

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Docket No. _____

STATE OF WEST VIRGINIA EX REL.
M.D., by and through LAKIN PATTEN,
her natural parent,

v.

ROGER HANSHAW, Speaker of the West Virginia House of Delegates; RANDY SMITH, President of the West Virginia Senate; MARK HUNT, State Auditor; MATTHEW IRBY, Tax Commissioner; LARRY PACK, State Treasurer; WEST VIRGINIA DEPARTMENT OF EDUCATION; WEST VIRGINIA SCHOOL BUILDING AUTHORITY; MICHELE BLATT, State Superintendent; WEST VIRGINIA STATE BOARD OF EDUCATION; L. PAUL HARDESTY, President State Board of Education; VICTOR L. GABRIEL, Vice-President State Board of Education; F. SCOTT ROTRUCK, Secretary State Board of Education; NANCY J. WHITE, Financial Officer State Board of Education; ROBERT W. DUNLEVY, Member State Board of Education; CHRISTOPHER A. STANSBURY, Member State Board of Education; GREGORY F. WOOTEN, Member State Board of Education; CATHY L. C. JUSTICE, Member State Board of Education; JAMES D. PAUL, Member State Board of Education; LINCOLN COUNTY BOARD OF EDUCATION; JEREMY WILSON, Member Lincoln County Board of Education; DANIEL CARTWRIGHT, Member Lincoln County Board of Education; ROBERT MOSTELLER, Member Lincoln County Board of Education; STEVE GAINES, Member Lincoln County Board of Education; FRANK BARNETT, Superintendent of Lincoln County Schools; LINCOLN COUNTY COMMISSION; PHOEBE HARLESS, Lincoln County Commissioner; KIM BLAIR, Lincoln County Commissioner; JOSH STOWERS, Lincoln County Commissioner; and ANGEL BARCLAY, Lincoln County Assessor.

VERIFIED PETITION FOR WRIT OF MANDAMUS

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I. QUESTIONS PRESENTED

This action concerns the quality of education afforded to West Virginia pupils and whether the current operation of West Virginia public schools satisfies constitutional obligations. Petitioner respectfully submits the following questions to the Court for its considered review and determination.

First Question: Do current educational conditions in Lincoln County, West Virginia meet the obligation established in Article XII, Section 1 of the West Virginia Constitution, as that provision has been interpreted by this Court?

Second Question: Does the funding provided by the State to Lincoln County schools satisfy the Legislature's obligation under Article XII, Section 1 of the West Virginia Constitution?

Third Question: Do current educational conditions within West Virginia public schools statewide violate Article XII, Section 1's promise of a thorough and efficient system of free schools?

Fourth Question: Do the disparities among West Virginia counties in educational quality and funding violate the equal protection guarantees of Article III, Sections 10 and 17 of the West Virginia Constitution?

II. STATEMENT OF THE CASE

In West Virginia, each and every child is guaranteed a thorough and efficient education, a promise enshrined in our Constitution since the State's founding. Today, despite the passage of nearly half a century since this right was recognized, Lincoln County students are receiving a lower quality education than what their parents and grandparents received before them. The West Virginia Constitution does not, and should not, allow this profoundly important right to wither on the vine as the result of ongoing financial neglect by Respondents.

Petitioner M.D. is a 6th grade student in Lincoln County schools. Lakin Patten is her mother, who brings this Petition on her behalf and to protect her interests. In addition to being the parent of M.D., Ms. Patten is the parent of a child enrolled in pre-kindergarten in Lincoln County, and is a former Lincoln County Schools employee, having previously taught middle and high school

special education. Petitioner has standing to bring this claim, given the direct harm to her child's constitutional right to an education and the standing conferred to her as a taxpayer pursuant to Syl. Pt. 1, *Frantz v. Wyoming Cnty. Ct.*, 69 W. Va. 734, 734, 73 S.E. 328 (1911). Respondents are agencies and public officials named in their official capacities who each have an obligation concerning the operation of public schools in Lincoln County.

A. Procedural History

This case arises under Article XII, Section 1 of the West Virginia Constitution, establishing that "[t]he Legislature shall provide, by general law, for a thorough and efficient system of free schools." The seminal case concerning this right was filed on behalf of Lincoln County pupils in 1975, and first reached this Court as *Pauley v. Kelly*, 162 W. Va. 672, 255 S.E.2d 859 (1979). On review, this Court identified education as a fundamental, constitutional right in West Virginia and ranked educational funding "second in priority only to payment of the State debt, and ahead of every other State function," noting "[o]ur Constitution manifests, throughout, the people's clear mandate to the Legislature, that public education is a Prime function of our State government. We must not allow that command to be unheeded." *Id.* at 719.

The case was thereafter styled *Pauley v. Bailey*, and the Honorable Arthur Recht heard the matter. In May 1982, Judge Recht issued the "*Recht* Opinion" that contoured the requirements of a thorough and efficient education. *Pauley v. Bailey*, No. 75-1268 (W. Va. Cir. Ct. Kanawha Cnty. May 11, 1982) (hereinafter "*Recht* Opinion"), *Appendix* 1-250. Reviewing the "woefully inadequate" education system described by this Court, the *Recht* opinion identified "inadequate and inequitable" funding as the "overriding cause" of educational inadequacy, in violation of Article XII, Section 1 and Article III, Sections 10 and 17. *Recht* Opinion at 233, *Appendix* 239.

On remand, the Circuit Court oversaw the creation of a master plan for education, which

was thereafter substantially approved. This Court declined to disturb the Circuit Court's implementation schedule or the requirements of the master plan in *Pauley v. Bailey*, 174 W. Va. 167, 176-77, 324 S.E.2d 128 (1984). In the subsequent case of *Tomblin v. Gainer*, filed under the same Circuit Court case number, the parties entered an Agreed Order, explicitly recognizing the State's commitment to constitutional compliance through W. Va. Code § 18-2E-5. *Tomblin, et al. v. Gainer, et al.*, No. 75-1268 (W. Va. Cir. Ct. Kanawha Cnty. 2000) at *Appendix* 251-260.

B. Statement of Facts

Petitioner respectfully requests that this Court determine whether the education provided in Lincoln County is constitutionally adequate and whether the current funding formula comports with equal protection requirements. The evidence is clear — the education received by Petitioner and other Lincoln County students is not adequate, is the result of inequitable funding, and these unconstitutional results are being replicated across the state.

i. The Legislature Has Ignored Statutory Metrics of Inadequacy and Dismal Academic Outcomes.

W. Va. Code § 18-2E-5 establishes a method for reviewing the adequacy of schools. The State in *Tomblin v. Gainer*, specifically identified this statutory provision as a mechanism for determining adequacy, stating that "...the process set forth in W. Va. Code § 18-2E-5 [will] be used as the evaluation process for ascertaining delivery of a high quality education for the students in West Virginia..." *Tomblin v. Gainer* Agreed Order at 9, *Appendix* 259. Despite these measures evidencing widespread inadequacy, Respondents have neglected to address the failures of West Virginia's school funding formula.

Pursuant to W. Va. Code § 18-2E-5, the West Virginia Department of Education ("WVDE") is directed to collect and report data concerning the performance of West Virginia's schools. This data is reflected in the Balanced Scorecard, which details school performance across multiple

metrics. Performance is classified as (1) exceeding standard ("distinctive school performance"); (2) meeting standard ("within the range of expected performance"); (3) partially meeting standard ("approaching the expected range of performance"); or (4) does not meet standard ("unacceptably below the expected level of performance"). See W. VA. DEP'T OF EDUC., *Reference Guide for County Support, Accountability, Recognition, and Accreditation* (2022-23) at 6.

In 2024-25, twenty-seven counties were classified as not meeting standard, the State's designation for performance "unacceptably below the expected level," in English, math, or both. W. VA. DEP'T OF EDUC., WVEIS, 2024-25 Balanced Scorecard Data, *Appendix* 261-262.¹ Only three counties met standard in at least one of English or math proficiency, and no county exceeded either standard. *Id.* The State additionally provides a *County Approval Status and Accreditation Report* for each county. During the 2024-25 school year, the state identified only five counties that were fully approved across all metrics and twenty-five that were fully approved with respect to the four indicators relating to student academic success. W. VA. DEP'T OF EDUC., *Data Dashboard*, available at <https://wvde.us/data-school-improvement/accountability/data-dashboard>. Despite the exceedingly low standards required to achieve accreditation – a status that does not require a showing of academic proficiency, success or long-term improvement – nine counties nonetheless were not fully accredited by the State. *Id.*

Student achievement is also measured through standardized testing. 2024-25 testing showed that, statewide, 62.01% of tested students were not proficient in mathematics, 52.45% were not proficient in reading, and 70.15% were not proficient in science. W. VA. DEPT. OF EDUC., *ZoomWV Data Dashboard*, State Assessment Results (2025), *Appendix* 263-64. The effect was even more pronounced in Lincoln County, where 71.43% of students were not proficient in

¹ Columns within this dataset, available for download on the Balanced Scorecard Dashboard, have been collapsed in the printed version within the Appendix for readability.

mathematics (with 45.38% achieving unacceptably low results), 61.95% of students were not proficient in reading (with 34.96% of students achieving unacceptably low results), and 77.28% were not proficient in science (with 40.43% of students achieving unacceptably low results). W. VA. DEPT. OF EDUC., *ZoomWV Data Dashboard*, Lincoln County Assessment Results (2025), *Appendix 265-66*.

When deficiencies are revealed through these school accountability measures, the State Board is directed to “[w]ork with the county board to develop or secure the resources necessary... and, when necessary, seek additional resources in consultation with the Legislature and the Governor” or “[r]ecommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes.” W. Va. Code § 18-2E-5(o). Pursuant to the State’s standards, inaction in the face of inadequacy is simply not an option.

WVDE and the State Board of Education have repeatedly recommended to the Legislature that the funding formula be amended to address concerns relating to school funding and adequacy. Respondent Hardesty addressed the futility of these efforts, stating “[t]his is my fourth term as president of the West Virginia Board of Education. I have repeatedly asked for help with the current outdated school aid funding formula. To date, I have received none.” Chris Dickerson, *Hardesty Not Surprised by School Funding Suit*, W. Va. Record (Aug. 18, 2026). In 2026, the Legislature commissioned a study by RAND to review and make recommendations concerning the school funding formula. Benjamin K. Master, et al., *Analysis of West Virginia's State School Aid Funding Formula: Recommendations to Enhance Adequacy, Fairness, and Efficiency of State Funding for Education*, iv (RAND CORP. 2026), *Appendix 267-312* (hereinafter “RAND Report”). The RAND Report identified that an increase in state education funding was recommended based on a review

of the funding formula. *Id.* at 29, *Appendix* 301. Despite the collected evidence of widespread inadequacy, the warnings of education officials, and the confirmation of an independently commissioned report, the Legislature did not revise the school funding formula.

W. Va. Code § 18-2E-5 is an alarm system, meant to sound if school quality drops precipitously. That alarm has worked largely as intended: WVDE and the State Board have collected ample evidence concerning school quality and have issued recommendations to the Legislature based upon that information. Contrary to evidence, recommendations, and constitutional obligations, the Legislature has simply failed to act to ensure that West Virginia students receive the thorough and efficient education promised by the State Constitution.

ii. Per Pupil Revenue and Expenditures are Artificially Inflated and Vary Inequitably, Obscuring the Extent of Underfunding.

During the 2022-23 school year, West Virginia had an average per pupil current spending of \$14,909, placing the state 27th in the nation.² NCES ELSi Table Generator, *U.S. States Per Pupil Current Expenditure*, *Appendix* 313-314. This presents an obvious question: How does the State spend an average amount on education, yet achieve subpar results? The answer is multifaceted, reflecting the needs of the state's students, significant differences in school financing across the state, and idiosyncrasies in what payments count as per pupil education revenue and expense.

The demographics of West Virginia's student population increase the need for education funding. Special education services and the education of children in poverty both carry a greater cost than general education. *See* RAND Report at 9, *Appendix* 281. This is significant, as West Virginia has among the highest rates of students receiving special education services and students in poverty in the nation. *Id.* at 5, *Appendix* 277. Additionally, the state spends a significant amount

² The 2022-23 school year is the most recent year for which final fiscal and non-fiscal data is available from the National Center for Education Statistics ("NCES"). For that reason, much of the analysis of school funding and expenditures is based on data from fiscal year 2023.

on transportation services, an average of \$1,122 per pupil, compared to the weighted national average of \$672 per pupil. See U.S DEP'T OF EDUC., NCES, *Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2022-23*, Appendix 384-426 at 401. As a result, West Virginia must expend more resources to achieve the same educational outcomes of states whose student populations are less expensive to educate.

Average per pupil spending also obfuscates significant differences among counties. West Virginia's reported per pupil current expenditures ranged from \$12,158 in Barbour County, to \$22,500 in Doddridge County. NCES ELSi Table Generator, *West Virginia Per Pupil Current Expenditures*, Appendix 315-17. The spending capacity of a wealthy county does little to ameliorate the needs of a poorer county, and vast differences in intra-state spending lead to statewide averages that are insufficient to answer questions regarding the overall adequacy of funding.

Analyzing intra-state differences in spending, the Brookings Institution reported that states spent, on average, \$2,400 more per pupil in their highest-poverty school districts than their statewide average. Sarah Reber et al., *School Spending Equity Since 1976*, Brookings Inst. (2026) at 19. In West Virginia, the opposite is true. When West Virginia counties are split into quintiles based on the percentage of child poverty, the method utilized by the Brookings report, the average per pupil current expenditure was \$16,092 among those counties with the lowest rates of child poverty and \$15,443 among the counties with the highest levels of poverty. See ANNIE E. CASEY FOUND., *Children in Poverty*, 2022-23, KIDS COUNT Data Ctr., Appendix 427-430; NCES, *W. Va. Per Pupil Current Expenditures*, Appendix 315.³ While average spending nationwide is pulled

³ The primary source of each data set has been identified within Petitioner's Brief in support of asserted claims. However, given that comparisons between the voluminous data sets often require calculations that are not reflected in the original data (such as the previously mentioned ranking of current expenditure data,

upward by increased payments to the poorest students, West Virginia's spending averages are raised by increased funding to wealthier communities.

West Virginia's education spending is additionally distorted by the inclusion of state debt payments in NCES totals. This distortion arises from the historic debt accumulated by the State through misappropriated Teachers Retirement System ("TRS") funds. In 1994, as the result of the State's failure to appropriate necessary funds, the state had accrued an underfunded TRS liability of \$3.25 billion. *W. Va. Educ. Ass'n v. Consol. Pub. Ret. Bd.*, 194 W. Va. 501, 507, 509, 460 S.E.2d 747, (1995). Litigation on behalf of educators led to the Legislature's 1994 passage legislation codifying the State's obligation to fund the TRS system to actuarial soundness from general revenue funds. W. Va. Code § 18-9A-6a.

The State's TRS unfunded liability payments are wholly divorced from the operation of schools; the State would remain obligated to fund TRS to actuarial soundness even if every West Virginia school were to close tomorrow. Nevertheless, county boards of education have been instructed to identify a proportion of the State's TRS unfunded liability payment as on-behalf revenue and expense in county budgets. W. VA. DEP'T OF EDUC., *Instructions for Preparing and Publishing Annual Financial Statements 2017, Appendix 431-38* ("Please note that county boards of education are instructed to include in their budgets expenditures related to the unfunded retirement liability allocation (object 235)"). These revenue and expense lines are included despite the direction of governmental accounting standards, which indicate that county financial statements should reflect the proportional net change to the overall pension liability, not the value of the State's contribution. GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*, ¶¶ 71(c), 92, 94-95, 98, 102.

contained within an NCES data set, by poverty quintile, contained within the Kids Count data set) Petitioner has compiled a summation of those calculations, available at: <https://shorturl.at/Tv8Qu>.

On information and belief, the full value of the State's TRS unfunded liability payment is reflected within NCES data as district-level per pupil spending. In 2022-23, the State made a required payment of \$276,328,760 towards the unfunded liability, as well as an additional payment of \$20,000,000, for a total TRS unfunded liability payment of \$296,328,760. 2022 W. Va. Acts ch. 11. That same year, NCES reported that West Virginia spent a total of \$2,024,144,285 on education, inclusive of the \$296 million debt payment. NCES EISi Table Generator, *West Virginia State Revenue, Appendix 318*. As a result, approximately fifteen percent of reported State education spending represents the repayment of previously misappropriated funds, not payments that serve districts or students.

When the TRS unfunded liability payment is removed from state spending totals, the true picture of West Virginia spending becomes more striking. The average 2022-23 total expenditure per pupil falls from \$16,909 (31st in the nation) to \$15,729 (39th in the nation). West Virginia's total state revenue per pupil is reported to be \$8,057 (30th in the nation) and yet when the TRS payment is removed from that total, the state contributes \$6,877 to education (35th in the nation). *Id.* In *Dadisman I*, this Court discussed the cascading effects felt by the State from the misappropriation of retirement funds. The Court opined on the folly of such actions, noting that doing so "forc[es] future officials to place a heavy tax burden on posterity to pay for today's profligacy." *Dadisman v. Moore*, 181 W. Va. 779, 792, 384 S.E.2d 816, 829 (1988). While this court correctly predicted the impact that this would have on future generations, it was likely unfathomable that this heavy burden would be placed upon the State's schoolchildren.

This context surrounding education spending in West Virginia is critical to understanding why spending that initially appears adequate does not translate to adequate funding in the coffers of districts. Inflated spending totals, high rates of poverty and disability, and significant

transportation costs result in funding that is insufficient given the state's demographics. Concerningly, West Virginia's education spending is regressive; in contrast to national trends, West Virginia spends *more* on the wealthiest districts and *less* on the poorest.

iii. West Virginia's Regular Levy Ties School Funding to Property Wealth.

State funding for West Virginia schools is primarily provided through the Public School Support Plan ("PSSP" or "funding formula") codified at W. Va. Code § 18-9A-1 *et seq.* The school funding formula estimates the cost of operating each county's school system, designates a "local share" that the county is presumed to supply through local tax revenue, and directs the State to pay counties the difference. The State is responsible for calculating PSSP funding; a document outlining the application of the funding formula is included within the appendix. *See W. VA. DEP'T OF EDUC., Executive Summary of the Public School Support Program Based on the Final Computations for the 2026-2027 Year, Appendix 319-27.*

The *Recht* Opinion found the funding formula, as it existed at that time, to be both unconstitutionally insufficient and inequitable. The current funding formula was intended to resolve both deficiencies, but unfortunately, it has resolved neither. West Virginia's current funding formula produces unconstitutionally deficient funding and exacerbates inequity to a far greater degree than that already declared unconstitutional by *Recht*. Today, whether a child's school stays open or closed, whether they are proficient in basic academic subjects, and whether they receive necessary special education services, depends largely on whether their county has a sufficient tax base to fund its operations in spite of insufficient state PSSP funding. Our Constitution does not permit this outcome.

W. Va. Code § 11-8-6c establishes a statewide school levy with rates set by the Legislature. While each county directly receives levy revenue, counties are not permitted to change the levy rates set by statute. Each county's "local share" – the portion of PSSP cost that is expected to be

contributed by local funds – is determined based on eighty-five percent of the statewide regular school levy rate. W. Va. Code § 18-9A-11. As a result of this structure, fifteen percent of levy revenue is retained by counties as purely local funds, *in addition to* PSSP funding, without offsetting or reducing the State's payment obligations to school systems. The portion retained by counties in addition to PSSP funding has grown substantially, from two percent in 1993 to the fifteen percent rate in place today. *C.f.* W. Va. Code § 18-9A-2 (1993); W. Va. Code § 18-9A-2-11 (2026). The result of this fifteen percent regular levy retention is substantial variation in local revenue based upon county property wealth. Under the current system identical counties, with identical student bodies and PSSP calculations, would nevertheless receive significantly different funding based solely upon local property wealth.⁴

By applying a flat percentage rate, the fifteen percent of the regular levy that each county retains beyond the PSSP allowance acts as a multiplier on existing inequalities; the rate is applied to each county's own tax base, amplifying existing disparities in property wealth. As the percentage of the levy retained grows larger and decreased state funding increases the importance of local funds, the inequitable levy system has, unfortunately and perhaps inadvertently, become a cornerstone of West Virginia school funding, without which school districts struggle to stay afloat.

The result is significant inequity among education funding available to counties. During the 2022-23 school year, the estimated general school levy revenue per pupil varied from a low of \$939 in Lincoln County to a high of \$10,773 in Tyler County. The ten counties with the highest

⁴ As an illustrative example, if two identical counties with enrollment of 4,000 students and an \$8,500 per pupil PSSP allowance varied only with respect to local property wealth, the total funding for these counties would vary significantly. If one county generated \$2,000 per pupil in local revenue, it would ultimately receive \$35,200,000 in state and local funding while an identical county generating \$15,000 per pupil would receive \$60,000,000 in state and local funding.

property wealth per pupil received an average of \$6,161 per pupil in regular levy funding⁵ and the counties with the lowest property wealth per pupil received an average of \$1,414.⁶ See W. VA. DEP'T OF EDUC., *2022-23 Local Share Calculations, Appendix 328-337*.⁷ State aid does not correct the disparity. Combined state and local funding ranged from \$10,542 in Barbour County to a high of \$24,924 in Tyler County.⁸ NCES ELSi Table Generator, *State and Local Revenue, Appendix 338-341*. The average per pupil state and local revenue received by the ten property-poorest counties was \$12,422. In contrast, counties with the highest levels of property wealth had an average revenue of \$17,960. *Id.* Under the present funding formula, there is a \$14,382 gap in per pupil state and local funding between the county receiving the most education funding and the county receiving the least, dwarfing the disparity previously held to be unconstitutional, in *Recht*.

The *Recht* court noted that in 1980-81 the regular tax levy resulted in per student local revenues ranging from \$113.84 in Monroe County to a high of \$614.76 in Pleasants County. *Recht* Opinion at 177, *Appendix 183*. Adjusted to 2026 dollars, the revenue would range from approximately \$462 to \$2,499; a \$2,037 difference that pales in comparison to the modern \$9,834 difference between counties. The *Recht* court similarly noted that “[w]hen counties [were] ranked by property wealth, the wealthiest fifth of counties receive[d] approximately \$76/pupil more than

⁵ In 2022-23 the counties with the highest per pupil property wealth were Brooke [\$3,796 per pupil], Pendleton, [\$4,027], Tucker [\$4,481], Grant [\$4,667], Pocahontas [\$5,038], Ritchie [\$5,122], Wetzel [\$6,591], Marshall [\$7,914], Doddridge [\$9,204] and Tyler [\$10,773].

⁶ In 2022-23 the counties with the lowest levels of per pupil property wealth were Lincoln [\$939 per pupil], Clay [\$1,067], Mingo [\$1,324], Wayne [\$1,386], Mercer [\$1,462], Wyoming [\$1,500], Logan [\$1,552], Webster [\$1,572], Fayette [\$1,662] and Mineral [\$1,676].

⁷ In the *Recht* Opinion, property-wealth per pupil was used as a method to compare the ability of counties to fund their school systems through revenue based on assessed property value. To determine this value for the current analysis, the estimated 2022-23 gross tax revenue anticipated to result from the general school levy, as reported by WVDE, was divided by the NCES V33 enrollment data from that same year.

⁸ This data reflects the NCES ELSi data table reporting state and local revenue. For readability, non-county school entities have been removed, and the combined state and local revenue was calculated by Petitioner and denoted with a blue background.

the poorest fifth in state revenues plus local share. The same pattern exists when counties are ranked by state and local revenues; however, the difference is greater - \$157/pupil.” (the equivalent of \$309 and \$639 in 2026 dollars). *Id.* Today, the wealthiest fifth of counties receive an average state and local revenue of \$17,875 per pupil, while the poorest fifth receive \$12,546 per pupil – more than eight times the gap that violated constitutional equal protection principles in *Recht*. This disparity does not reflect differing local commitments to education. The ten counties with the highest per pupil property wealth were *less* likely than their poorer counterparts to have an excess levy in place. W. VA. AUDITOR’S OFFICE, *Levy Rates*, available at [https://www.Wvsao.gov/county collections](https://www.Wvsao.gov/county_collections). Inadequacy of state funding requires counties with lower fiscal capacity to tax their residents at a higher rate than counties with a higher fiscal capacity, yet those higher rates still result in less revenue per pupil.

While the regular levy represents local revenue directed towards schools, it is controlled by an exclusively state mechanism. The regular school levy is created by state code and is outside the control of counties, who are not free to alter its structure or operation, either with respect to the funding it generates or its impact on PSSP calculations. Only the State Respondents to this action can repair this structural condition that perpetuates both educational inadequacy and inequity.

iv. Insufficient Staffing Allowances Place Unsustainable Financial Burden on Districts.

Lincoln County staffs its schools no better today than at the level the *Recht* court held unconstitutional nearly half a century ago. The court in *Recht* held that the staffing formula in place in 1982 was *per se* unconstitutional as it failed to “recognize that some counties with smaller schools or more children with educational problems need more staff in order to provide a thorough and efficient education...” *Recht* Opinion at 222, *Appendix* 228. The court further held that such staffing levels would be “violative of the constitutional mandates and would be objectionable even

in a system that had eliminated the direct relationship between property wealth and educational resources.” *Id.*

The staffing formula operated today continues this history of painting with a broad, inadequate brush. Current staffing allowances established in W. Va. Code §§ 18-9A-4, -5, and -8 are based upon a ratio of staff to student enrollment. The ratio provides between 72.3 and 72.75 professional educators, between 53.79 and 55.5 service personnel, and 5 professional student support personnel per 1,000 students in net enrollment, with lower-density counties entitled to a higher rate of staff than their denser counterparts. W. Va. Code § 18-9A-4(a)(1), 5(a)(1). While these ratios may appear to represent substantial increases from the *Recht* ratios, which provided for 55 professional educators and 34 service personnel per 1,000 students, that assumption is fundamentally unsound. The funding formula in operation at the time of *Recht* was not based upon the modern definition of enrollment. Instead, “adjusted enrollment” was used, defined as “the net enrollment plus twice the number of pupils enrolled for special education.” W. Va. Code § 18-9A-2 (1982). This is in contrast to the modern funding formula, which provides no such consideration for the added staffing needs of special education programs.

During the 2024-25 school year, Lincoln County was identified as having an enrollment of 2,857.05 for the determination of staffing allocation. Based on that enrollment, the county was allocated through the PSSP 221.75 professional educator and professional support personnel, and 147.96 service personnel. Total, Lincoln County was allocated 369.71 staff. W. VA. DEP’T OF EDUC., *Executive Summary of the Public School Support Program Based on the Final Computations for the 2024-2025 Year*, Appendix 342-44. That same year, Lincoln County reported 740 students receiving special education services. W. VA. DEPT. OF EDUC., *ZoomWV Data Dashboard*, Lincoln County Enrollment Data (2025). Had the unconstitutionally deficient *Recht*

formula been applied to Lincoln County that year, the adjusted enrollment would have been calculated by adding actual enrollment [2,857.05] to twice the number of students receiving special education services [1,480]. Based on the total adjusted enrollment of 4,337.05, the funding formula at the time of *Recht* would have allocated 238.54 professional educators and 147.46 service personnel, for a total of 386 staff.

In summary, if the *per se* unconstitutionally deficient formula was applied to present enrollment levels in Lincoln County, the county would be provided a greater number of overall staff (386 compared to 369.71), including teachers, than is allocated in the modern formula. It defies logic that over the span of nearly fifty years, West Virginia's staffing would not only stagnate, but would actually *regress* below a level previously declared constitutionally deficient.

The insufficiency of the present funding formula with respect to staffing manifests itself in counties requiring staff beyond the PSSP allowance to meet the needs of students and schools, placing an unsustainable financial burden upon local funding sources. A 2019 study completed and disseminated by WVDE found that forty-nine percent of principals reported that their schools do not have an adequate number of professional staff to meet student needs. W. VA. BD. OF EDUC., *Educator Voice Survey Results* (2019). The cost of these additional positions is borne almost exclusively by local districts, which must draw upon county funding sources for support. During the 2025-26 school year, it was reported that over-formula staff resulted in an annual cost of approximately \$5,000,000 to Lincoln County schools. See Lincoln Cnty. Bd. Of Educ., Regular Meeting (Mar. 23, 2026).

A county's ability to hire staff beyond its PSSP allocation is dependent on whether the local funding is available to pay for such positions. The result, as was the case in *Recht*, is gross inequity among school districts. During the 2022-23 school year, pupil teacher ratios ranged from 9.73 in

Wetzel County to a high of 15.23 in Upshur. NCES ELSi Table Generator, *West Virginia Pupil/Teacher Ratio*, Appendix 345-46. Of the ten West Virginia counties with the lowest pupil to teacher ratios, five are counties with the highest property wealth per pupil. This core inadequacy in school funding has cascading effects on academic performance, provision of special education and remedial services, and the financial health of West Virginia's school districts.

v. West Virginia Inadequately Funds Special Education Services.

Providing federally mandated special education services requires more funding than general education services. Students receiving special education services may need changes to curriculum, additional staffing, self-contained classrooms, and physical modifications to school spaces, all of which increase cost. Review of West Virginia's funding of special education services establishes that the current system of special education funding is not adequate and intensifies other inequities within the funding system.

In addition to funding provided by the PSSP, counties may receive payments through the high-acuity fund, which exists to reimburse expenses related to high-cost special education services. W. Va. Code § 18-20-5(a)(3)(B). When eligible reimbursement requests are received, the requested awards are, "pro-rated based on the ratio of each LEAs request to the total amount of all requests received for the funding period" and in fiscal year 2024, districts were reimbursed for approximately 27% of their qualifying expense. W. VA. DEP'T OF EDUC., *West Virginia IDEA High-Cost/High-Acuity State Plan FY25* at 5, Appendix 351. When an award is granted, the average per-pupil state aid is *subtracted* from the award, replacing PSSP student aid instead of supplementing it. *Id.*

The second funding method is a separate appropriation made by the Legislature to fund special education services. Counties receive these state funds through a flat base rate offered to

every county, as well as a per pupil rate that is provided based on the total number of students receiving special education services. During the 2024-25 school year, counties received a base rate of \$29,957 plus an additional \$74.35 per student receiving special education services. W. VA. DEP'T OF EDUC., *FY25 State Aid for Public Education Table 4 (2025)*, *Appendix 357*. A similar process funds preschool programs, with each county receiving a \$10,000 flat rate in addition to approximately \$135 per pupil. *Id.* This system favors smaller counties with lower special education enrollment, for whom the base rate goes further per student.

The value of these payments to counties, however, can quickly be consumed by required costs not otherwise reimbursed by the State. Many counties bear costs for out-of-state placements for students with disabilities, with the total estimated costs of such placements totaling millions of dollars statewide. *Id.* Despite these costs, in 2024-25, the State allocated only \$300,000 total for reimbursements statewide, to be split among counties. W. VA. DEP'T OF EDUC., *Memorandum FY 2025 Funds for Out-of-State Instruction of Students with Disabilities Under State Account 0314-159* (Mar. 10, 2026). *Appendix 352-354*. As a result, many counties do not see the benefit of additional special education funding for the students who are in their schools - a substantial portion of those funds are instead spent on out-of-state placements for which the state offers only meager reimbursement.

The *Recht* Opinion noted that the \$6,000,000 in state funding of special education in 1981-82 was constitutionally insufficient, as “[n]one of the over \$6 million dollars in state funds for special education is distributed in a manner which takes into account the relative wealth of counties.” *Recht* Opinion at 181, *Appendix 187*. Today’s special education funding suffers the same fundamental flaw, and the modern insufficiency is even more stark: adjusted for inflation, meeting the inadequate spending of *Recht* would require that the State provide \$20,763,855 in special

education funding, far more than the funding currently provided. *See* W. VA. SCI. & TECH. POL'Y INITIATIVE, *West Virginia Special Education Funding* (Oct. 2025) at 2, *Appendix 355-56*.

While federal funds do not displace the State's obligation to adequately fund schools, even with the inclusion of those funds, special education services are afforded inadequate resources. It was reported that WVDE determined that the cost of serving special education students during fiscal year 2025 was more than \$584,000,000 while available revenue totaled only \$360 million. T.J. Meadows, *Special Education Need Exceeds Funding*, W. Va. Metro News (Jan. 22, 2026). Given the State's reported special education spending of approximately \$11.7 million, inclusive of payments for institutionalized and incarcerated children, it is clear that the current levels of state funding are insufficient to meet need. *See W. Va. Special Education Funding, Appendix 355*.

Given the outsized role of local spending in the provision of special education services in West Virginia, the total special education expenditure per student receiving special education services varies widely. In 2022-23, total special education spending per pupil with disabilities ranged from \$6,567 in Barbour County to \$18,573 in Doddridge County. NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., *Common Core of Data: West Virginia Nonfiscal & Financial Survey School Year 2022-23*.

The impact of county wealth in special education funding is apparent: among the ten counties with the lowest property wealth per pupil, counties had an average special education expenditure of \$10,540 per pupil in special education. *Id.* In contrast, counties with the highest property wealth per pupil had an average special education expenditure of \$14,468 per pupil in special education. *Id.*

The role of insufficient state funding in special education inequity is similarly evident. Each West Virginia school district reports state revenue provided for the purpose of special

education funding. On average, in 2022-23, NCES reported that districts received \$193 in state special education revenue per pupil receiving special education services. *Id.* Cabell County received the least per student receiving such services, receiving only \$16 per pupil receiving special education services to cover the cost of additional services. Pendleton County received the highest rate, receiving \$675 per student receiving special education services. *Id.* The RAND Report commissioned by the Legislature found that West Virginia under-allocated resources to special education and recommended such funding be increased. RAND Report at 29, *Appendix* 301.

The difference in spending between West Virginia and the rest of the nation is clear: nationwide, states contributed twenty-six percent of the total costs of special education. In contrast, West Virginia funds approximately two percent of the cost. *W. Va. Special Education Funding, Appendix* 355. The RAND Report found that these funding shortages are not evenly distributed, finding that “[t]otal adjusted spending in districts with higher proportions of special education students was 4 percent lower than in districts with lower proportions of special education students, which ranks West Virginia 42nd out of the 45 states in terms of distributing funding to help districts adequately address these students’ needs.” RAND Report at 11, *Appendix* 283.

Despite need that is large and increasing, West Virginia fails to adequately fund the special education services needed by many students. Given that federal law requires the provision of special education services, when adequate funding is not provided school districts must divert funds from general education programs towards federally mandated special education. This failure in funding impacts both special education and general education, leaving school districts so desperately underfunded that all education services suffer as a result.

vi. West Virginia Has Abandoned Its Obligation to Fund Remedial Services.

Given the systemic underfunding, persistent understaffing, and resulting deficiencies in academic achievement, the need for remedial instruction in schools is particularly great. The *Recht* Opinion held that “special education, remedial and advanced programs, are essential to a thorough and efficient system.” *Recht* Opinion at 215, *Appendix* 221. The court further clarified that federal funding did not satisfy the state’s obligation to provide remedial services, stating “[t]he state has a responsibility independent of the federal government to [ensure] that the remedial education needs of all students are met. Remedial education requires additional funding to supplement the regular instructional program...The extra expense of compensatory education must be recognized in the state's system of school finance.” *Recht* Opinion at 82, *Appendix* 88.

Under current WVDE guidelines, support for students struggling to meet proficiency standards is provided through the West Virginia Tiered System of Support (“WVTSS”). The costs of providing remedial services, however, are not recognized anywhere in the state’s system of school finance. W. VA. DEPT. OF EDUC., *West Virginia Tiered System of Support, 2026-2027 Guidance for West Virginia Schools* (2026) (“The WVTSS is not a program or a curriculum. Instead, the WVTSS helps schools coordinate the resources and processes they already have available...”).

WVTSS creates three tiers of support, based on a pupil’s school performance and support needs. The first tier, “universal,” is the level of support provided to all students. The State has identified that “[a]pproximately 75-80% of students should be proficient when universal supports are provided in general education environment.” W. VA. DEP’T. OF EDUC., *Specific Learning Disabilities: Evaluation and Eligibility Guidance for West Virginia Schools* (2023) at 37. Respondent WVDE contemplated that improvements to universal supports may need to be

“strengthened/revisited if... There is widespread low performance on standardized assessments” among other measures of student performance and wellbeing. W. VA. DEP’T. OF EDUC., *West Virginia Tiered System of Support 2026-2027 Guidance for West Virginia Schools* (2026) at 6.

Despite acknowledging that the universal supports offered to all students likely need to be strengthened if there is persistent failure to meet academic benchmarks, Respondents offer no funding for such supports. Districts are instructed to use currently available resources while receiving funding that is insufficient to operate a foundational program, much less one that offers remedial supports to an increasing number of struggling students. The number of students receiving, or requiring, Tier 2 or Tier 3 supports has no bearing on the amount of funding that counties receive for their school systems. As a result, districts are left to self-fund adequate remedial programs, which many counties, including Lincoln, simply cannot afford. The result is that students who need the most support fail to receive it, an outcome that is a constitutionally unacceptable symptom of the funding structure operated by the Respondents.

vii. School Closures are Not Driven By “Right-Sizing” or Enrollment Declines.

West Virginia has seen a significant increase in the number of school consolidations and closures that have been proposed and approved in recent years. This increase in school closures is often attributed to decreasing enrollment or underutilized facilities; neither factor, however, distinguishes counties that closed schools from counties that did not. When these justifications are reviewed, the true driver of closures and consolidations becomes apparent: in light of inadequate state spending, property wealthy counties can afford to keep schools open while property poor counties cannot. Such an outcome cannot withstand constitutional review.

Between the 2017-18 and 2024-25 school years, there was a net closure of approximately

forty-four schools.⁹ Sixteen school districts experienced closures, while thirty-nine did not. School districts that did not experience any net closure of schools between 2017 and 2025 began that period with *more* square footage per pupil (180 sq. ft.) than districts that did go on to experience closures (167 sq. ft), undercutting an assertion that consolidation remedies bloated or underutilized school facilities. *SEE W. VA. DEP'T. OF EDUC. Preliminary Computations PSSP Calculation of Step 6a Allowance for the 2018-19 Year (2017), Appendix 381-82.* Significantly, counties that experienced closures and counties that did not had similar rates of enrollment decline. Among counties that experienced enrollment decline, the average decline among districts that did not close schools was 13.7%, and the average decline among districts that did experience closures was 15.7%, differences that are not statistically significant among county data. W. VA. DEP'T OF EDUC., *WVEIS, 2017, 2025 Enrollment Data.* Counties that did not experience school closures had an average per pupil current expenditure of \$15,467, compared to an average of \$14,403 among counties that did close schools. NCES, *W. Va. Per Pupil Current Expenditures, Appendix 315-17.* Among counties that did not experience closures, the average property wealth per pupil generated by the local levy was \$3,086 while the average among counties that did experience closures was \$2,397 per pupil. *See W. VA. DEP'T OF EDUC., 2022-23 Local Share Calculations, Appendix 328-337.* While factors such as underutilized facility space or enrollment decline did not reflect statistically significant differences between counties that closed schools and those that did not, available funding did vary between the two groups. This data points towards low funding being associated with greater likelihood of closure.

⁹ Calculations concerning the extent of school closures vary considerably, as determinations as to what constitutes a "school" and what constitutes a "closure" can differ. WVEIS reports a total school closure of sixty-one schools during this same period, though most of that school loss is attributable to changing standards as to whether preschools and alternative schools are calculated into school totals. The county totals relied on by Petitioners were reached by a review of NCES data, and excludes alternative schools, vocational schools, and charter schools.

This has been particularly apparent in Lincoln County, where Ranger Elementary last operated during the 2023-24 school year, and Midway Elementary, while currently operating, is scheduled for closure. Additionally, poor conditions at Duval PK-8 led to the school being condemned, forcing students to be educated in the Board of Education building, which school officials reported had “no exterior windows, no natural light coming in the classrooms. [The classrooms] are about a little over half the size of what they will be in the new facility. This used to be a career center so a lot of the classrooms are actually like automotive bays, welding shops, things of that nature with just concrete floors.” Joseph Dicristofaro, *Construction of new Duval Pre-k-8 school addresses past flooding and ground issues*, WCHS-TV (Dec. 4, 2025).

Of particular concern, the poor facilities conditions in Lincoln County led to significant enrollment decline, which would then further exacerbate funding shortfalls during future PSSP calculations. Isaac Taylor, Rachel Pellegrino, *Renderings of new Duval PK-8 School released*, WOWK-TV (Jan. 31, 2024) (“Since the building itself closed, we’ve had kids transfer to other schools, some home school... We’ve lost probably well over 100 students in enrollment since that happened, but I’m confident the new facility will change that”). The closures, condemnations, and resulting enrollment loss suffered by Lincoln County schools represent the apex of the State’s unconstitutionally deficient school funding.

III. SUMMARY OF THE ARGUMENT

The West Virginia Constitution requires that students receive a thorough and efficient education, and that variation in educational opportunities across counties comports with equal protection principles. The present system of education financing, and the academic outcomes that result, violate these fundamental principles. It is incontrovertible that West Virginia students have a clear and established right to a thorough and efficient education, and that such an education

carries a promise more significant than the bare minimum that the State can provide. *See Pauley v. Kelly*, 162 W. Va. 672, 705, 255 S.E.2d 859, 877 (1979). The obligation of providing, and funding, such a system rests primarily upon the Legislature, though other Respondents may play a role in ensuring that an adequate system has equal application across the state. *See Recht* Opinion at 6, *Appendix 12*.

West Virginia counties are consistently failing to meet adequacy standards, including the standards established by W. Va. Code § 18-2E-5. State measures of adequacy, school-wide performance, assessment results, and comparisons to other States all evidence a failure on the part of the Respondents to provide West Virginia's students with an adequate education. These failures in adequacy relate not only to the academic success of students, but also the resources invested to achieve that success – school funding levels, investment in special education, pupil/teacher ratios and staffing allocations all vary significantly between counties, with the counties most in need of resources often receiving the least.

The cause of these gaps is the state's system of school finance. State aid is inadequate to fully fund many schools, and county levy shares that fall outside of that formula rise and fall based on local wealth. Counties with robust tax bases can fill the gap the State leaves; counties like Lincoln cannot. These differences in spending do not only violate constitutional protections as reflections of school inadequacy, they also represent unconstitutional non-uniformity in school funding. Adjusted for inflation, the per-pupil gap in combined state and local revenue between the best- and worst-funded counties is now more than three times the gap the *Recht* Opinion found unconstitutional.

Petitioner's children have an established legal right to a thorough and efficient education. Respondents have a nondiscretionary duty to provide this education and the funding necessary to

ensure its continued adequacy. No other remedy is equally beneficial, convenient, and effective, given that this Court is most properly situated to address matters of statewide concern regarding the Legislature's abdication of a constitutional duty. This Court's issuance of a writ of mandamus is the appropriate relief.

IV. STATEMENT REGARDING ORAL ARGUMENT AND DECISION

Petitioner requests oral argument under Rule 20 of the West Virginia Rules of Appellate Procedure. None of the Rule 18(a) criteria for dispensing with oral argument applies. This case involves issues of fundamental public importance and constitutional questions regarding the validity of statutes governing the funding of public education. W. Va. R. App. P. 20(a)(2), (3).

V. ARGUMENT

The facts provided herein paint an undeniable, and alarming, portrait of West Virginia's educational adequacy: by nearly every metric, the State is failing to provide an adequate education to children. When students do receive an adequate education, it is often the result of local property wealth that is able to fund adequate systems in the absence of sufficient state funds. As jarring as the current state of education funding in West Virginia appears today, there is nothing new under the sun: the constitutional violations presented by the Petitioner are not novel, in fact or at law. Petitioner respectfully requests that this Court continue to give breath to the significant body of law establishing West Virginian children's right to a thorough and efficient education, and the Respondents' duty to provide it.

A. Mandamus Relief is Appropriate in this Circumstance, and Jurisdiction is Properly Before this Court.

The West Virginia Constitution confers on this Court original jurisdiction in mandamus proceedings. W. Va. Const. Art. VIII, § 3, It is well established in West Virginia law that "[m]andamus is a proper remedy to require the performance of a nondiscretionary duty by various

governmental agencies or bodies.” Syl. Pt. 1, *State ex rel. Allstate Insurance Co. v. Union Public Service District*, 151 W.Va. 207, 151 S.E.2d 102 (1966). In the present matter, mandamus relief issued by this Court is both appropriate and urgently needed so as to protect the rights of Lincoln County students and ensure uniformity among courts with respect to this issue of statewide concern.

Mandamus is a particularly appropriate remedy in matters concerning the constitutionality of state action. This Court has held that “[m]andamus may be used to attack the constitutionality or validity of a statute or ordinance.” Syl. Pt. 4, *W. Va. Bd. of Educ. v. Hechler*, 180 W. Va. 451, 452, 376 S.E.2d 839, 840 (1988). In reaching that holding, the Court referred to *West Virginia Citizens Action Group, Inc. v. Daley*, which identified that the application of mandamus relief to constitutional questions is a position that the Court has “consistently held.” 174 W.Va. 299, 302, 324 S.E.2d 713, 717 (1984), citing in part *Bailey v. Truby*, 174 W. Va. 8, 13, 321 S.E.2d 302, 307 (1984); *State ex rel. McCamic v. McCoy*, 166 W. Va. 572, 581, 276 S.E.2d 534, 539 (1981); *State ex rel. Sheldon v. City of Wheeling*, 146 W. Va. 691, 695, 122 S.E.2d 427, 429 (1961).

When there is question as to whether mandamus is an appropriate remedy, this Court has held that “[t]he tendency in this jurisdiction is to enlarge and advance the scope of the remedy of mandamus, rather than to restrict and limit it, in order to afford the relief to which a party is entitled when there is no other adequate and complete legal remedy.” Syl. Pt. 3, *State ex rel. Smoleski v. Cnty. Ct. of Hancock Cnty.*, 153 W. Va. 307, 307, 168 S.E.2d 521, 522 (1969). It is not necessary, however, to enlarge or expand the traditional scope of mandamus relief to grant the relief requested by Petitioner in the present matter, as mandamus is the established method to compel agents of the state to perform a mandatory duty.

The issuance of a writ by this Court has repeatedly been used to address systemic

constitutional deficiencies. In *Facility Rev. Panel v. Holden*, this Court reviewed jail conditions in Doddridge County, finding that "the great number and severity of the deficiencies require a comprehensive program of improvements and not simply a limited review which might be more appropriate in a facility with generally acceptable conditions." 177 W. Va. 703, 705, 356 S.E.2d 457, 459 (1987). In *Walls v. Miller*, this Court held that a systemic failure of a public official to enforce statutes that impose a duty upon him is violative of rights and subject to mandamus. 162 W. Va. 563, 566, 251 S.E.2d 491, 495 (1978). The Court noted that mandamus is particularly appropriate "[w]hen the administrative officer and his petitioners disagree on the entire legal philosophy of his duties, piecemeal litigation of pigeonholed issues will not serve to resolve their basic differences; it is in this circumstance that mandamus should lie." *Id.* at 566 n.5. Those same efficiencies favor mandamus relief through this Court in the present matter. The inadequacy and inequity present in the current systems of school finance are distinct root causes that result in countless symptoms of inadequacy felt by counties, schools, students, and parents. Local attempts by the judiciary to address the symptoms of inadequacy would result in exactly the "piecemeal litigation of pigeonholed issues" that this court seeks to avoid. In contrast, as the head of a co-equal branch of government, this Court is uniquely positioned to grant mandamus relief which demands constitutional compliance on the part of the Legislature.

Among the many cases in which this Court has issued a writ of mandamus concerning the systemic inadequate operation of a state system, a pattern emerges. When the unconstitutionality of the conditions are manifest but the potential solutions require legislative action, administrative policy change, or factual development, the Court has often issued the requested mandamus relief, yet provided the State Respondents an opportunity to develop an agreed upon plan for the resolution of the deficiency. *See, e.g. E. H. v. Matin*, 168 W. Va. 248, 261, 284 S.E.2d 232, 239

(1981); *Cooper v. Gwinn*, 171 W. Va. 245, 248, 298 S.E.2d 781, 784 (1981); *Hickson v. Kellison*, 170 W. Va. 732, 739, 296 S.E.2d 855, 861 (1982).

While the West Virginia Supreme Court of Appeals has concurrent jurisdiction with circuit courts for Petitions for Mandamus, *Bogges v. Buxton*, 67 W. Va. 679, 69 S.E. 367, 370 (1910); *State ex rel. City of Charles Town v. Cnty. Comm'n of Jefferson Cnty.*, 221 W. Va. 317, 321, 655 S.E.2d 63, 67 (2007), relief in the present forum represents the fullest and most efficient relief available to Petitioner. Following a finding that the Executive or Legislative branches are acting in such a way as to violate the Constitution, state agents are generally provided wide latitude to determine how to achieve compliance, particularly when such determinations reflect policy decisions. The writ sought does not request this Court to tell the Legislature *how* to resolve identified constitutional flaws, it instead requests this Court demand and compel the government come into constitutional compliance. Given that the structure of the present formula, which operates to create vast disparity in school funding amongst counties, fails to comply with this Court's prior holdings concerning equal protection principles, the issuance of the requested writ would ensure that Legislative action does not result in a "reformed" system with increased funding, but the same core constitutional flaws.

Given this Court's practice to provide, in the interest of comity, an opportunity for the Executive and Legislative branches to correct identified unconstitutional conditions and the statewide reach of the issues presented, the issuance of a writ by this Court represents the most beneficial, convenient, and effective relief available to the Petitioner. Syl. Pt. 2, *Stowers v. Blackburn*, 141 W. Va. 328, 328, 90 S.E.2d 277, 279 (1955) ("Mandamus will not be denied because there is another remedy, unless such other remedy is equally beneficial, convenient and effective.")

It is well settled that “[a] writ of mandamus will not issue unless three elements coexist— (1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” Syl. Pt. 2, *State ex rel. Kucera v. City of Wheeling*, 153 W.Va. 538, 170 S.E.2d 367 (1969). As described herein, each element is readily met in the present case and for that reason Petitioner respectfully requests this Court issue the requested writ.

B. Petitioner Possesses a Clear and Established Constitutional Right to a Thorough and Efficient Education.

Few rights could be more firmly established or definitively stated within West Virginia law than the clear and established right to a thorough and efficient education. This Court has held that,

“The mandatory requirements of “a thorough and efficient system of free schools” found in Article XII, Section 1 of the West Virginia Constitution, make education a fundamental, constitutional right in this State.” Syl. Pt. 3, *Pauley v. Kelly*, 162 W. Va. 672, 672, 255 S.E.2d 859, 861 (1979);

“The provisions of Article XII, Section 1 et seq., as well as Article X, Section 5 of the West Virginia Constitution, when construed in the light of our prior cases, gives a constitutionally preferred status to public education in this State.” Syl. Pt. 1, *State ex rel. Bd. of Ed., Kanawha Cnty. v. Rockefeller*, 167 W. Va. 72, 72, 281 S.E.2d 131, 132 (1981);

“If the State takes some action which denies or infringes upon a person's fundamental right to an education, then strict scrutiny will apply and the State must prove that its action is necessary to serve some compelling State interest. Furthermore, any denial or infringement of the fundamental right to an education for a compelling State interest must be narrowly tailored.” Syl. Pt. 5, *Bd. of Educ. of Cnty. of Kanawha v. W. Va. Bd. of Educ.*, 219 W. Va. 801, 802–03, 639 S.E.2d 893, 894–95 (2006);

“Because West Virginia Constitution in Article XII, Section 1 recognizes education as a fundamental right, under the equal protection clause, any denial of the right to an education cannot withstand strict scrutiny unless the State can demonstrate some compelling State interest to justify that denial.” Syl. Pt. 3, *Phillip Leon M. v. Greenbrier Cnty. Bd. of Educ.*, 199 W. Va. 400, 401, 484 S.E.2d 909, 910 (1996).

“A statute that creates a lack of uniformity in the State's educational financing system is subject to strict scrutiny, and this discrimination will be upheld only if necessary to further a compelling state interest.” Syl. Pt. 10, *Kanawha Cnty. Pub.*

Libr. Bd. v. Bd. of Educ. of Cnty. of Kanawha, 231 W. Va. 386, 745 S.E.2d 424, 427 (2013).

These cases showcase a longstanding, time-tested Constitutional promise made to West Virginia's children – that the state will invest in their education, that the promise of an adequate education is held in the highest regard our Constitution permits, and that any failure to make good on that promise will result in the strictest judicial review. As this Court has previously summarized, West Virginia's deep-seated commitment to education arose from the historical neglect of West Virginia's children under the Virginian government, stemming from the fact that, "[t]he framers of our Constitution lived among the ruins of a system that virtually ignored public education and its significance to a free people." *Randolph Cnty. Bd. of Educ. v. Adams*, 196 W. Va. 9, 15, 467 S.E.2d 150, 156 (1995).

The right to a thorough and efficient education is not intangible or theoretical, it carries with it all the necessary attendant rights to make such an education a reality. The right to an education carries with it the right to an education that is funded, to the materials necessary to receive an education, to a safe school environment, to transportation that permits school access, and to high-quality educational standards. See *Vandevender v. Cassell*, 158 W. Va. 87, 87, 208 S.E.2d 436, 436–37 (1974); *Phillip Leon M. v. Greenbrier Cnty. Bd. of Educ.*, 199 W. Va. 400, 401, 484 S.E.2d 909, 910 (1996); *Pauley v. Bailey*, 174 W. Va. 167, 168–69, 324 S.E.2d 128, 129 (1984).

The *Pauley* Court, in reaching its determination concerning the primacy of the right to an education in West Virginia, reviewed the unique reverence placed upon our system of free schools:

A "Sketch of the Erection and Formation of the State of West Virginia from the Territory of Virginia," a prefix to 1 W.Va., was included in our first Reporter, "in order that the events therein recorded may not pass from the memory, and at the same time to provide some accessible memoranda, useful to the lawyer in his practice and convenient for reference by all." (1 W.Va. Preface)

The "sketch" at pages 72-73, during discussion about our 1863 Constitution, has these comments: "But the feature of the instrument that demonstrates most clearly the spirit of enlightened patriotism and enlarged sense of genuine interest in the cause of humanity,

was the liberal provision for the establishment of a system of free schools.”

Our basic law makes education's funding second in priority only to payment of the State debt, and ahead of every other State function. Our Constitution manifests, throughout, the people's clear mandate to the Legislature, that public education is a Prime function of our State government. We must not allow that command to be unheeded.

Pauley v. Kelly, 162 W. Va. 672, 718–19, 255 S.E.2d 859, 883–84 (1979). Within this robust judicial history, the right of West Virginia’s schoolchildren to a thorough and efficient education is incontrovertible.

C. Respondents Have a Clear Legal Duty, Which They Have Willfully Ignored.

The legal duty of the Respondents to develop, fund, deliver, and manage a thorough and efficient system of public schools is equally well established. It has been held that “[t]he Thorough and Efficient Clause contained in Article XII, Section 1 of the West Virginia Constitution requires the Legislature to develop a high quality State-wide education system.” Syl. Pt. 5, *Pauley v. Kelly*, 162 W. Va. 672, 672, 255 S.E.2d 859, 861 (1979). In *Pauley v. Bailey* this Court held that “[t]he West Virginia Board of Education and the State Superintendent of Schools... have a duty to ensure the complete executive delivery and maintenance of a “thorough and efficient system of free schools” in West Virginia as that system is embodied in A Master Plan for Public Education...” Syl. Pt. 1, in part, *Pauley v. Bailey*, 174 W. Va. 167, 168–69, 324 S.E.2d 128, 129 (1984).

There is a distinct state duty to adequately fund public schools. This Court held that “[b]ecause of public education's constitutionally preferred status in this State, expenditures for public education cannot be reduced under W.Va. Code, 5A-2-23, in the absence of a compelling factual record to demonstrate the necessity therefor.” Syl. Pt. 2, *State ex rel. Bd. of Ed., Kanawha Cnty. v. Rockefeller*, 167 W. Va. 72, 72, 281 S.E.2d 131, 132 (1981). The Court has held that “a thorough and efficient system of free schools is of paramount importance in a free society and that neither the Legislature nor the executive branch of government may perform any act which would

result in the elimination of this safeguard.” *State ex rel. Brotherton v. Blankenship*, 157 W. Va. 100, 125, 207 S.E.2d 421, 436 (1973). This Court has previously identified, while analyzing prison conditions, that expense cannot be a grounds on which a constitutional right is denied, stating “[c]ourts have regarded economics as a significant concern for the effective management of jails and prisons, but the cost of protecting a constitutional right cannot justify its total denial.” *Facility Rev. Panel v. Holden*, 177 W. Va. 703, 709, 356 S.E.2d 457, 463 (1987) (internal citation omitted).

Respondents are each agencies or public officials involved in the administration of this duty.¹⁰ Despite their concurrent roles in the operation of West Virginia’s school systems, the ultimate duty to create and maintain adequate systems falls on the Legislature, with the *Recht* Opinion articulating that “[w]ithout deprecating the role of the county boards of education, their function must be viewed strictly within the constitutional requirement that the Legislature must provide for a thorough and efficient system of education.” (emphasis in original). *Recht* Opinion at 6, *Appendix* 12.

D. Petitioner’s Right to A Thorough and Efficient Education is Denied by Respondents’ Dereliction of Duty.

There can be no meaningful denial of Petitioner’s right to a thorough and efficient education, or Respondents’ obligation to provide it. The question before this Court is whether the education currently afforded to West Virginia’s students meets the standard required by the West Virginia Constitution, and whether the methods of funding that education are permissible pursuant

¹⁰ This Court previously declared many of the Respondents necessary parties in *Pauley v. Kelly*, holding that “[t]he Constitution mandates legislative responsibility for a State-wide thorough and efficient school system. The trial court should, upon remand, require the suit to be amended to include the Speaker of the House of Delegates and the President of the Senate of West Virginia as defendants.” This Court also held that “the State Tax Commissioner, the Lincoln County Superintendent, its School Board, its Assessor and County Court” are all “charged with mandatory roles under this State’s educational statutes” and are therefore essential parties. *Pauley v. Kelly*, 162 W. Va. 672, 718, 255 S.E.2d 859, 883 (1979).

to the State's equal protection principles. While such a question would often result in protracted reviews by experts, what is before this Court is not a borderline case – no matter the standard, the measure, the funding expectation, or the desired academic outcome, the education afforded to West Virginia's students is, as was the case in *Pauley*, “woefully inadequate.” Not only does West Virginia's current education system fail to meet the Respondents' own metrics for success, it also falls short of a number of standards already declared unconstitutionally deficient nearly fifty years ago.

The adequacy measures established by W. Va. Code § 18-2E-5 showcase widespread academic shortfalls on both school and district levels. Despite the exceedingly low standards required to achieve full accreditation, in 2025, nine counties were not fully accredited. W. VA. DEP'T OF EDUC., *Data Dashboard*. In addition to the nine counties that were not approved, an additional six counties were identified as having unacceptably low English or math achievement without year-over-year improvement. *Id.* Even by this already inadequate yardstick, more than a significant portion of West Virginia counties fail to meet the State's standards, a clear indicator of systemic inadequacy.

Given that states develop their own definition of proficiency, results cannot readily be compared across states. To adjust for these differences, NCES administers the National Assessment of Educational Progress (“NAEP”), known as the “Nation's Report Card.” This instrument tests students across the fifty states and District of Columbia on a variety of subjects to create a common measure to allow comparison between states. In every subject and grade for which 2024 state results are available, West Virginia ranks at or near the bottom. In 2024, West Virginia placed 46th in fourth-grade mathematics, 49th in fourth-grade reading, 49th in eighth-grade reading, and 50th in eighth grade mathematics. U.S. DEP'T OF EDUC., NAT'L CTR. FOR EDUC. STAT., *NAEP State*

Profiles, West Virginia: State Comparisons (2024 Mathematics and Reading Assessments). The pattern holds through high school. In the most recent year for which data is available, West Virginia scored the lowest of the tested states in both reading and mathematics. U.S. DEP'T OF EDUC., NAT'L CTR. FOR EDUC. STAT., *NAEP State Profiles, West Virginia: State Comparisons* (2013 Grade 12 Mathematics and Reading Assessments). It is clear that West Virginia's students are falling measurably behind their peers across the country.

Despite the collection and presentation of multiple metrics of systemic failure, including the independently commissioned RAND report, Respondents have continually chosen not to act as their duty requires. While this Court has held that, "[m]andamus will not issue to compel a party to perform an act which he has already begun to do, and it is apparent that he will in good faith perform" such is not the case in the present action. Syl. Pt. 2, *State ex rel. Hall v. County Court of Mercer County*, 100 W.Va. 11, 129 S.E. 712 (1925). To the contrary, the actions of the Respondents evidence the critical need for this Court's intervention. State Board President Paul Hardesty said as much: "[t]he boat's getting ready to hit the rocks and I can't make anyone in two of the branches of government to understand that. Therefore, it might rely on the third to get some clarity to the situation, just like it did 40 years ago." Speaking of the funding situation, he declared, "It's got to be dealt with." Brad McElhinny, *State Education Officials Sound Alarm About School Funding and Closures*, W. Va. MetroNews (June 24, 2026). West Virginia decision makers have neglected to provide a thorough and efficient education to students, despite warnings that they were failing to uphold their constitutional duty.

E. The Inadequate Education Provided to Petitioner, and Other Children, is the Result of Insufficient State Funding.

Recht identified four core features of a system of education that must be reviewed when determining its adequacy: (a) curriculum; (b) personnel; (c) materials and equipment; and (d)

facilities. *Recht* Opinion at 150, *Appendix* 156. The court described how systemic failures across these areas don't occur independently of one another, stating that,

“[s]ince each of these elements have a symbiotic relationship, if there are any deficiencies in any one of the four components, the entire system is adversely affected. Thus, with this recognition and finding that the evidence was clear and convincing that the financial support for at least two of these elements is so inferior in many counties throughout the state, the entire educational system is destroyed.”

Id. The diverse and far-reaching nature of current educational inadequacy in the State reflects this same harm and stems from the persistent underfunding of West Virginia's schools.

Despite remedial education being a constitutionally mandated aspect of school curriculum for which funding must be awarded, no such funding is allocated within the present funding formula. As a result, school districts must rely on the availability of local funds, placing students in counties with lower levels of property wealth at a distinct disadvantage. In 2024-25, WVDE reported that thirty-six counties employed a remedial specialist. W. VA. DEP'T OF EDUC. *Average Contracted Salaries 2024-25*, *Appendix* 358-79. Nine of the ten counties with the highest property wealth were reported as employing a remedial specialist, while only six of the ten counties with the lowest property wealth per pupil employed someone in that role. *Id.* While Lincoln County employed a remedial specialist, only one such position was identified for the entire county. The same pattern is seen with respect to pupil/teacher ratios. Given that schools must rely on local funds to employ staff in excess of PSSP staffing allocations, the ability of districts to meet the specific needs of their schools and their students is limited by the funding available to them. While schools in wealthier districts can hire additional educators or staff if doing so would improve student academic success, that is simply not an option for a county like Lincoln, which already spends significant local funds on over-formula salaries.

West Virginia as a whole experiences widespread academic insufficiency, and Lincoln County ranks among the bottom of counties in both reading and math proficiency. W. VA. DEP'T

OF EDUC., WVEIS, 2024-25 Balanced Scorecard Data, *Appendix* 261. Among the ten counties with the lowest rates of math proficiency, a group that includes Lincoln, counties received an average \$12,848 in per pupil combined state and local revenue. In contrast, among the counties with the highest rates of math proficiency, counties received an average \$15,244 in state and local revenue. This is not surprising: more funding allows schools to better meet the needs of pupils, and in West Virginia's current funding system, per pupil property wealth results in greater available funds for educational services.

A system which predicates necessary student supports, services, and resources on the availability of local revenue will inevitably leave a county like Lincoln to fall behind. This is the same structural flaw identified in the *Recht* Opinion, when the court held that

“so that there can be no misunderstanding, this Court finds that... the inadequate school systems in Lincoln County, specifically and the State of West Virginia, generally, are products of the current school financing system. To that extent, while certain portions of the school funding formula may be constitutionally proper, the system taken as a whole violates both the Thorough and Efficient and Equal Protection clauses of the West Virginia Constitution. There are so many pervasive problems with the entire funding system, that the small portion of the formula and system that attempts to achieve [parity] throughout the state, are insufficient to salvage the entire scheme.”

Recht Opinion at 149, *Appendix* 155. The court went on to rule that “[t]he inadequacies and inequalities in educational offerings... are directly related to differences in the level of educational expenditures in counties in West Virginia. It is impossible to offer high quality programs without sufficient staff, facilities and materials and equipment, and that these can only be provided if adequate resources are available.” *Id.* at 188, *Appendix* 194.

The constitutional promise of a thorough and efficient system of free schools did not guarantee a bottom of the barrel, bare minimum education. This Court defined our constitutional promise, stating that, “[w]e may now define a thorough and efficient system of schools: It develops, as best the state of education expertise allows, the minds, bodies and social morality of

its charges to prepare them for useful and happy occupations, recreation and citizenship, and does so economically.” *Pauley v. Kelly*, 162 W. Va. at 705, 255 S.E.2d at 877 (1979). If Respondents truly believe that a system that leaves more than half of students lacking proficiency in the core subjects of math and reading, a system that consistently underperforms nearly every other education system in the nation, is the “best the state of education expertise allows” then the State of West Virginia has entirely abandoned a belief in our children’s ability to succeed. West Virginia’s Constitution does not permit resigned cynicism by those entrusted to maintain our civic systems, and it does not allow for a constitutional right to be abandoned simply because it involves the investment of resources. To the contrary, this Court has made clear that the spending necessary to achieve constitutionally compliant education systems is “second in priority only to payment of the State debt, and ahead of every other State function.” *Id.* at 719, 255 S.E.2d at 884.

The obligation to fund a thorough and efficient education system is placed upon the Legislature, and the burden of effectuating such a system is the function of the Executive Branch. There can be no assignment of responsibility to parties, including county boards of education, schools, administration, or teachers, that relieves the Legislature and the Executive Branches of their constitutional obligation in this regard. *Recht* Opinion at 6, *Appendix* 12. Lincoln County Schools have continued to operate to the best of their ability as the funding provided to them allows, in spite of structural disadvantages that minimize funding, increase cost, and leave the County without sufficient resources. While the county’s role in the operation of schools is critically important, responsibility for statewide funding structures does not fall upon their shoulders: when West Virginia’s system of school financing is not adequate, the responsibility for repairing it lies primarily upon the Legislature. Petitioner respectfully requests that this Court compel Respondents to engage in such repair.

F. Inequity in Education Funding Between Counties Violates Equal Protection Principles.

The current funding of West Virginia schools violates the Equal Protection clause codified within the West Virginia Constitution at Article III, Sections 10 and 17. This Court has previously ruled that “[b]ecause education is a fundamental, constitutional right in this State, under our Equal Protection Clause any discriminatory classification found in the State's educational financing system cannot stand unless the State can demonstrate some compelling State interest to justify the unequal classification.” Syl. Pt. 4, *Pauley v. Kelly*, 162 W. Va. 672, 672, 255 S.E.2d 859, 861 (1979). Similarly, systems that “create[] a lack of uniformity in the educational financing system” violate equal protection, and are therefore unconstitutional and unenforceable. *See* Syl. Pt. 12, *Kanawha Cnty. Pub. Libr. Bd. v. Bd. of Educ. of Cnty. of Kanawha*, 231 W. Va. 386, 745 S.E.2d 424, 427–28 (2013).

Constitutionally unacceptable allocation of education funding was reviewed within the *Recht* Opinion, at which time the court held that

“given the vast disparity of property wealth in West Virginia, given the finding that property wealth is the sole basis upon which two of the denominators of a high quality educational system are formed, then the conclusion is inescapable that the absence of a thorough and efficient system of education in West Virginia is directly related to property wealth, and the failure of the Legislature to provide a sufficient financial base to assure that each child in West Virginia is the recipient of a high quality system of education.”

Recht Opinion at 150-51, *Appendix* 156-7. The court had previously described the “vast disparity” underlying this violation, noting that in 1979-80, there existed a difference of \$999 between the counties receiving the most and least state and local revenue. *Recht* Opinion at 187, *Appendix* 193. In 2026 dollars, that gap would be the equivalent of approximately \$4,025. In West Virginia’s modern funding structure, the difference between the county receiving the most state and local funding and the county receiving the least is a difference of \$14,382, over three times the inequity

seen at the time of *Recht*. Much like *Recht*, present funding differences are caused by local property wealth; the average per pupil state and local revenue received by the ten property-poorest counties was \$12,422 while the counties with the highest levels of property wealth had an average revenue of \$17,960. NCES ELSI Table Generator, *State and Local Revenue, Appendix 338-41*; See W. Va. Dep't of Educ., *2022-23 Local Share Calculations, Appendix 328-337*.

In a room of fifty-five children, equally optimistic and equally capable, does the Constitution permit the State to choose, without account to actual cost or need, which child receives a \$22,500 per year investment in their education and which receives \$12,158? May one child with disabilities receive \$16 per year for their necessary special education services while another receives \$675, without such difference being based on their specialized need? Would the Constitution permit policy makers to arbitrarily assign which county is funded sufficiently to achieve 60% proficiency while another must be contented with only 30% of its students able to read proficiently? The facts before this Court ask the same question: can a child's education rely on random assignment of resources, untethered to actual need or statewide equity? The Constitution says that it cannot.

VI. CONCLUSION

This Court previously revisited the goals of West Virginia's framers and found that "[i]n stating that "[t]he Legislature shall provide, by general law, for a thorough and efficient system of free schools," the framers sought to avoid children growing up staring at unscalable walls built by decades of underfunded schools." *Randolph Cnty. Bd. of Educ. v. Adams*, 196 W. Va. 9, 15 n.5, 467 S.E.2d 150, 156 (1995). Today, West Virginia's children are surrounded by unscalable walls, ever closing-in, limiting the view of the boundless, optimistic futures made available by an adequate education. Those unscalable walls have become such a fixture in West Virginia, that at times it

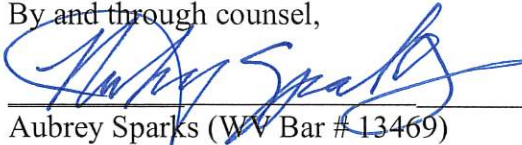
seems we have collectively forgotten that their presence is a constitutional aberration. The walls that stand between the State's children and whatever futures they dream for themselves can be taken down, and the West Virginia Constitution places the burden on the State to undertake those efforts.

Petitioner therefore respectfully requests that this Court:

- (a) Order Respondents to show why this Court should not order that present education funding in West Virginia is insufficient and inequitable in violation of Article XII Section 1 and Article III Sections 10 and 17 of the West Virginia Constitution, and that necessary amendments to the school funding system be made;
- (b) Issue a writ of mandamus declaring that,
 - i. The named Respondents have failed to comply with their mandatory, non-discretionary duty to maintain a constitutionally adequate system of thorough and efficient public schools, in violation of Article XII, Section 1;
 - ii. Legislative Respondents have failed to comply with their mandatory, non-discretionary duty to adequately fund the State's public schools in violation of Article XII Section 1;
 - iii. The system of school funding created, maintained, and operated by the Respondents creates an unconstitutional lack of uniformity in school financing in violation of Article III Sections 10 and 17;
 - iv. Compel Respondents to comply with their constitutional obligations described herein;
 - v. Award attorney fees and costs; and
 - vi. Grant other such relief as the Court deems just and proper.

Should this Court decline to exercise its original jurisdiction, Petitioner respectfully requests that the refusal be without prejudice.

Respectfully submitted,
By and through counsel,



Aubrey Sparks (WV Bar # 13469)

Robb Livingood (WV Bar # 11974)

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Docket No. _____

STATE OF WEST VIRGINIA EX REL.
A.A., by and through LAKIN PATTEN,
her natural parent,

Petitioner,

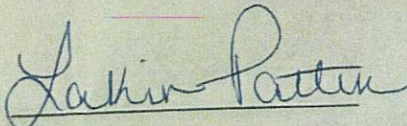
v.

ROGER HANSHAW, Speaker of the West Virginia House of Delegates; RANDY SMITH, President of the West Virginia Senate; MARK HUNT, State Auditor; MATTHEW IRBY, Tax Commissioner; LARRY PACK, State Treasurer; WEST VIRGINIA DEPARTMENT OF EDUCATION; WEST VIRGINIA SCHOOL BUILDING AUTHORITY; MICHELE BLATT, State Superintendent; WEST VIRGINIA STATE BOARD OF EDUCATION; L. PAUL HARDESTY, President State Board of Education; VICTOR L. GABRIEL, Vice-President State Board of Education; F. SCOTT ROTRUCK, Secretary State Board of Education; NANCY J. WHITE, Financial Officer State Board of Education; ROBERT W. DUNLEVY, Member State Board of Education; CHRISTOPHER A. STANSBURY, Member State Board of Education; GREGORY F. WOOTEN, Member State Board of Education; CATHY L. C. JUSTICE, Member State Board of Education; JAMES D. PAUL, Member State Board of Education; LINCOLN COUNTY BOARD OF EDUCATION; JEREMY WILSON, Member Lincoln County Board of Education; DANIEL CARTWRIGHT, Member Lincoln County Board of Education; ROBERT MOSTELLER, Member Lincoln County Board of Education; STEVE GAINES, Member Lincoln County Board of Education; FRANK BARNETT, Superintendent of Lincoln County Schools; LINCOLN COUNTY COMMISSION; PHOEBE HARLESS, Lincoln County Commissioner; KIM BLAIR, Lincoln County Commissioner; JOSH STOWERS, Lincoln County Commissioner; and ANGEL BARCLAY, Lincoln County Assessor.

Respondents.

VERIFICATION

I, LAKIN PATTEN, Petitioner in the above-captioned matter, being duly sworn, state and affirm that the facts and allegations contained therein are true, except so far as they are therein stated to be on information or belief, and, insofar as they are therein stated to be on the basis of information or belief, I believe them to be true.



Lakin Patten

September 24, 2026