for common education by the Oklahoma Legislature for fiscal year 2006 constituted 35.7 percent of the total general budget appropriation for the State of Oklahoma – a decrease of 2.4 percent, despite an increase in student enrollment and an increase in state and federal mandates during that eleven year period;
- i. Since 1990, Oklahoma has not been ranked above 44th in the national average for teacher salaries and is consistently ranked in the bottom fifth percentile in terms of national average for teacher salaries. Oklahoma currently ranks 48th in the national average for teacher salaries for year 2005; a slight improvement over the 50th ranking in year 2004; and

- j. Since 1990, Oklahoma has consistently ranked in the bottom 10 in the national average for per-pupil expenditures. Oklahoma currently ranks 48th in the national average for per-pupil expenditures for year 2005; a slight improvement over the 49th ranking in year 2004.

B. Capital Needs

60. The present system of educational funding in Oklahoma results in a wide disparity in the annual level of funding which is available on a per-pupil basis in the various school districts in Oklahoma. School Districts with greater available resources per student are able to provide quality school buildings and consequently an environment where learning can better take place, while many school districts with fewer resources available on a per-pupil basis conduct schools in buildings ranging from old and inadequate to condemned (or should be condemned). Because the Oklahoma Legislature has refused, neglected, and failed to provide any appropriation to the constitutionally created State Public Common School Building Equalization Fund, there exists no state generated funds for capital expenditures in local school districts and the ability of local school districts to provide adequate facilities is almost totally dependent upon the property wealth of a local school district.

61. In school districts with lower per-pupil property wealth, it is simply not possible under the present structure of funding for school capital needs in Oklahoma to fund and build adequate facilities. School districts with greater available resources per pupil are able to build necessary facilities and have extensive arrays of computers, laboratory equipment, and other equipment necessary to provide learning tools for students, whereas school districts with fewer resources on a per-student basis are not able to provide substantially the same level of education opportunities. As a result, facilities in school districts with lower per-pupil property wealth all too often consist of:

- a. Over crowded facilities and lack of sufficient classroom space;
- b. A compilation of renovated and “add on” buildings starting with a 70 to 100 year old building that has been renovated or included successive “add ons” over the years;
- c. Temporary classrooms which consist of temporary structures placed on school property that are utilized for classroom purposes, many for over ten years;
- d. Cheaply built and consequently rapidly deteriorating newer buildings; and/or
- e. School buildings that are in immediate need of basic repairs and renovations to satisfy health and safety concerns.

62. Conversely, while school districts with greater available resources per pupil for capital expenditures may have the ability to build new or renovate existing facilities, the present structure of education funding in Oklahoma is such that those school districts who enjoy a higher per-pupil wealth are not provided sufficient instructional resources to hire necessary personnel or provide the necessary instructional materials and tools required to staff and furnish a new facility.

63. The education funding system in Oklahoma has been perpetuated by a variety of legislatively created devices, techniques, and formulas that have the practical effect of making equal educational opportunities illusory and have had the direct effect of depriving Oklahoma’s children of the basic, adequate educational opportunities required by the Oklahoma Constitution.

FIRST CLAIM FOR RELIEF

**(Declaratory Relief for Violation of OKLA. CONST., art. 1, § 5;
OKLA. CONST., art. 13, § 1; and OKLA. CONST., art. 2, § 7)**

64. Plaintiffs reallege the allegations contained in Paragraphs 1 through 63 and hereby incorporate them into their First Claim for Relief.

65. The Oklahoma Constitution requires that every child in the State receive a uniform opportunity for a basic, adequate education according to the standards set by the State. The right to an adequate and proper free education is a fundamental right guaranteed by the Oklahoma Constitution and that right guarantees every child in Oklahoma an equal opportunity to receive an education that provides them with such a degree of learning that when the work is done they may be educated young men and women who possess the mental and moral training that will make them useful citizens of the State of Oklahoma.

66. The Oklahoma Legislature is required by the Oklahoma Constitution to establish and maintain a system of free public education in Oklahoma that provides an equal opportunity for every child in Oklahoma to receive a constitutionally adequate education. The Oklahoma Legislature is required by the Oklahoma Constitution to provide a sufficient level of funding for Oklahoma's schools which will allow each school district in Oklahoma the ability to provide each student in Oklahoma the basic, adequate educational opportunity required by the standards set by law.

67. The failure of the Oklahoma Legislature to provide an adequate level of funding for common education in Oklahoma is contrary to, and a violation of, the education establishment and maintenance clauses contained in the Oklahoma Constitution, OKLA. CONST., art. 1, § 5 and OKLA. CONST., art. 13, § 1, and the statutes in support thereof.

68. The failure of the Oklahoma Legislature to provide an adequate level of funding for common education in Oklahoma denies many Oklahoma students the right to a basic, adequate education required by the standards set by law and denies them the due process and equal protection guarantees provided by the Oklahoma Constitution, OKLA. CONST., art. 2, § 7, and the statutes in support thereof.

69. The failure of the Oklahoma Legislature to provide an adequate level of funding for common education in Oklahoma denies the Plaintiff School Districts and the Plaintiff OEA and its membership (school employees, parents, and taxpayers) the opportunity to provide an appropriate education, the opportunity to have their children properly educated, and the opportunity to support as taxpayers, a system of free public education in Oklahoma that provides a basic, adequate education to Oklahoma's children.

70. This action involves an actual controversy between the Plaintiffs and Defendants herein and this Court has jurisdiction to determine the rights of the parties to this controversy by granting declaratory relief as set forth in OKLA. STAT. TIT. 12, § 1651, *et seq.*

SECOND CLAIM FOR RELIEF

(Declaratory Relief for Violation of OKLA. CONST., art. 10, § 32)

71. Plaintiffs reallege the allegations contained in Paragraphs 1 through 70 above and hereby incorporate them into their Second Claim for Relief.

72. The Oklahoma Constitution requires that every child in the State receive a uniform opportunity for a basic, adequate education according to the standards set by the State. The right to an adequate and proper free education is a fundamental right guaranteed by the Oklahoma Constitution and that right guarantees every child in Oklahoma an equal opportunity to receive an education that provides them with such a degree of learning that when the work is done they may be educated young men and women who possess the mental and moral training that will make them useful citizens of the State of Oklahoma.

73. The Oklahoma Legislature is required by the Oklahoma Constitution to establish and maintain a system of free public education in Oklahoma that provides an equal opportunity for every

child in Oklahoma to receive a constitutionally adequate education. The Oklahoma Legislature is required by the Oklahoma Constitution to provide a sufficient level of funding for Oklahoma's schools which will allow each school district in Oklahoma the ability to provide each student in Oklahoma the basic, adequate educational opportunity required by the standards set by law and in a safe and comfortable environment that is conducive to learning.

74. The Oklahoma Legislature has failed to provide a system of free public education in Oklahoma that allows for property wealth disparity in school districts without creating an unconstitutional disparity in the ability of school districts to provide capital facilities and improvements that are adequate and safe learning environments for Oklahoma's children.

75. The present system of education funding for the capital needs of Oklahoma's school districts results in a wide disparity in the annual level of funding which is available on a per-pupil basis in the various school districts. School districts with greater available resources per pupil are able to provide safe and comfortable school facilities that are conducive to learning, while many school districts with fewer resources available on a per-pupil basis are required to conduct school in facilities that are unsafe, overcrowded, inadequate, or condemned (or should be condemned).

76. The Oklahoma Legislature has refused, neglected, and failed to provide any appropriation to the State Public Common School Building Equalization Fund, as required by OKLA. CONST., art. 10, § 32. Because of the failure of the Oklahoma Legislature to follow the mandates set forth in the Oklahoma Constitution, there exist no state generated funds for capital needs or expenditures in local school districts and the ability of a local school district to provide adequate facilities are totally dependent upon the particular property wealth of a local school district.

77. This action involves an actual controversy between the Plaintiffs and Defendants herein

and this Court has jurisdiction to determine the rights of the parties to this controversy by granting declaratory relief as set forth in OKLA. STAT. tit. 12, § 1651, *et seq.*

THIRD CLAIM FOR RELIEF

(Alternative Declaratory Relief for Violation of OKLA. CONST., art. 10, § 32; and OKLA. CONST., art. 2, § 7)

78. Plaintiffs reallege the allegations contained in Paragraphs 1 through 77 above and hereby incorporate them into their Third Claim for Relief.

79. Plaintiffs Third Claim for Relief is pled in the alternative to Plaintiffs' Second Claim for Relief.

80. The Oklahoma Constitution requires that every child in the State receive a uniform opportunity for a basic, adequate education according to the standards set by the State. The right to an adequate and proper free education is a fundamental right guaranteed by the Oklahoma Constitution and that right guarantees every child in Oklahoma an equal opportunity to receive an education that provides them with such a degree of learning that when the work is done they may be educated young men and women who possess the mental and moral training that will make them useful citizens of the State of Oklahoma.

81. The Oklahoma Legislature is required by the Oklahoma Constitution to establish and maintain a system of free public education in Oklahoma that provides an equal opportunity for every child in Oklahoma to receive a constitutionally adequate education. The Oklahoma Legislature is required by the Oklahoma Constitution to provide a sufficient level of funding for Oklahoma's schools which will allow each school district in Oklahoma the ability to provide each student in Oklahoma the basic, adequate educational opportunity required by the standards set by law and in

a safe and comfortable environment that is conducive to learning.

82. The Oklahoma Legislature has failed to provide a system of free public education in Oklahoma that allows for property wealth disparity in school districts without creating an unconstitutional disparity in the ability of school districts to provide capital facilities and improvements that are adequate and safe learning environments for Oklahoma's children.

83. The present system of education funding for the capital needs of Oklahoma's school districts results in a wide disparity in the annual level of funding which is available on a per-pupil basis in the various school districts. School districts with greater available resources per pupil are able to provide safe and comfortable school facilities that are conducive to learning, while many school districts with fewer resources available on a per-pupil basis are required to conduct school in facilities that are unsafe, overcrowded, inadequate, or condemned (or should be condemned).

84. The Oklahoma Legislature has refused, neglected, and failed to provide any appropriation to the State Public Common School Building Equalization Fund, as required by OKLA. CONST., art. 10, § 32. Because of the failure of the Oklahoma Legislature to follow the mandates set forth in the Oklahoma Constitution, there exist no state generated funds for capital needs or expenditures in local school districts and the ability of a local school district to provide adequate facilities are totally dependent upon the particular property wealth of a local school district.

85. The failure of the Oklahoma Legislature to provide an adequate level of funding for the construction and repair of capital facilities for common education in Oklahoma denies many Oklahoma students the right to a basic, adequate education required by law and denies them the due process and equal protection guarantees provided by the Oklahoma Constitution, OKLA. CONST., art. 2, § 7, and the statutes in support thereof.

86. The failure of the Oklahoma Legislature to provide an adequate level of funding for the construction and repair of capital facilities for common education in Oklahoma denies the Plaintiff School Districts and the Plaintiff OEA and its membership (school employees, parents, and taxpayers) the opportunity to provide an adequate education opportunity, to have their children properly educated, and the opportunity to support as taxpayers, a system of free public education in Oklahoma that provides a basic, adequate education to Oklahoma's children in a safe and comfortable learning environment.

87. This action involves an actual controversy between the Plaintiffs and Defendants herein and this Court has jurisdiction to determine the rights of the parties to this controversy by granting declaratory relief as set forth in OKLA. STAT. tit. 12, § 1651, *et seq.*

FOURTH CLAIM FOR RELIEF

(Injunctive Relief for Violation of OKLA. CONST., art.1, § 5; OKLA. CONST., art. 13, § 1; OKLA. CONST., art. 10, § 32; and OKLA. CONST., art. 2, § 7)

88. Plaintiffs reallege the allegations contained in Paragraphs 1 through 87 above and hereby incorporate them into their Fourth Claim for Relief.

89. The Oklahoma Legislature has failed to provide sufficient resources that allow for Oklahoma school districts to provide a basic, adequate education for Oklahoma's children as required by the Oklahoma Constitution. As a result, the Plaintiff School Districts, the Plaintiff OEA and its members (school employees, parents, and taxpayers), other school districts, and Oklahoma's children, have been and continue to be damaged and suffer harm from the lack of sufficient resources necessary to provide the education opportunities required by the Oklahoma Constitution and statutes in support thereof. The harm suffered by the Plaintiffs, other school districts, and Oklahoma's

children is irreparable and Plaintiffs have no other adequate remedy at law.

90. This action involves an actual controversy between the Plaintiffs and Defendants herein and this Court has jurisdiction to grant injunctive relief to the Plaintiffs as set forth in OKLA. STAT. tit. 12, § 1381, *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

(1) Issue an Order granting declaratory judgment under Plaintiffs' First Claim for Relief determining the rights of the parties and declaring that the unfunded cost of meeting the educational standards set by the State currently exceeds One Billion Dollars (\$1,000,000,000);

(2) Issue an Order granting declaratory judgment under Plaintiffs' First Claim for Relief determining the rights of the parties and declaring that the Oklahoma Legislature has:

(a) violated the Oklahoma Constitution, OKLA. CONST., art. 1, § 5 ; OKLA. CONST., art. 13, § 1; and OKLA. CONST., art. 2, § 7, by failing to adequately fund common education; and

(b) denied Oklahoma's children the right to a basic, adequate education by failing to adequately fund common education in Oklahoma.

(3) Issue an Order granting declaratory judgment under Plaintiffs' Second Claim for Relief determining the rights of the parties and declaring that the Oklahoma Legislature has:

(a) violated the Oklahoma Constitution, OKLA. CONST., art. 10, § 32, by failing to provide a system of adequate funding for capital needs and facilities for common education that does not create an unconstitutional disparity in the ability of individual school districts to provide capital facilities and improvements that are adequate and safe learning environments for Oklahoma's children; and

(b) violated the Oklahoma Constitution, OKLA. CONST., art. 10, § 32 by refusing, neglecting, and failing to appropriate funds to the State Public Common School Building Equalization Fund.

(4) Issue an Order granting declaratory judgment under Plaintiffs' Second Claim for Relief determining the rights of the parties and declaring that the unfunded capital needs of the school districts in Oklahoma currently exceed Three Billion Dollars (\$3,000,000,000).

(5) Issue an Order in the alternative granting declaratory judgment under Plaintiffs' Third Claim for Relief determining the rights of the parties and declaring that the Oklahoma Legislature has:

(a) violated the Oklahoma Constitution, OKLA. CONST., art. 10, § 32, by failing to provide a system of adequate funding for capital needs and facilities for common education that does not create an unconstitutional disparity in the ability of individual school districts to provide capital facilities and improvements that are adequate and safe learning environments for Oklahoma's children; and

(b) violated the Oklahoma Constitution, OKLA. CONST., art. 2, § 7 by failing to provide an adequate level of funding for the construction and repair of capital facilities for common education in Oklahoma, resulting in a denial of due process and equal protection for Oklahoma's children.

(6) Issue an Order under Plaintiffs' Fourth Claim for Relief granting injunctive relief which enjoins the State of Oklahoma, by and through the Oklahoma Legislature, from maintaining a system of school finance which violates the Oklahoma Constitution.

(7) Issue an Order under Plaintiffs' Fourth Claim for Relief granting injunctive relief which

directs the State of Oklahoma, by and through the Oklahoma Legislature, to design, formulate, adopt, properly and adequately fund, and maintain from and after a date certain a comprehensive system of education funding which is adequate and which affords each child in Oklahoma an equal opportunity for a basic, adequate education that is not dependent upon the political whim of the State of Oklahoma.

(8) Issue an Order retaining jurisdiction in this matter until the Defendants have implemented a system of education funding which is adequate, which affords each child in Oklahoma an equal opportunity for a basic, adequate education, and which complies with the Oklahoma Constitution;

(9) Issue an Order awarding the Plaintiffs reasonable attorneys' fees and costs; and

(10) Issue such other and further relief that this Court deems appropriate.

Respectfully submitted,

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