

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

DAVID P. BICHELL, TERRY JO)	Case No. 20-0242-II
BICHELL, LISA MINGRONE, CLAUDIA)	
RUSSELL, INEZ WILLIAMS, ELISE)	Hon. Anne C. Martin
McINTOSH, APRYLE YOUNG, and)	Hon. Tammy M. Harrington
CRYSTAL BOEHM,)	Hon. William C. Cole
)	
Plaintiffs,)	
)	
vs.)	SECOND AMENDED COMPLAINT
)	
BILL LEE, in his official capacity as)	
Governor of the State of Tennessee;)	
ROBERT EBY, in his official capacity as)	
Chair of the Tennessee State Board of)	
Education; DARRELL COBBINS, in his)	
official capacity as Vice Chair of the)	
Tennessee State Board of Education;)	
KRISSI McINTURFF, in her official)	
capacity as Member of the Tennessee State)	
Board of Education; JORDAN)	
MOLLENHOUR, in his official capacity as)	
Member of the Tennessee State Board of)	
Education; WARREN WELLS, in his)	
official capacity as Member of the)	
Tennessee State Board of Education; RYAN)	
HOLT, in his official capacity as Member of)	
the Tennessee State Board of Education;)	
DR. INA MAXWELL, in her official)	
capacity as Member of the Tennessee State)	
Board of Education; MARSHA JOHNSON,)	
in her official capacity as Member of the)	
Tennessee State Board of Education;)	
LARRY JENSEN, in his official capacity as)	
Member of the Tennessee State Board of)	
Education; TENNESSEE DEPARTMENT)	
OF EDUCATION; and LIZZETTE)	
REYNOLDS, in her official capacity as)	

Education Commissioner for the Tennessee)
Department of Education,)
)
Defendants,)
)
– and –)
)
NATU BAH, et al.,)
)
Intervenor-Defendants,)
)
_____)

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I. NATURE OF THE ACTION

1. This complaint contends that the Tennessee Education Savings Account Pilot Program (“Targeted Voucher Law”), T.C.A. § 49-6-2601, *et seq.*, as passed in 2019 and as amended in 2023, violates the Tennessee Constitution by diverting taxpayer funds to private schools and reducing funding essential for Tennessee’s public schools.

2. The Targeted Voucher Law applies to students zoned to attend schools in Shelby County, Davidson County, and Hamilton County.

3. As originally enacted, the Targeted Voucher Law diverted critically needed funding appropriated for public schools in Shelby and Davidson Counties. In 2023, the Targeted Voucher Law was expanded to include Hamilton County and thus began diverting funding from public schools in that county as well.

4. For the 2022-2023 school year, Targeted Voucher Law funds were diverted from the funds allocated pursuant to the Basic Education Program (“BEP”), the State’s then-operative school funding statute. During the 2023-2024 school year and thereafter, the Targeted Voucher Law has diverted funds from those allocated pursuant to the Tennessee Invest in Student Achievement Act (“TISA”), the State’s current school funding statute.

5. This diversion of public education funding to private education under the Targeted Voucher Law violates the Education Clause of the Tennessee Constitution, which guarantees all public school students an adequate education. The Targeted Voucher Law reduces funding and resources for public schools in violation of the constitutional guarantee of an adequate education.

6. The Targeted Voucher Law also violates the Equal Protection Clause of the Tennessee Constitution, by creating funding and resource inequities for public school students in different districts and inequities in tax burdens between taxpayers in different districts.

7. Additionally, the Targeted Voucher Law diverts taxpayer dollars to private schools in violation of the Education Clause's mandate that the State provide K-12 education through a system of public schools. The private schools and private education providers funded by this law are outside the State's public school system and are not required to adhere to the same academic, accountability, governance, and non-discrimination requirements as public schools. Diverting public funding to private schools that do not accept all students nor provide students with the same education and civil rights protections as public schools violates Tennessee's Constitution.

8. Finally, the Targeted Voucher Law was passed during the 2019 legislative session, but it did not receive an appropriation for its estimated first year of operating expenses. This directly violates the "Appropriation of Public Moneys" provision of the Tennessee Constitution and related state law.

II. JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over this action pursuant to T.C.A. § 16-11-101, *et seq.*, as well as T.C.A. § § 1-3-121, 29-1-101 and 29-14-101, *et seq.*, and Tenn. R. Civ. P. 65.

10. This Court has personal jurisdiction over Defendants pursuant to T.C.A. § § 20-2-222 and 20-2-223 on the grounds that their principal place of business is in

Tennessee and that the wrongful conduct and resulting injuries alleged herein substantially occurred in Tennessee.

11. Venue is proper in this judicial district pursuant to T.C.A. § 20-4-101(a) because the cause of action arose in Davidson County. Additionally, the office of the Commissioner of Education is located in Davidson County.

III. PARTIES

12. Plaintiffs David P. Bichell and Terry Jo Bichell are residents of Davidson County, Tennessee. The Bichells own property and pay state and local taxes in Davidson County, including property taxes. At the time of filing, the Bichells had one child enrolled in Metro Nashville Public Schools, an eleventh grader classified as a student with disabilities who received special education and related services.

13. Plaintiff Lisa Mingrone owns property in Davidson County and pays property taxes.

14. Plaintiff Claudia Russell is a resident of Davidson County, Tennessee. She is a retired public school administrator for Metro Nashville Public Schools, and she periodically returns to the district in a temporary position to fill in for administrators who are on leave. Dr. Russell has spent her entire career working in Metro Nashville Public Schools. She began her career as a teacher, then became an assistant principal, then a principal. She has worked in various schools in the district. Dr. Russell owns property and pays state and local taxes in Davidson County, including property taxes.

15. Plaintiff Inez Williams is a resident of Davidson County, Tennessee. Ms. Williams pays state and local taxes in Davidson County, including car registration and renewal taxes.

16. Plaintiff Elise McIntosh is a resident of Shelby County, Tennessee. She is a parent with a minor child currently enrolled in Shelby County Schools. Her child is classified as a student with disabilities who receives special education or other services or accommodations in school. Her child also identifies as LGBTQ+. Ms. McIntosh pays state and local taxes in Shelby County, including car registration and renewal taxes.

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

18. Plaintiff Crystal Boehm is a resident of Hamilton County, Tennessee. She is a parent of two children enrolled in Hamilton County Schools. Mrs. Boehm owns property and pays state and local taxes in Hamilton County, including property taxes.

19. Defendant Bill Lee is the Governor of the State of Tennessee and has a legal obligation to enforce the Constitution and laws of this State. Governor Lee is vested under Article III, § § 1 and 10 of the Tennessee Constitution with “Supreme Executive power” and the duty to ensure that “the laws be faithfully executed.” As the chief executive officer for the State of Tennessee, Governor Lee has responsibility for ensuring that school districts have adequate resources to provide all children with a public education that meets the requirements of the Tennessee Constitution and state laws and regulations. Governor Lee has an office located at State Capitol, First Floor, 600 Charlotte Avenue, Nashville,

Tennessee 37243. Service on Governor Lee may be perfected by delivering a copy of the summons and complaint to the Attorney General or at his State office.

20. Defendants Robert Eby, Darrell Cobbins, Krissi McInturff, Jordan Mollenhour, Warren Wells, Ryan Holt, Dr. Ina Maxwell, Marsha Johnson, and Larry Jensen are members of the State Board of Education (“State Board”) and are statutorily charged with overseeing Tennessee’s system of public schools, including academic standards and policies, organization and structure of public schools, licensure of teachers, and distribution of public funds among public schools. T.C.A. § 49-1-302. The Targeted Voucher Law authorizes the State Board of Education to promulgate rules to implement the purposes of the law. T.C.A. § 49-6-2610. In November 2019, the State Board approved rules to implement the Targeted Voucher Law. Tenn. Comp. R. & Regs. § 0520-01-16. These Defendants are being sued in their official capacities. The Tennessee Board of Education’s office is located at 500 James Robertson Parkway, Fifth Floor, Nashville, Tennessee 37243. Service on these Defendants may be perfected by delivering a copy of the summons and complaint to the Attorney General or at their State offices.

21. Defendant Tennessee Department of Education (TDOE) is the State Education Agency in Tennessee and, together with the State Board and the State Education Commissioner, is responsible for overseeing the state system of public schools. T.C.A. § 49-1-201, *et seq.* Under the Targeted Voucher Law, the TDOE is responsible for the administration and implementation of the voucher program. T.C.A. § 49-6-2604. The TDOE is located at 710 James Robertson Parkway, Nashville, Tennessee 37243. Service on

the Department may be perfected by delivering a copy of the summons and complaint to the Attorney General.

22. Defendant Lizette Reynolds is the State Education Commissioner. In her official capacity, she is responsible for the implementation of laws and policies established by the General Assembly and the State Board. T.C.A. § 49-1-201(a). Commissioner Reynolds oversees the State system of public schools, administers the TDOE, and is responsible for implementing and administering the Targeted Voucher Law. *Id.*; T.C.A. § 49-6-2604. Defendant Reynolds is being sued in her official capacity and has an office at 710 James Robertson Parkway, Nashville, Tennessee 37243. Service on Commissioner Reynolds may be perfected by delivering a copy of the summons and complaint to the Attorney General or at her State office.

IV. RELEVANT LAW

A. Tennessee Constitution's Education and Equal Protection Guarantees

23. The Tennessee Constitution guarantees all children in the State the opportunity to obtain an education in Tennessee's "system of free public schools."

24. Article XI, § 12, of the Tennessee Constitution, the Education Clause, provides in relevant part:

The state of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly may establish and support such post-secondary educational institutions, including public institutions of higher learning, as it determines.

25. The Tennessee Constitution also guarantees equal protection under the law.

Article I, § 8, states:

That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land.

Article XI, § 8, provides, in relevant part:

The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunitie[s], or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law.

26. Pursuant to the guarantees of the Education and Equal Protection Clauses of the Tennessee Constitution, the Tennessee Supreme Court has recognized the State’s “obligation to maintain and support a system of free public schools that affords substantially equal educational opportunities to all students” throughout the State. *Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 140-41 (Tenn. 1993) (“*Small Sch. Sys. P*”).

27. The Tennessee Supreme Court has further recognized that the Tennessee Constitution imposes on the State the affirmative obligation to provide an adequate education to all children in Tennessee’s public school system. *Id.* at 150-51.

28. The Tennessee Constitution thus requires the State to provide a system of public schools that affords all children in districts across Tennessee a substantially equal opportunity for an adequate education.

29. The Tennessee Constitution mandates the State fulfill this duty through maintaining and supporting “a system of free public schools.” The Constitution does not

provide for the State to maintain and support any schools other than the system of public schools.

B. School Funding Statutes

30. The Tennessee Supreme Court has also found that the BEP was designed and enacted by the General Assembly to address “both constitutional mandates imposed upon the State – the obligation to maintain and support a system of free public schools and the obligation that that system afford substantially equal educational opportunities.” *Tenn. Small Sch. Sys. v. McWherter*, 894 S.W.2d 734, 738 (Tenn. 1995) (“*Small Sch. Sys. II*”). The BEP served as the state’s school funding formula through the 2022-2023 school year.

31. In 2022, Tennessee enacted TISA to replace the BEP as the statutory formula that determines the amount and distribution of funding to maintain and support the State’s system of free public schools. T.C.A. § 49-3-101, *et seq.* Like the BEP, TISA was enacted purportedly to provide the necessary funding for public schools. T.C.A. § 49-3-103(a).

32. TISA provides a base amount of per-pupil funding, then adjusts the base amount by adding weights corresponding to several factors, including economically disadvantaged students, students living in areas of concentrated poverty, students attending charter schools, students living in sparsely populated areas, and students with unique needs. T.C.A. § 49-3-105.

33. The total amount calculated under TISA that a school district receives consists of a state share, allocated to the district from state funds, and a local share, which must be raised from local revenue sources. T.C.A. § 49-3-109.

C. Tennessee Constitution’s Appropriation of Public Moneys Provision and Related Law

34. The “Appropriation of Public Moneys” provision of the Tennessee Constitution requires the General Assembly to appropriate the estimated first year’s funding for every law passed during a legislative session.

35. Article II, § 24, of the Tennessee Constitution provides in relevant part that:

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year’s funding.

36. Article II, § 24, of the Tennessee Constitution also provides: “No public money shall be expended except pursuant to appropriations made by law.”

37. Additionally, under Tennessee law, “[n]o money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law.” T.C.A. § 9-4-601(a)(1).

V. FACTUAL ALLEGATIONS

A. Enactment of the Targeted Voucher Law

38. During the 2019 session, the Tennessee Legislature enacted the Targeted Voucher Law, T.C.A. § 49-6-2601, *et seq*, creating an education savings account voucher program. On May 24, 2019, Governor Lee signed the bill into law.

39. The Targeted Voucher Law originally established a voucher program exclusively in Shelby and Davidson Counties. It diverted taxpayer funds that were appropriated to maintain and support Shelby County Schools and Metro Nashville Public Schools to private schools and other private education expenses. Under the Targeted Voucher Law, BEP funds (in 2022-2023) and TISA funds (in 2023-2024 and thereafter)

otherwise payable to Shelby County Schools and Metro Nashville Public Schools are deposited into an Education Savings Account (“ESA”) for each participating voucher student. T.C.A. § 49-6-2605(a)-(b)(1).

40. In 2023, the Targeted Voucher Law expanded to include Hamilton County. T.C.A. § 49-6-2602(3)(c); Tenn. Comp. R. & Regs. 0520-01-16-.06.

41. Under the Targeted Voucher Law, a student is eligible for the voucher program if the student:

- (A) (i) Was previously enrolled in and attended a Tennessee public school for one (1) full school year immediately preceding the school year for which the student receives an education savings account; [or]
- (ii) Is eligible for the first time to enroll in a Tennessee school; [or]
- (iii) Received an education savings account in the previous school year;

* * *

- (B) Is a student in any of the grades kindergarten through twelve (K-12); [and]
- (C) (i) Is zoned to attend a school in an LEA, excluding the achievement school district (ASD) with five (5) or more schools:
 - (a) Identified as priority schools in 2015, as defined by the state’s accountability system pursuant to § 49-1-602;
 - (b) Among the bottom ten percent (10%) of schools, as identified by the department in 2017 in accordance with § 49-1-602(b)(3);
 - (c) Identified as priority schools in 2018, as defined by the state’s accountability system pursuant to § 49-1-602; and
 - (d) Identified as priority schools in 2021, as defined by the state’s accountability system pursuant to § 49-1-602; or

- (ii) Is zoned to attend a school that is in the ASD on May 24, 2019;
and
- (D) is a member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch[.]

T.C.A. § 49-6-2602(3).

42. The Targeted Voucher Law allows up to 5,000 vouchers in its first year of operation; 7,500 vouchers in its second year; 10,000 vouchers in its third year; 12,500 vouchers in its fourth year; and 15,000 vouchers in and beyond the program’s fifth year.

T.C.A. § 49-6-2604(c). The 2025-2026 school year is the targeted voucher program’s fourth year of operation.

B. The Targeted Voucher Law Diverts Public Education Funds to Private Schools

1. The Targeted Voucher Law Diverts an Amount Equal to Both the State and Local Shares of Per-Pupil Funding from Public Schools that Lose Students to the Voucher Program

43. The Targeted Voucher Law mandates that for every pupil enrolled in the voucher program an amount representing both the state *and* local shares of an LEA’s per-pupil TISA allocation – up to the combined statewide average of state and local per-pupil TISA allocations – “must be subtracted from the *state* TISA funds otherwise payable to the LEA.” T.C.A. § 49-6-2605(a)-(b)(1) (emphases added).

44. For every student enrolled in public school, the State provides only the state share of the TISA amount. The local share comes from the county’s local revenue sources. When a student leaves a district for reasons unrelated to a voucher, *e.g.*, if that student moves

out of district or attends a private school without a voucher, the district only loses the state share.

45. However, when a student leaves Shelby County Schools, Metro Nashville Public Schools, or Hamilton County Schools to use a voucher, the districts lose, out of their state allocation, an amount representing the state *and* local shares of TISA for that student.

46. For the 2025-2026 school year, the voucher amount was \$9800.38 per pupil in Shelby and Davidson Counties and \$9772.47 in Hamilton County.¹ So, for each voucher student, Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools lose those amounts in state funding.

47. For the 2025-2026 school year, Davidson County's total state share of TISA is \$358,605,636.94.² The average daily membership, the student count used to determine the per-pupil state share, is 82,050.26.³ So, the average per-pupil state contribution is an estimated \$4,370.56.

48. When a student disenrolls for a reason other than taking a voucher, Metro Nashville Public Schools loses an estimated \$4,370.56 in state funds. When a student leaves to use a private school voucher, the LEA loses more than twice that amount of state funding, or \$9,800.38.

¹ Tennessee Department of Education, *Education Savings Account Program* (last accessed Nov. 10, 2025), available at: <https://www.tn.gov/education/esa.html>.

² *FY2025-26 TISA Final Allocations* (last accessed Nov. 10, 2025), available at: <https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/2025-sbe-meetings/august-15%2C-2025-sbe-meeting/8-15-25%20II%20C%20FY%202025-26%20TISA%20Allocations%20Attachment.pdf>.

³ *Id.*

49. For the 2025-2026 school year, Shelby County Schools' total state share of TISA is \$883,913,846.58.⁴ The average daily membership to determine the per-pupil state share was 110,138.40.⁵ So, the average per-pupil state contribution is an estimated \$8,025.48. When a student leaves Shelby County Schools for a reason other than taking a voucher, Shelby County Schools loses an estimated \$8,025.48 in state funds. When a student leaves to use a private school voucher, the LEA loses significantly more than that amount of state funding, or \$9,800.38.

50. For the 2025-2026 school year, Hamilton County Schools' total state share of TISA is \$285,266,855.31.⁶ The average daily membership to determine the per-pupil state share is 45,191.44.⁷ So, the average per-pupil state contribution is an estimated \$6,312.41. Thus, when a student leaves Hamilton County Schools for a reason other than participating in the voucher program, Hamilton County Schools loses an estimated \$6,312.41 in state funds. When a student leaves to use a private school voucher, the LEA loses over 1.5 times that amount, or \$9,772.47.

51. These LEAs must also raise local funds from taxpayers as if voucher students were still being educated by the district. The Targeted Voucher Law requires LEAs to continue to count students who leave the district to use a voucher as being enrolled in the district. *See* T.C.A. § 49-6-2605(b)(1). Requiring that the districts count voucher students as

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

enrolled increases the amount of money the districts must raise from local tax dollars in order to satisfy statutory “maintenance of effort” requirements.

2. The Targeted Voucher Law Diverts Tens of Millions of Dollars from Already Under-Resourced Public Schools

52. The General Assembly’s persistent failure to provide adequate funding to maintain and support Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools is well documented. For example, a 2024 report found major deficiencies in the State’s funding of its public school system: a funding level approximately \$4,000 per pupil below the national average and 43rd in the nation, and low funding effort as compared to state GDP.⁸ For at least a decade, this annual report has consistently found Tennessee’s public school funding level to be among the lowest in the nation.⁹ In fact, the State’s own reports show that BEP funding was inadequate.¹⁰

53. The State’s enactment of TISA to replace the BEP was purportedly aimed at addressing this problem. However, the State failed to conduct any assessment of the cost of an adequate education prior to enacting TISA. Thus, there is no evidence that either the

⁸ Danielle Farrie & Robert Kim, *Making the Grade: How fair is school funding in your state?* (last accessed Nov. 10, 2025), Education Law Center (2024), available at: <https://edlawcenter.org/wp-content/uploads/2024/12/Making-the-Grade-2024.pdf>.

⁹ Bruce D. Baker, et al, *Is School Funding Fair? A National Report Card*, Education Law Center (Jan. 2014) (last accessed Nov. 10, 2025), available at: https://edlawcenter.org/assets/files/pdfs/publications/National_Report_Card_2014.pdf.

¹⁰ Tennessee Advisory Commission on Intergovernmental Relations, *K-12 Public Education Funding and Services* (Jan. 2020) (last accessed Nov. 10, 2025), available at: https://www.tn.gov/content/dam/tn/tacir/2020publications/2020_K12Financing.pdf; Tennessee State Board of Education, *Basic Education Program Review Committee 2021 Annual Report*, available at: https://www.tn.gov/content/dam/tn/stateboardofeducation/documents/bepcommitteeactivities/2021/2021%20BEP%20Report_FINAL.pdf.

TISA base amount or its student weights provide sufficient funding so that all students receive the opportunity for a constitutionally adequate education.

54. Moreover, the State’s reliance on direct certification of participation in federal assistance programs for its definition of an economically disadvantaged student under TISA likely underestimates the funding districts need to educate such students. T.C.A. § 49-3-104(10). The administrative burdens the State places on the application and renewal processes for programs like the Supplemental Nutrition Assistance Program, Women, Infants, and Children, and Temporary Assistance for Needy Families impede an accurate count of how many students should qualify for an additional allocation under TISA based on economic disadvantage.¹¹ Thus, the number of students eligible for additional TISA funding through the economically disadvantaged weight in the formula is less than the actual number of economically disadvantaged students who require additional educational services to access an adequate education.¹² Thus, TISA does not adequately fund districts to serve all economically disadvantaged students.

55. In fact, the State’s own reports on TISA implementation reveal that TISA fails to adequately account for, and provide funding for, the basic costs of educating all students generally, and it especially fails to account for the costs of educating high-need students. For example, according to the 2025 TDOE TISA annual report, a majority of school district

¹¹ See, e.g., Nashville Public Education Foundation, *How TISA Affects MNPS* (last accessed Nov. 10, 2025), available at: <https://nashvillepef.org/wp-content/uploads/2022/04/How-TISA-Affects-MNPS.pdf> (“Onerous application process: On top of federal requirements, Tennessee requires families to regularly submit additional paperwork justifying their eligibility, an arduous process that deters many eligible applicants.”).

¹² *Id.*

leaders surveyed considered TISA’s base funding amount inadequate for their districts, and almost half found that TISA provided them inadequate funding for literacy support.¹³ District leaders also reported that TISA funding was inadequate to meet the State’s minimum teacher salary goals.¹⁴

56. Moreover, the annual report found that the year-to-year increase in TISA funding is not responsive to cost drivers. District leaders reported being most concerned with adequacy of funding for capital improvements, the rising cost of transportation, and the growing demand for mental health services – costs not considered in TISA’s yearly increase.¹⁵

57. TISA also fails to account for the varying costs of educating students across geographic locations. For instance, TISA does not reflect that there exists variation in local wages across LEAs. In addition, while the BEP included grants intended to supplement district budgets where the cost of living is higher than the state average, TISA currently lacks such grants.¹⁶ The General Assembly has not appropriated any funds to date to account for geographic cost of living differences.

¹³ Tennessee Department of Education, *2023-24 Tennessee Investment in Student Achievement Annual Report*, at 7-8, *supra*.

¹⁴ *Id.* at 13.

¹⁵ *Id.* at 8, 13-14.

¹⁶ Alison Pams, et al., Tennessee Comptroller of the Treasury Office of Research and Education Accountability, *Tennessee Investment in Student Achievement: First-Year Implementation*, at 29 (Feb. 2025) (last accessed Nov. 10, 2025), available at: <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2025/TISAFullReport.pdf> (“Districts located in a county in which the cost of living is greater than the statewide average are eligible for a cost differential factor (CDF) grant The General Assembly did not appropriate funding for CDF grants in FY 2023-24 or FY 2024-25.”).

58. Upon information and belief, TISA funding fails to provide Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools with resources necessary to provide an adequate education – including sufficient teachers, guidance counselors, nurses, interventions for high-need students, facilities maintenance, and capital improvement.

59. The tens of millions of dollars that have been diverted from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools under the Targeted Voucher Law exacerbates the underfunding of these districts.

60. Upon information and belief, the Targeted Voucher Law has required Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to make further reductions to resources essential to providing a constitutionally adequate education to their students.

61. The Targeted Voucher Law’s school improvement fund could never remedy this diversion of necessary funds from public schools.

62. The Targeted Voucher Law authorizes grants for Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools from a “school improvement fund” for up to three years. T.C.A. § 49-6-2605(b)(2). These grants are expressly subject to an appropriation of funds by the General Assembly each year. *Id.* Now that the targeted voucher program has entered its fourth year of operation, the State is no longer required to provide grants via the school improvement fund. T.C.A. § 49-6-2605(b)(2)(A).

63. The Targeted Voucher Law restricts the use of these grants, if appropriated, to “school improvement” only. Thus, these grants, even if available, cannot be used for general

operating funds and consequently will not replace the state funds diverted from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools under the Targeted Voucher Law.

64. Even if the General Assembly fully funded these “school improvement grants,” the grants would not compensate Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools for the loss of TISA funds for each student who uses a voucher. The grants equal only the amount of money diverted to targeted voucher accounts for students who “[w]ere enrolled in and attended a school in the LEA for the one (1) full school year immediately preceding the school year in which the student began participating in the program.” T.C.A. § 49-6-2605(b)(2)(A)(i). This does not include students who are “eligible for the first time to enroll in a Tennessee school” – for example, those entering kindergarten – who are also eligible for the voucher program. T.C.A. § 49-6-2602(3)(A)(ii).

65. In addition to the initial loss of TISA funds by Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools, the Targeted Voucher Law provides that, when a targeted voucher account is closed for any number of reasons, the remaining funds are returned to the State’s TISA account rather than returned to Shelby County Schools, Metro Nashville Public Schools, or Hamilton County Schools. T.C.A. § 49-6-2603(e); § 49-6-2608(e). Even when a voucher student returns to Shelby County Schools, Metro Nashville Public Schools, or Hamilton County Schools and the district resumes full responsibility for, and the cost of, educating that student, the funds remaining in the student’s targeted voucher account are returned to the State and not to the district. T.C.A. § 49-6-2603(e).

3. Additional Factors Exacerbate the Fiscal Impacts of the Targeted Voucher Law

66. School districts must pay fixed costs to operate their schools, regardless of decline in enrollment due to the Targeted Voucher Law, furthering financial harm to public schools. Districts bear substantial fixed costs, including facilities repair and maintenance, teacher and staff pensions, debt service, and long-term contracts. Because participants in the targeted voucher program will exit public schools from different schools, grade levels, and classrooms, the districts will be unable to reduce these fixed costs proportionate to the enrollment loss. Moreover, because students will leave the districts from different classrooms, grades, and schools, the districts will likewise not be able to proportionately reduce even variable costs, such as staff, programs, and services.

67. Thus, the districts will be unable to rely on supposed reduced costs to cover the loss of TISA funds under the Targeted Voucher Law.

68. Additionally, as set forth below, the Targeted Voucher Law permits private schools participating in the targeted voucher program to deny enrollment to students with higher needs, including students with disabilities, whose public school districts are required to provide additional supports and services under state and federal law. As a result, the Targeted Voucher Law will likely increase the concentration of higher need, more costly-to-educate students in public schools, which are already left with less money available for these students' support and growth.

C. Academic and Accountability Requirements Differ for Schools Participating in the Targeted Voucher Program and Public Schools

1. Participating Private Schools Under the Targeted Voucher Law Need Not Comply with Significant Requirements that Apply to Public Schools

69. A student participating in the targeted voucher program may use the TISA funds deposited into a voucher account for tuition in a private school and also for many other private education expenses: private school fees and textbooks; tutors and/or tutoring facilities; transportation to and from a private school or educational provider; early postsecondary opportunity courses or examinations for college admissions; computer hardware, technological devices, or other technology fees; uniforms; summer education programs and certain afterschool programs; tuition, textbooks and fees at certain postsecondary institutions; educational therapy services; and voucher account management fees. T.C.A. § 49-6-2603(4).

70. The Targeted Voucher Law provides that only students attending a “participating school” can receive voucher funding. Participating schools are defined as those that meet the requirements established by the TDOE and the State Board of Education for Category I, II, or III private schools. T.C.A. § 49-6-2602(9).

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

72. State Board regulations require that Category I schools employ only teachers who have an active Tennessee educator license; but this is not true for Category II and Category III private schools. Tenn. Comp. R. & Regs. § 0520-07-02-.04.

73. The State Board regulations governing approval of accrediting organizations for Category II private schools include criteria for topics such as curriculum and graduation, teacher licensure and evaluation, and testing. Tenn. Comp. R. & Regs. § 0520-07-02-.03(4)(c)(8). The regulations for Category III private schools require only regional accreditation, reporting of basic student information to the student's public school district of residence, and a minimum age for students entering kindergarten. Tenn. Comp. R. & Regs. § 0520-07-02-.04. The criteria used by regional accrediting agencies varies.

74. In contrast to public schools, the Targeted Voucher Law requires participating private schools to administer state tests in only two subjects, Math and English Language Arts. T.C.A. § 49-6-2606(a)(1). Unlike public school students, targeted voucher students need not be given a state test in Social Studies or Science.

75. The Targeted Voucher Law does not require all participating private schools to comply with the governance and accountability mandates of state laws that apply to the public schools.

D. The Targeted Voucher Law Explicitly Lacks the Anti-Discrimination and Civil Rights Protections Guaranteed to Public School Students

76. Upon information and belief, many Tennessee private schools limit admission and continued enrollment based on religion, sexual orientation, gender identity, disability, and/or other student or family characteristics protected from discrimination in public schools.

77. For example, Evangelical Christian School in Shelby County, a Category II and III private school, will only admit students with “one parent professing Christ as Savior.”¹⁷

78. Briarcrest Christian School in Shelby County, a Category II and III private school: (i) immediately expels any student who is pregnant; (ii) expels students for engaging in “inappropriate sexual behavior (including but not limited to premarital sexual relations, homosexual, bisexuality or transgender related actions)”; and (iii) may “decline to tour, process an application, extend an offer to enroll or continue the enrollment of any . . . student” if such student or their parent “is or appears to be failing to conform their actions or statements to biblical principles.”¹⁸ Briarcrest states that actions not in conformity with biblical principles include: abortion, “[h]eterosexual, homosexual or alternate gender identity,” and disrespect of faculty or staff, among others.¹⁹

79. Christ the King School, a Category III private school in Davidson County, states that the school “may not accept for enrollment or continue enrollment for applicants whose special needs, including, but not limited to, emotional, behavioral, or educational needs, in the considered judgment by the School, cannot be met with reasonable accommodations by the School,” and that “[t]he admission, instruction, and retention of

¹⁷ Evangelical Christian School, “How to Apply” (last accessed Nov. 10, 2025), available at: <https://www.ecseagles.com/admissions/apply>.

¹⁸ Briarcrest Christian School, “2025-2026 High School Parent/Student Handbook,” at 33, 36 (last accessed Nov. 10, 2025), available at: <https://resources.finalseite.net/images/v1753112936/briarcrestcom/o8po35vnlzjkszlspdh/HSSStudentParentHandbook.pdf>.

¹⁹ Briarcrest Christian School, “Biblical Principles” (last accessed Nov. 10, 2025), available at: <https://www.briarcrest.com/admissions/student-and-family-policies/biblical-principles>.

students with disabilities, students with special needs, and students who are English Language Learners cannot be guaranteed.”²⁰

80. Holy Rosary Academy, a Category III private school in Davidson County, states that all admissions are subject to approval of students’ academic, behavioral, standardized test, and attendance records, in addition to whether the student is an active member of the parish.²¹

81. Brainerd Baptist School, a Category III private school in Hamilton County, states that, regarding admission, “[a]ll students must be capable of functioning in a traditional classroom environment.”²²

82. The Targeted Voucher Law requires participating private schools to certify that they will not discriminate against voucher students or applicants on the basis of race, color, or national origin, but has no other antidiscrimination provisions. T.C.A. § 49-6-2607(e)(2).

83. The Targeted Voucher Law explicitly states that accepting voucher money will not require any participating private school to change its creed, practices, admissions policies, or curriculum. T.C.A. § 49-6-2609(c).

84. The Targeted Voucher Law expressly permits participating private schools to deny special education programs and services to students with disabilities. The Targeted

²⁰ Christ the King School, *Parent and Student Handbook 2025-2026*, at 9 (last accessed Nov. 10, 2025), available at: https://cdns5-ss11.sharpschool.com/UserFiles/Servers/Server_610718/File/2025-2026%20Student%20Handbook.pdf.

²¹ Holy Rosary Academy, *Admissions Overview* (last accessed Nov. 10, 2025), available at: <https://www.holyrosary.edu/admissions-overview>.

²² Brainerd Baptist School, *Brainerd Baptist School Student Handbook*, at 5 (last accessed Nov. 10, 2025), available at: <https://drive.google.com/file/d/1FJa62yeEvQdT-utfK6dlhICRlSkOseVj/view>.

Voucher Law states that voucher program participation “has the same effect as a parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act.” T.C.A. § 49-6-2603(a)(3). This means targeted voucher students have the much more limited special education rights that private school students do, as compared to public school students.

85. The Targeted Voucher Law diverts TISA funds appropriated by the General Assembly away from Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to pay tuition, fees, and other expenses for private schools that are not required to serve all students.

86. The Targeted Voucher Law allows participating private schools that receive public taxpayer dollars to refuse admission to and discriminate against students based on disability status, religious beliefs, language proficiency, lack of financial means, gender identity, sexual orientation, or other factors.

87. Public schools are prohibited by law from refusing admission to or discriminating against students or families based on any of these characteristics or factors.

88. The Targeted Voucher Law does not require participating private schools to afford students protections against bullying, intimidation, and harassment that public schools must provide under state law. T.C.A. § 49-6-4501, *et seq.*

E. The Targeted Voucher Law Was Passed Without an Appropriation for the Estimated First Year’s Funding in the Session in Which It Was Enacted

89. The General Assembly did not make an appropriation for the estimated first year’s funding of the Targeted Voucher Law during the session in which it was enacted.

90. Despite the absence of an appropriation for the estimated funding of the Targeted Voucher Law in fiscal year 2019, Defendant TDOE entered into a \$2.5 million contract in November 2019 with ClassWallet, a private, for-profit company based in Florida. Under this contract, ClassWallet was to oversee online application and payment systems for the voucher program. ClassWallet began work under this contract in November 2019.

91. TDOE paid ClassWallet approximately \$1.2 million in 2019 for performance under this contract, despite the fact that no money was appropriated for the first year of the Targeted Voucher Law. According to testimony by TDOE's deputy commissioner before the General Assembly's Joint Government Operations Committee on January 27, 2020, TDOE diverted funds appropriated by the General Assembly for the unrelated "Career Ladder" program for public school teachers to pay ClassWallet for services performed to implement the Targeted Voucher Law.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of the Education and Equal Protection Clauses of the Tennessee Constitution)

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

93. Plaintiffs hereby incorporate paragraphs 1-33, and 38-68 as if fully set forth herein.

94. Under the Tennessee Constitution, the State of Tennessee, through the General Assembly, must maintain and support a system of public schools that provides adequate and substantially equal educational opportunities to all children residing in the State. Tenn. Const., art. I, § 8; art. XI, § § 8, 12; *Small Sch. Sys. I*, 851 S.W.2d at 139; *Small Sch. Sys. II*,

894 S.W.2d at 734; *Tenn. Small Sch. Sys. v. McWherter* (“*Small Sch. Sys. III*”), 91 S.W.3d 232 (Tenn. 2002).

95. In the *Small School Systems* rulings, the Tennessee Supreme Court invalidated the State’s previous school funding system because it deprived public school students in certain LEAs of substantially equal educational opportunities. *Small Sch. Sys. I*, 851 S.W.2d at 156.

96. The current funding provided by the General Assembly through the TISA statute is inadequate to enable Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools to provide the teachers, support staff, and other resources necessary to afford all students an adequate education.

97. The diversion of state TISA funds under the Targeted Voucher Law further deprives Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools of the funding required to provide their students with a constitutionally mandated adequate education.

98. The Targeted Voucher Law also deprives students in these counties of a substantially equal educational opportunity by diverting an amount equal to the state and local share of TISA funding from their public schools for every voucher participant, leaving the districts with fewer state funds than when students leave other school districts for reasons other than using the targeted voucher.

99. Moreover, by diverting an amount representing the state and local TISA allocation out of state funds for every student who takes a voucher in Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools – but in no other

counties – the Targeted Voucher Law imposes an unequal burden on taxpayers in those counties because it forces them to make up for the diversion of state funds in order to maintain even the same level of school funding. Additionally, only in those counties, the Targeted Voucher Law forces taxpayers to maintain local revenue levels for voucher students who have left the district. Thus, the Targeted Voucher Law violates the equal protection rights of those taxpayers.

100. The school improvement grants, even if allocated, do not make up for the loss of state funding.

101. Therefore, the Targeted Voucher Law violates the Equal Protection and Education Clauses of the Tennessee Constitution, Article I, § 8; Article XI, § § 8, 12, for students in Shelby County Schools, Metro Nashville Public Schools, and Hamilton County Schools, and violates the Equal Protection rights of taxpayers in those districts.

SECOND CAUSE OF ACTION

(Violation of the Requirement of a Single System of Public Schools Mandated by the Education Clause of the Tennessee Constitution)

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

103. Plaintiffs hereby incorporate paragraphs 1-33 and 38-91 as if fully set forth herein.

104. The Tennessee Constitution’s Education Clause, Article XI, § 12, requires the General Assembly to provide for the maintenance, support and eligibility standards of “*a system* of free *public* schools” (emphases added). The Tennessee Constitution does not permit the General Assembly to maintain and support schools outside the system of free public schools.

105. The Targeted Voucher Law diverts TISA funds appropriated by the General Assembly to maintain and support Tennessee public schools to instead pay for tuition and other expenses in private schools that do not comply with the requirements of a single system of public schools.

106. The private schools authorized by the Targeted Voucher Law to participate in the voucher program are not – and cannot, by the express terms of the Law – be part of the State of Tennessee’s system of free public schools.

107. Under the Targeted Voucher Law, participating private schools are not required to comply with the same academic and eligibility standards required by State law for Tennessee’s system of free public schools.

108. Under the Targeted Voucher Law, participating private schools are expressly exempt from the legal obligations to enroll and educate all students that apply to Tennessee’s system of free public schools. The participating private schools can deny enrollment or otherwise discriminate against students based on characteristics such as disability, religion, English proficiency, LGBTQ+ status, and ability to pay tuition or fees.

109. Under the Targeted Voucher Law, participating private schools are not required to provide services that public schools are obligated under state and federal law to provide to students, including special education services for students with disabilities.

110. Under the Targeted Voucher Law, participating private schools are not subject to the requirements imposed by state law on public schools to protect students from harassment, intimidation, or bullying.

111. Under the Targeted Voucher Law, participating private schools are not required to comply with the same governance and accountability mandates of state law that apply to Tennessee’s system of free public schools.

112. The Targeted Voucher Law violates the General Assembly’s obligation in Article XI, § 12 of the Tennessee Constitution to maintain and support “*a system*” of “free *public* schools” (emphases added).

THIRD CAUSE OF ACTION

(Violation of the Appropriation of Public Moneys Provisions of the Tennessee Constitution and T.C.A. § 9-4-601)

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

114. Plaintiffs hereby incorporate paragraphs 1-22, 34-42, and 92-94 as if fully set forth herein.

115. Article II, § 24, of the Tennessee Constitution provides:

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year’s funding.

116. Article II, § 24, of the Tennessee Constitution also provides: “No public money shall be expended except pursuant to appropriations made by law.”

117. By statute, “[n]o money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law.” T.C.A. § 9-4-601(a)(1).

118. The Targeted Voucher Law was enacted by the General Assembly in its 2019 legislative session.

119. During the 2019 legislative session, the General Assembly did not make an appropriation for the estimated first year’s funding of the Targeted Voucher Law.

120. In November 2019, Defendant TDOE signed a \$2.5 million contract with a private for-profit company, ClassWallet, to undertake the administration of the Targeted Voucher Law. ClassWallet began work under the contract in November 2019.

121. TDOE diverted public funds from an unrelated, existing State program supporting public school teachers to instead pay ClassWallet \$1.2 million in 2019 for its work on the voucher program.

122. TDOE's expenditures for the ClassWallet contract, or any other expenditures for the administration and implementation of the Targeted Voucher Law in 2019, without appropriation for the estimated first year's funding of the Targeted Voucher Law, render the Targeted Voucher Law null and void under Article II, § 24, of the Tennessee Constitution and violate T.C.A. § 9-4-601.

VII. DECLARATORY AND INJUNCTIVE RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants on each Count of the Complaint and pray for the following relief:

A. That the Court enter a judgment declaring that the Targeted Voucher Law violates the Tennessee Constitution's provisions on Education, Equal Protection, and Appropriation of Public Moneys, and T.C.A. § 9-4-601;

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

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

DATED: December 2, 2025

ROBBINS GELLER RUDMAN

& DOWD LLP

CHRISTOPHER M. WOOD, BPR No. 032977

s/ Christopher M. Wood

CHRISTOPHER M. WOOD

200 31st Avenue North
Nashville, TN 37203
Telephone: 615/244-2203
615/252-3798 (fax)
cwood@rgrdlaw.com

ACLU FOUNDATION OF TENNESSEE
STELLA YARBROUGH, BPR No. 033637
LUCAS CAMERON-VAUGHN, BPR No. 036284
P.O. Box 120160
Nashville, TN 37212
Telephone: 615/320-7142
615/691-7219 (fax)
syarbrough@aclu-tn.org
lucas@aclu-tn.org

SOUTHERN POVERTY LAW CENTER
SOPHIA MIRE HILL
SAM BOYD (*pro hac vice* forthcoming)
150 East Ponce De Leon Avenue, Suite 340
Decatur, GA 30030
Telephone: 504/457-1553
sophia.mire@splcenter.org
sam.boyd@splcenter.org

EDUCATION LAW CENTER
WENDY LECKER (admitted *pro hac vice*)
JESSICA LEVIN (admitted *pro hac vice*)
PATRICK CREMIN (*pro hac vice* forthcoming)
60 Park Place, Suite 300
Newark, NJ 07102
Telephone: 973/624-1815
973/624-7339 (fax)
wlecker@edlawcenter.org
jlevin@edlawcenter.org
pcremin@edlawcenter.org

SOUTHERN EDUCATION FOUNDATION
CAMILLE PENDLEY HAU (admitted *pro hac vice*)
101 Marietta Street, N.W., Suite 1650
ATLANTA, GA 30303
Telephone: 404/523-0001
cpendleyhau@southerneducation.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served via electronic mail to the following on this 2nd day of December, 2025:

Jessica S. Berk
Acting Assistant Attorney General
General Litigation Division
Stephanie A. Bergmeyer
Virginia Nicole Adamson
Shannon M. Hoffert
Office of Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
jessica.berk@ag.tn.gov
stephanie.bergmeyer@ag.tn.gov
jenna.adamson@ag.tn.gov
shannon.hoffert@ag.tn.gov

Robert Wilson
Office of the Tennessee Attorney General
40 South Main Street, Suite 1014
Memphis, TN 38103
robert.wilson@ag.tn.gov

Allison L. Bussell
Melissa Roberge
Assistant Metropolitan Attorneys
Metro Department of Law
108 Metro Courthouse
P.O. Box 196300
Nashville, TN 37219
allison.bussell@nashville.gov
melissa.roberge@nashville.gov

Marlinee C. Iverson
E. Lee Whitwell
Shelby County Attorney's Office
160 North Main Street, Suite 950
Memphis, TN 38103
marlinee.iverson@shelbycountyttn.gov
lee.whitwell@shelbycountyttn.gov

Stella Yarbrough
Lucas Cameron-Vaughn
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
syarbrough@aclu-tn.org
lucas@aclu-tn.org

Sophia Mire Hill
Sam Boyd
Southern Poverty Law Center
150 East Ponce De Leon Avenue
Suite 340
Decatur, GA 30030
sophia.mire@splcenter.org
sam.boyd@splcenter.org

Camille Pendley Hau
Southern Education Foundation
101 Marietta Street, N.W.
Suite 1650
Atlanta, GA 30303
cpendleyhau@southerneducation.org

Wendy Lecker
Jessica Levin
Patrick Cremin
Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102
wlecker@edlawcenter.org
jlevin@edlawcenter.org
pcremin@edlawcenter.org

Attorneys for Plaintiffs

Arif Panju
Institute for Justice
816 Congress Avenue, Suite 960
Austin, TX 78701
apanju@ij.org

David Hodges
Keith Neely
Institute for Justice
901 N. Glebe Road, Suite 900
Arlington, VA 22203
dhodges@ij.org
kneely@ij.org

Cameron M. Watson
Spicer Rudstrom, PLLC
6060 Primacy Parkway, Suite 401
Memphis, TN 38119
cwatson@spicerfirm.com

Dean McGee
Liberty Justice Center
7500 Rialto Boulevard, Suite 1-250
Austin, TX 78735
dmcgee@libertyjusticecenter.org

Justin D. Owen
Wencong Fa
Beacon Center of Tennessee
1200 Clinton Street, Suite 205
Nashville, TN 37203
justin@beacontn.org
wen@beacontn.org

Attorneys for Defendants

Bryan Cleveland
EdChoice Legal Advocates
111 Monument Circle, Suite 2650
bcleveland@edchoice.org

s/ Christopher M. Wood
CHRISTOPHER M. WOOD