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CASE NUMBER: S-25-0136

IN THE SUPREME COURT, STATE OF WYOMING

THE STATE OF WYOMING,

Appellant
(Defendant)

v.

WYOMING EDUCATION
ASSOCIATION,
a Wyoming Nonprofit Membership
Corporation,

Appellee
(Plaintiff),

and

ALBANY COUNTY SCHOOL
DISTRICT NUMBER ONE; CAMPBELL
COUNTY SCHOOL DISTRICT
NUMBER ONE; CARBON COUNTY
SCHOOL DISTRICT NUMBER ONE;
LARAMIE COUNTY SCHOOL
DISTRICT NUMBER ONE; LINCOLN
COUNTY SCHOOL DISTRICT
NUMBER ONE; SWEETWATER
COUNTY SCHOOL DISTRICT
NUMBER ONE; SWEETWATER
COUNTY SCHOOL DISTRICT
NUMBER TWO; and UINTA COUNTY
SCHOOL DISTRICT NUMBER ONE,

Appellees
(Intervening Plaintiffs).

S-25-0136

SCHOOL DISTRICTS' BRIEF

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STATEMENT OF JURISDICTION

The District Court's Findings of Fact, Conclusions of Law, and Order ("Final Order") is a final appealable order under W.R.A.P. 1.05 because it affects a substantial right, determines the merits of the case, and resolves all outstanding issues. Previous orders, including the Order on Burden of Proof, are subsumed into and preserved for the Court's review in the Final Order. The State's notice of appeal was timely perfected; therefore, the Court has jurisdiction under Article 5, Section 2 of the Wyoming Constitution.

STATEMENT OF THE ISSUES

This appeal presents a single dispositive constitutional question that requires affirmance:

Did the District Court correctly declare that Wyoming's public school financing system violates the fundamental right to education guaranteed by the Wyoming Constitution, due to the legislature's systemic failure to adequately fund the cost of education?

The State's attempt to fragment this constitutional violation cannot obscure the comprehensive nature of its breach. After fifty years of judicial guidance, beginning with *Hinkle* and continuing through the *Campbell* cases, the Court has established clear constitutional requirements. Yet, the legislature continues to violate its paramount duty by not maintaining a cost-based funding system, failing to adjust for inflation, underfunding personnel costs, refusing to fund necessary educational components for modern instruction, and failing to ensure equal and adequate facilities. The District Court recognized that these interconnected failures constitute a systemic violation of Wyoming students' constitutional right to education, a violation that has harmed students and demands immediate remedy.

STATEMENT OF THE CASE

I. Nature of the Case

The nature of this case concerns the constitutionality of Wyoming's public-school financing system. It is not a challenge to any statute.

Pursuant to the Wyoming Uniform Declaratory Judgement Act, Wyo. Stat. Ann. §§ 1-37-101 *et seq.*, the Wyoming Education Association (WEA) and the eight intervening Plaintiff School Districts (School Districts) successfully sought a declaration from the District Court that the Wyoming Legislature's derisory funding of public schools is unconstitutional. They asserted that the Wyoming Legislature had violated the Wyoming Constitution for several distinct reasons.

II. Course of Proceedings

On August 22, 2022, the WEA filed its Complaint. R. at 1-71. The WEA raised several constitutional violations, including, *inter alia*, that the State failed to properly adjust for the effects of inflation through the External Cost Adjustment (ECA) as well as failed to update the funding model to reflect actual, current costs, including updated salaries, necessary to provide adequate funding for a quality education appropriate for the times as mandated by the Wyoming Constitution.

Then, on May 2, 2023, the School Districts filed their Unopposed Motion to Intervene, which was granted soon thereafter. R. at 278-314. Accordingly, the School Districts filed their Complaint for Declaratory Judgment alleging constitutional violations similar to those of the WEA. R. at 318-336. Because of the State's constitutional violations, the School Districts

requested that the District Court retain jurisdiction until the State provided a constitutionally compliant school finance system for operations and capital construction. R. at 334.

Of note, on July 31, 2023, the District Court entered its Order on Burden of Proof, in response to a motion filed by the State. R. at 471-479. In this order, the District Court ruled in pertinent part that the WEA and the School Districts had “the burden of producing evidence and going forward to establish the facts showing any alleged constitutional violations [and they would] also have the burden of persuasion as to any disputed issues of fact regarding the existence of a constitutional violation.” R. at 474. The District Court further addressed controlling case law:

This case presents a new challenge to the constitutionality of the quality of the public education being provided as it exists now . . . Whether the challenge to legislative action or inaction is based on disparities in funding, disparities in the quality of the education being provided, or the general inadequacy of the quality of the education being provided because of a lack of funding, strict scrutiny must be applied to any proven harm to or disparity in the fundamental right to education.

R. at 477-478 (internal citations, quotations & footnote omitted.)

The District Court went on to observe:

The *Campbell IV* Court confirmed that the legislature must provide an education system of a character which provides Wyoming Students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually and provide a thorough and uniform education of a quality that is both visionary and unsurpassed, and that courts should protect against a failure of the state to fund a system capable of meeting that standard.

R. at 478. The District Court correctly concluded that it would therefore “apply strict scrutiny to proven legislative action or inaction which harms the fundamental right to a public

education regardless of whether the harm is caused by disparities or is a harm to the constitutionally required quality or level of the education being provided.” *Id.*

The case proceeded onward, and after denying the parties’ summary judgment motions, the District Court issued its Pretrial Order which clearly identified the issues for trial. R. at 5830-5831. Then, from June 3 through June 26, 2024, the District Court conducted a bench trial. The witnesses for the plaintiffs were largely comprised of the School Districts’ employees, including their superintendents, business managers, human resource directors, and curriculum and facility personnel. R. at 6482-6549. Twelve of these witnesses had been previously designated as non-retained experts who provided opinions during the trial. R. at 1114-1132. On the other side, the State’s witnesses consisted of several retained experts and various state employees from Wyoming’s Department of Education, Legislative Service Office, State Construction Department and School Facilities Division. R. at 6550-6574.

On February 26, 2025, the District Court entered its Final Order, ruling in favor of the School Districts and WEA. R. at 6436-6621. It declared that the State’s Funding Model and its system for funding school facilities are unconstitutional. R. at 6618. These constitutional infirmities have harmed the School Districts’ ability to provide the basket of quality goods and services to their students. R. at 6619. The Court concisely captured the constitutional harm:

Plaintiffs proved by a preponderance of the evidence that the State’s actions and inactions of failing to properly adjust for inflation, failing to assure school district personnel salaries are funded based upon cost, failing to maintain a cost-based funding model, failing to include and fund all essential components of a quality education, and failing to maintain and fully fund a system for assuring all school facilities are educationally suitable and adequate have each caused harm to the fundamental right to education. The State’s failures have affected Wyoming children’s right to a proper education.

R. at 6612.

The District Court ordered the State to correct these constitutional deficiencies to bring the education Funding Model into constitutional compliance. R. at 6620. It noted, “because 2025 is a recalibration year, there is an excellent window of opportunity to address these issues.” *Id.* The District Court explained that it “shall maintain jurisdiction of this case until such time as the constitutional violations have been fully remedied.” *Id.*

The State then timely perfected its notice of appeal. R. at 6652-6656.

The WEA has concurrently filed its appellate brief and School Districts join in that brief and incorporate any arguments not set forth herein.

III. Statement of Relevant Facts

After two substantive hearings on fundamental legal issues, a three- and one-half week trial, and having solicitously studied hundreds of exhibits, the District Court penned 128 pages of factual findings. These findings thoroughly and accurately describe the competent evidence supporting the District Court’s conclusions of law and ultimate decision. *See* R. at 6444-6574.¹

Notably, the State does not assert any of these factual findings are clearly erroneous, which is contrary to the Court’s direction. *Wilson v. Tyrrell*, 2011 WY 7, ¶ 38, 246 P.3d 265, 275

¹ In accordance with W.R.A.P. 3.05(a)(1) and 7.01(f), citations to the designated record are as follows without reference to volume number: “R at ____.” In accordance with W.R.A.P. 3.05(f)(2) and 12.07, citations to transcripts are as follows, which indicate the specific page number and may include the transcript volume and/or document title for ease of the Court’s reference: “Tr. Vol. _ at ____.” If there are multiple transcript volumes cited the reference will be as follows: “Tr. Vols. _ at ____.”

(Wyo. 2011) (criticizing appellants who fail to specifically identify which findings they allege are clearly erroneous, noting this forces the court to speculate about their arguments). Rather, the State asks the Court to retry the case based on a pared set of facts presented in its brief. However, much of the State’s facts rely on testimony that the District Court gave lesser weight because the State’s experts lacked credibility. R. at 6578-6579. The District Court found that the Schools and WEA, by contrast, presented “professional and very experienced public school education experts.” R. at 6613. Overall, the District Court correctly noted that “a large majority of evidence” in this case is undisputed. R. at 6578.

The facts that follow are comprehensive and provide the Court with the complete universe of evidence supporting the District Court’s Final Order. As the Court will observe, the factual record reaffirms the District Court’s conclusions concerning the State’s constitutional violations.

A. The District Court’s Factual Findings That The State Has Failed To Maintain A Constitutional Public School Finance System Are Not Clearly Erroneous.

1. Failure to Properly Adjust for the Effects of Inflation

The Funding Model

Wyoming funds its schools through a “resource cost model.” This model first identifies an outcome, then identifies what components are needed to achieve the outcome, determines how much of each component is required, and finally calculates the cost of those components. Tr. Vol. XIII at 3464. To effectuate the resource cost model, the legislature adopted a funding system referred to as the education resource block grant funding model (“Funding Model”). Tr. Vols. I at 44-45, III at 645-646, XIII at 3337. The current Funding Model is not the same funding system that the Court found constitutional in *Campbell IV*. R. at 477. As the State

acknowledges, prior to this litigation, no court “has determined . . . whether that new model, new system, new way of determining the appropriate funding is constitutional.” Tr. Hr’g Summ. J., at 14.

The Funding Model implements what the legislature adopted as defined by Wyo. Stat. Ann. § 21-13-101(a)(xiv). Each year, the Funding Model determines how much guaranteed operational funding each school district receives. Wyo. Stat. Ann. §§ 21-13-301(a)(v), 21-13-309; Tr. Vols. IX at 2203, XIII at 3336-3337. “The [Funding Model] determines the amount available to a district, but it does not determine how that funding is spent.” Ex. L7 at 044962.

The Funding Model block grant starts by assessing base resources needed to provide the educational program. These resources fall into two categories: (1) school resources (costs allocated at the school level), which includes teachers, supplies, materials, textbooks, curriculum, and all the associated staff costs; and (2) district resources (costs allocated at the district level), which includes costs to operate the administrative side of the school districts, and include such components as central office staff, utilities, accounting software, purchasing departments, and maintenance. Tr. Vol. I at 40-41; Ex. L7, pp.3-4. The individual components of the Funding Model are divided into four categories: professional labor, non-professional labor; educational materials; and energy costs. Wyo. Stat. Ann. § 21-13-101(a)(xvii); 2012 Wyo. Sess. Laws Ch. 99, Att. A.

Consultant’s Model

The State also maintains the Consultant’s Model, initially developed by Lawrence O. Picus & Associates in 2005. It includes the consultant’s recommendations for base resources in the Funding Model and its components change only during recalibration. Ex. E1, pp. 5-6;

Tr. Vol. XIII at 3338-3339, 3384. Since 2005, the Funding Model adopted by the legislature has deviated from the Consultant's Model. Ex. E1, pp. 25, 27, 47-48.

The legislature uses the Consultant's Model to monitor funding differences between it and the Funding Model. Ex. P1, Tbl. 2 at 8; Tr. Vols. I at 59, XIII at 3337. For example, beginning in school year 2018-2019, the Consultant's Model provided more funding than the Funding Model; by school year 2024-2025, the Consultant's Model would have funded \$98 million more than the Funding Model. Ex. P1, Tbl. 2 at 8.

It is important for the Court to note that the Consultant's Model has never undergone an independent review. Ironically, the only source of accuracy of the Consultant's Model is the consultants themselves. Tr. Vol. XIII at 3403-3404. Interestingly, the State did not call Dr. Picus as a witness to support the cost-basis of his Consultant's Model.

Recalibration

State law requires the Funding Model to be recalibrated at least once every five years, to determine if modifications are necessary to ensure the funding model remains cost-based considering changing conditions. Wyo. Stat. Ann. § 21-13-309(t); Tr. Vol. I at 67. In recalibration, the State's consultants review the elements of the Consultant's Model, estimate each component's cost, and recommend whether the legislature should recalibrate elements in the Funding Model. Ex. E1, p. 20. The legislature then makes the ultimate decision of whether to accept the consultants' recommendations and recalibrate the Funding Model. Tr. Vol. XIII at 3328-3330, Ex. D1, p. 5.

The State recalibrated the Funding Model in 2005, 2010, 2015, and 2020. Exs. B1-E1. Between the 2015 and 2020 recalibrations, however, the legislature hired Augenblick, Palaich

& Associates (APA) to conduct a recalibration in 2017, specifically to find lower cost alternatives to the Consultant's Model. Tr. Vols. I at 31, 69; Vol. XIII at 3357; Ex. 1196. Despite being hired to reduce costs, APA recommended \$71 million more funding than the Funding Model and \$4 million more funding than the Consultant's Model. Ex. 2144, p. 1; Tr. Vol. XIV at 3358-3359. Moreover, APA recommended increasing teacher salaries in the Funding Model. Ex. 1196, p. 50. However, even when these cost-cutting consultants concluded schools need more money, the legislature did not consider or act upon their own consultant's study. Tr. Vol. XIII at 3359.

External Cost Adjustments

External Cost Adjustments (ECAs)² are intended to be applied between recalibrations to account for the effects of inflation. Wyo. Stat. Ann. § 21-13-309(o); Tr. Vol. IX at 2262. Inflationary adjustments keep the Funding Model cost-based. *Id.* at 2150. ECAs maintain the status quo of school districts' purchasing power by adjusting base resources in the Funding Model for inflation. *Id.* at 2124. To do so, ECAs must be applied cumulatively on an annual basis. *Id.* at 2178. Without these cost adjustments, the State's own labor economist admitted that inflation can leave school districts unable to provide necessary educational resources. *Id.* at 2146.

After the 2010 recalibration, Dr. Lori Taylor, the State's expert on ECAs, recommended four separate cost indices. Each corresponds to one of the four components

² In its Final Order, the District Court provided a very helpful glossary of acronyms, which may be helpful for the Court to consult. R. at 6444-6445.

of the Funding Model: professional labor; non-professional labor; educational materials; and energy costs. Exs. P1, p. 2, U8, p. 2. These indices “remain the best available measures of inflationary pressures in Wyoming.” Ex. U8, p. 6.

“Two-thirds of educational resources in Wyoming are dedicated to professional staff such as teachers, administrators, and librarians. Another 13% of the resources are dedicated to nonprofessional staff such as secretaries, custodians, and groundskeepers. The remaining 21% of the funding model resources are dedicated to non-staff resources such as energy and educational materials.” Ex. U8, p.2. The purpose of an ECA with respect to personnel is to “maintain the ability of districts to staff their schools in the face of rising labor costs.” Tr. Vol. X at 2371. When the legislature adopts an ECA for salaries, it increases the Funding Model base salary by the ECA percentage, not the actual salaries districts pay. Tr. Vol. III at 774.

Inflation changes price level over time, and again, it is cumulative. Tr. Vol. IX at 2151-2152. Inflation works like compound interest. *Id.* at 2152. To maintain the school districts’ purchasing power, ECAs must be applied cumulatively every year because inflation compounds over time. Tr. Vol. XIII at 3367. Thus, failing to apply ECAs cumulatively results in a new adjusted base number being incorrect. Tr. Vol. IX at 2183, 2188. Inflation, however, is a lagging indicator which means school districts feel the impact of inflation immediately. *Id.* at 2180-2181. ECAs should be adopted promptly to restore districts’ purchasing power. *Id.* at 2181-2182.

Unfortunately, the State has failed to apply ECAs for every year between recalibrations. Tr. Vol. XIII at 3367. Indeed, it is undisputed that the legislature has failed to apply ECAs cumulatively to the Funding Model. Tr. Vol. IX at 2179. The legislature has also retroactively

repealed existing ECAs, removing funding that districts had anticipated and relied upon. *Id.*; Exs. 2044, P1 Tbl. 1, at 2. There are some ECAs that are time limited as they have a built-in sunset date. Tr. Vol. IX at 2262. Unfortunately, the State maintains that ECAs are a policy decision for the legislature. Tr. Vol. XIII at 3368.

Despite this failure to properly provide for an ECA, the evidence plainly provides that prices for educational materials, energy, professional staff, and non-professional staff have risen 14-67% since 2010. Ex. P1, Tbls. 7-8; Tr. Vol. IX at 2165-2166. The State's witness, Dr. Taylor, acknowledged that funding for Model Salaries for professional and non-professional staff should have increased 35% and 38% respectively to remain consistent with inflation. Tr. Vol. IX at 2189-2190, 2195-2196. Further, the School Districts' expert provided an unrefuted analysis establishing that inflation had eroded the value of revenues available for one School District, Uinta #1, over time. Ex. 2395, Tbl. 1, at 3, Fig. 1 at 4.; Tr. Vol. III at 643-644, 651.

The State argued that as of the 2010 recalibration, the Funding Model was overfunded, contending that the legislature funded education more than the Consultants' Model. Tr. Vol. IX at 2120-2121. Therefore, the State instituted a monitoring process as a proxy to "determine the appropriateness of application of an inflationary adjustment via an external cost adjustment," regardless of the independent evidence of inflation. Ex. P1, p. 1. Thus, according to the State, the legislative funding for education would remain cost-based without an inflation adjustment. Tr. Vol. IX at 2121.

The State developed this process "to monitor the model's cost-basis as it converges with the funding level." Ex. G1, p. 1. According to the State, the Consultants' Model cost estimates would gradually match the Funding Model amounts. Tr. Vol. XIII at 3369-3370.

The District Court properly rejected that theory. R. at 6582. Even assuming the monitoring process is an accurate replacement for an inflation adjustment, the Consultant's Model has required more funding than the Funding Model since 2018-2019. Ex. P1, Tbl. 2, at 5. This funding gap has persisted since 2020-2021, undermining the States's convergence theory. *Id.*

The preponderance of evidence established that the State's failure to adjust for inflation has harmed school districts and students: (1) without ECAs, School Districts have difficulty increasing salaries; (2) time limited, one-time ECAs impact the School Districts' ability to make permanent salary adjustments; (3) the misapplication of the ECA has significantly impacted School Districts' abilities to keep salaries competitive; and (4) inflation has eroded the value of all resources available. Tr. Vols. I at 82-83, II at 380-381 (describing inflationary pressures on textbooks and materials), Vol. III at 643-651 (analyzing and explaining the erosion of Uinta #1's purchasing power), 720, VIII at 1982.

2. Failure to Provide Salaries Adequate to Recruit and Retain Personnel

Competitive salaries are required to recruit quality personnel. Tr. Vols. II at 367-368, V at 1143-1144, III at 743, VIII at 1840, 1981. Accordingly, the School Districts must necessarily prioritize competitive salaries to maximize educational quality. Tr. Vols. VIII at 1846, III at 721. Yet, all eight School Districts provided unrefuted testimony about their difficulty recruiting qualified employees because of the State's lack of funding. Tr. Vols. VIII at 1835-1835, 1981, V at 1124-1125, 1128-1129, 1159, II at 403-405, III at 710-711, I at 170, 172-173, IV at 935-936, 1030.

The Funding Model base salary (Model Salary) for a certified teacher at the time of trial was \$37,540.00. Ex. 2044, p. 56. The Model Salary is adjusted for experience, education,

responsibility, and regional costs as well as for inflation, when provided (Model Weighted Salary). R. at 6448, Wyo. Stat. Ann. § 21-13-309(m)(v)(c), Tr. Vol. I at 146-148; Ex. E1, p. 77. The salary components of the Funding Model were not adjusted in the 2010, 2015, or 2020 recalibrations, meaning the Model Salary has not been adjusted since 2005, except to the extent an ECA has been applied in a cumulative manner. Tr. Vol. XIII at 3377. The Model Weighted Salary was \$53,046 in 2010-2011 and \$53,506 in 2022-23. R. at 6474, Ex. 1213, p. 4.

Teacher quality is the single most indicative factor in student achievement. Tr. Vol. III at 542, 562-563, 752-753. Yet, the undisputed evidence shows that the School Districts struggle to recruit qualified teachers, often receiving few or no suitable applicants, resulting in unfilled positions or hiring less qualified educators. Tr. Vols. VIII at 1835-1835, V at 1124-1125; II at 403-405, III at 710-711, I at 170, 172-173, VII at 1822-1823; Ex. 2148. The School Districts cannot recruit and hire a first-year teacher at the Model Salary. Tr. Vols. IV at 933, 1010, I at 219. Moreover, the School Districts have experienced a significant decline in applicants for open positions. Tr. Vols. IV at 962, V at 1124-1125, III at 712, VIII at 1835, 1862. Put plainly, all positions are difficult to fill: elementary teachers, core subject teachers (English, language arts, science, and math), special education teachers, and specialists. Tr. Vols. V at 1124-1125, 1128-1129, 1159, III at 710-711, I at 170-173, VIII at 1862; Ex. 2148. Given the limited candidate pools, the School Districts have been forced to hire teachers they would not have even interviewed in the past or had previously let go. Tr. Vols. II at 367-368, V at 1167, III at 712.

Previously, competitive salaries allowed the School Districts to successfully recruit candidates from neighboring states. Tr. Vol. III at 704-706, 708. However, now, the School

Districts struggle to recruit candidates from other states and are losing employees to competitor/neighboring states. Tr. Vols. III at 705, 708-709, 713-714, I at 189-191, VIII at 1842, IV at 935-936.

The State's own task force reinforced this evidence. In 2023, the Wyoming Department of Education (WDE) partnered with the Professional Teaching Standards Board (PTSB) to lead a Teacher Retention and Recruitment Task Force (Task Force). Ex. 2071. The Task Force conducted a Climate Survey "to better understand the challenges educators face" and "hear first-hand about the experiences of working in the Wyoming education system, with a focus on issues that are known to affect recruitment and retention." *Id* at 5. "Higher salary was both the most highly ranked priority in terms of its relative importance for keeping teachers in their current role and the most commonly selected priority at 78 percent." Tr. Vol. VI at 1445; *Id.* at 7. To attract new teachers, the Task Force recommended demonstrating that teachers are valued by increasing teacher salaries and benefits. *Id.* at 6.

Competitive market wages are also essential to recruitment and retention of classified staff. Tr. Vols. V at 1121-1122, VII at 1825, I at 213, 216. The School Districts increasingly struggle to fill classified positions, including bus drivers, bus aides, custodians, special education and other paraprofessionals, food service professionals, secretarial positions, and administrative positions. Tr. Vols. II at 409, I at 208; VIII at 1997-1998, VII at 1822-1823. As a result, the School Districts operate with high rates of open classified staff positions. Tr. Vols. V at 1115-1116, I at 197, 211, VIII at 1997, VII at 1823.

Labor Market Studies

Labor Market studies conducted by both the School Districts and State consultants demonstrated that Wyoming has lost its competitive advantage for recruiting qualified personnel. The School Districts' expert, Dr. John Williams, conducted a market analysis to address salary concerns in Uinta #1 and mitigate recruitment problems. Tr. Vol. III at 654; Exs. 2395, Tbl. 2 at 6, 2394. He found that Uinta #1 must raise wages to stay competitive, not only with local districts, but also with nearby Utah districts. *Id.* at 660-661, 666-667; Exs. 2394, 2395.

Two other School Districts hired outside consultants to conduct a market study and in each case, the consultant found that the district wages for non-professional personnel were below market, prompting the districts to raise salaries. Tr. Vols. I at 87, 212-213, V at 1117-1120; Exs. 2249, 2196. The State's expert conceded that a wage study specific to a district's geographic location is reasonable and would provide useful data for salary decisions. Tr. Vol. XII at 2877-2878.

The State's own labor market studies support the erosion of competitive salaries. Beginning in 2010, the State hired Dr. Christiana Stoddard to assist with recalibration and perform annual labor market studies as part of the monitoring process. Tr. Vol. IV at 832. In the 2010 recalibration, Dr. Stoddard concluded that Wyoming teacher wages "were very competitive and well above" the labor market conditions. Tr. Vol. XII at 2818-2820; Ex. C1, Figs. 6 and 7, pp. 257-258. However, beginning around 2017-2018, Dr. Stoddard found that the average teacher salaries funded by the Funding Model (Model Salaries) fell below the average teacher salaries in two adjoining states and continued to decline relative to the other neighboring states. Tr. Vol. IV at 893, Exs. 1104, pp. 22-23, 1213, p. 13. By 2021-22, teacher

salaries in every neighboring state, except South Dakota, were higher than the Funding Model Salaries. Ex. 1213, p. 13.

In her 2023 Labor Market Analysis, Dr. Stoddard concluded that “teaching salaries in Wyoming have remained flat over the past several years.” *Id.* She found that “Wyoming’s advantage relative to the region has fallen in half since 2018/19. Wyoming’s 2022/23 K-12 [Model Salaries] lie 3 percent below the average salary in the region.” *Id.* Teacher turnover had also worsened: “The exit rate of teachers jumped in the last two years. Exit rates for new and midcareer teachers are the highest rates recorded in Wyoming.” *Id.* The gap between actual teacher salaries and Model Salaries had nearly tripled - from six percent in 2010-11 to sixteen percent in 2022. *Id.*, p. 3; Tr. Vol. IV at 871-872.

Dr. Stoddard recognizes the relationship between teacher salaries and teacher quality, agreeing that increased salaries increase quality. Tr. Vol. IV at 837. However, Dr. Stoddard has never been asked by the legislature whether the Model Salaries are adequate to attract and retain high quality teachers. *Id.* at 849- 850. Sadly, when monitoring cost pressures on professional labor markets, Dr. Stoddard is not provided the necessary data to measure teaching quality. Ex. 2049; *Id.* at 840-842. She considers this data important and has consistently told the State her conclusions are limited by not having access to germane information. *Id.* at 839, Tr. Vol. XII at 2849.

Interestingly, Dr. Stoddard only opined on non-teacher salaries in this litigation, analyzing actual wages paid to: (1) school and central administration positions; (2) other professional staff (social workers, school psychologists, nurses, information technology personnel, and librarians); (3) supervisory aides; and (4) classified staff (secretarial and clerical

operations as well as operations and maintenance occupations). Tr. Vol. XII at 2867-2870, 2873-2874.

While Dr. Stoddard concluded wages for these non-teaching occupations are competitive, this opinion was based on actual wages paid by school districts, not Model Salaries. Tr. Vol. XII at 2857, 2877. She admits her conclusions could change if she relied upon Model Salaries. *Id.* at 2869, 2871-2872, 2874. The District Court properly gave Dr. Stoddard's testimony in this regard less weight. R. at 6579.

Rather than rely upon Dr. Stoddard to opine on professional salaries as the State has done for fourteen (14) years, the State hired Dr. Cory Koedel as an expert witness to offer opinions about teacher resources with a focus on teacher salaries in Wyoming. R. at 6555; Tr. Vol. X at 2368. Dr. Koedel limited his analysis to actual teacher salaries and did not analyze Model Salaries. R. at 6579; Tr. Vol. X at 2554. Importantly, Dr. Koedel never spoke with the School Districts about their experience recruiting and hiring teachers. R. at 6559; Tr. Vol. X at 2551. Finally, in similar analyses in other states, Dr. Koedel has always concluded that teacher salaries are adequate. R. at 6559. The District Court properly gave Dr. Koedel's testimony lesser weight. R. at 6579.

The competent evidence provided to the District Court firmly establishes that the State's failure to adequately fund professional and non-professional salaries has harmed school districts and students. R. at 6613-6614. As noted, failure to adequately fund salaries negatively impacts the School Districts' ability to recruit and retain qualified personnel, leading to fewer applications, unfilled positions, and higher turnover. Tr. Vols. V at 1143-1144, II at 473. When positions go unfilled, students suffer because positions and/or programs are eliminated,

teachers carry overloads causing safety concerns, buses are not maintained, and ultimately, student needs are not met. Tr. Vols. IV at 940-941, VII at 1826, I at 197-198, VIII at 1998 (“That isn’t a quality education whatsoever. It is minimal at best.”), V at 1122-1123.

To mitigate the impact of unfilled teacher positions, the School Districts must rely upon other options, such as long-term substitutes or alternative certifications. Tr. Vol. V at 1133-1134. For example, in 2023-2024, fifteen percent of the teaching staff in Sweetwater #1 were not fully qualified for their positions or had no qualifications because that School District could not recruit and fill positions. Tr. Vol. VIII at 1972.

Hiring teachers on alternative credentials such as Exception Authorizations (EAs) and Professional, Industry Career Permits (PICs) has increased dramatically over the past ten years. Exs. 2201, 2209, 2218, 2266, 2294, F19; Tr. Vols. I at 200, 203-204, V at 1137, 1144, II at 408-409, III at 723. This is a concerning trend, considering EAs were rarely used in the past. Tr. Vols. V at 1136, IV at 1031. In fact, applications for EAs have more than doubled since 2018. Exs. D12, 2294. The School Districts now use EAs for a broad range of courses. Tr. Vols. V at 1137, II at 409. Between 2020 and 2022, most EAs were issued for elementary education teachers, followed by elementary special education teachers. Ex. 1073; Vol. VI at 1428.

The unfortunate reality is that a teacher on an EA or PIC typically cannot provide the same high-quality instruction as a fully certified teacher and often requires supervision and additional district resources. Tr. Vols. III at 567-569, 721-722, 762, VI at 1384, V at 1136, 1138-1141, 1188-1189; Exs. 1068 at 2, 2040 at 1.

It is undeniable that a student taught by a teacher who is not highly qualified does not get the same opportunity for a quality education as a student with a highly qualified teacher.

Tr. Vol. III at 762. The School Districts are therefore not always putting quality teachers in classrooms, thereby impacting student learning. Tr. Vols. V at 1136, 1138, III at 721-722; I at 207. It should go without saying that the better the teacher the better the education.

The evidence in the record reveals a plain pattern: the State has failed to adequately adjust base Model Salaries during recalibration or consistently apply inflation adjustments between recalibrations. As a result, the School Districts cannot recruit or retain employees based on Model Salaries. Despite raising salaries above the Funding Model, the School Districts have struggled to recruit and retain highly qualified personnel and have relied upon alternative certifications or left positions unfilled, resulting in educational harm. The State's funding for professional and non-professional salaries therefore does not reflect actual costs.

3. Failure To Properly Fund The Actual Costs Of School Districts To Provide The Basket Of Quality Educational Goods And Services

To reaffirm, education in Wyoming must be cost-based. *Campbell II*, ¶¶ 89-90, 19 P.3d at 549. School districts are funded based on the Funding Model; thus, it is undisputed that the Funding Model must be cost-based. R. at 6591; Tr. Vols. IX at 2267-2268, XIII at 3337. Cost-based means determining whether the State's funding of model components equals actual cost. Tr. Vols. XIV at 3616, IX at 2268.

To be cost-based, each individual component of the Funding Model must "have a reasonable and accurate costs basis to [it]." Tr. Vol. XIII at 3465. Additionally, for the Funding Model to be cost-based, it must have sufficient funding so that all districts can provide a high-quality education. Tr. Vol. XIV at 3617-3618. To achieve a high quality, uniform education, the Funding Model must work for all districts, not just some. *Id.* at 3617. Yet, the State's school finance legislative analyst could not confirm that the Funding Model is cost-based,

acknowledging that the Funding Model is the legislature’s nebulous determination of cost. Tr. Vol. XIII at 3404-3405.

For purposes of this litigation, the State’s expert, Dr. Richard Seder, compared the current Funding Model to the MAP model used from 2005-2006. *Id.* at 3470. Based on this comparison, he resolved that legislative funding of the Funding Model is “at least cost-based.” *Id.* at 3542. But Wyoming abandoned the MAP model in 2006—nearly twenty years ago. *Id.* As the evidence plainly establishes, the MAP comparison has never been part of the monitoring or recalibration processes. *See* Exs. B1-E-1, G1-P1.

Trying to support the theory for utilizing the MAP model to assert that the Funding Model is “over funded,” Dr. Seder testified that teaching and education have not changed much in the last twenty years. Tr. Vol. XIV at 3640. However, his opinion lacks foundation. Dr. Seder has not been in a Wyoming school since 2012 and knows nothing about technology currently used in classrooms. *Id.* at 3569, 3640-3641. In fact, he admitted to conducting no research to support this opinion. *Id.* at 3644.

The State further surmises that school districts acknowledge they provide quality education through certain assurances, therefore funding must be adequate. Tr. Vol. XIII at 3524, 3529-3530, 3531-3532. But the *District Annual Accreditation Report and Assurances* (Assurances) form signed during the accreditation process, that the State relies upon, lack the substance needed to benchmark for determining quality education. Tr. Vols. VIII at 1987, XI at 2601, III at 588. Furthermore, the Assurances do not measure or guarantee teacher quality. Tr. Vol. XI at 2617.

The State presented charts comparing various categories of Wyoming's spending versus surrounding states to establish the adequacy of its funding. Exs. D10, E10, P10, R10-U10, Z10. But those charts miss the point entirely. The question is not whether Wyoming funds as much as other states. It's whether Wyoming funds enough to meet its own constitutional requirement for a quality education. When pressed on this fundamental issue, even the State's own expert, Dr. Seder, could not say that the Funding Model reflects the actual cost of education. Tr. Vol. XIII at 3541-3543.

The State acknowledges that this lawsuit seeks to determine whether the legislature's policy choices are cost-based. Tr. Vol. XIV at 3632. The School Districts presented unrefuted testimony that some Funding Model components lack a reasonable and accurate cost-basis. *See e.g.* Tr. Vols. I at 101-103 (cataloguing the inputs into the model such as technology, utilities, safety and security and student activities that are not adequately funded and identifying programs that are unfunded, such as computer science; also explaining the State's arbitrary cap on special education funding), III at 738-739 (outlining needs for Uinta #1 that are not adequately funded), II at 365, 367 (listing the courses and programs Laramie #1 can no longer offer due to the failure to fully fund the actual cost of education), II at 483-484 (describing the challenges from insufficient resources for students with behavioral and emotional needs), VIII at 2014-2016, 2017 (documenting cost savings efforts and elimination of schools and programs in Sweetwater #1); Ex. 2357; *see also* Relevant Facts Sections III.A.1, 2, and 3, *supra*, detailing the impact of the State's failure to adequately adjust funding for the effects of inflation; and documenting the inadequacy of funding for professional and non-teaching salaries; *see* Relevant Facts Section III.A. 4, *infra*, detailing the State's failure to include or

adequately fund all components of a complete and uniform, thorough and efficient, quality education.

4. Failure To Fund Elementary Mental Health Counselors, School Resource Officers, Nutrition Programs, And One-to-One Student Technology

At trial, evidence was presented concerning four components that the Funding Model does not include or fully fund: elementary mental health counselors, school resource officers, nutrition programs, and one-to-one student access to technology. R. at 6594-6609. The record firmly established that the State has failed to maintain a constitutionally compliant school finance system by not including funding for these components. R. at 6620.

Elementary Mental Health Counselors

The District Court put it plainly: “The evidence about elementary level mental health counselors is mostly undisputed.” R. at 6596. Trial testimony demonstrated that student emotional, mental health, and behavioral needs have increased substantially in recent years and that access to qualified counselors at the elementary level, while insufficient, is essential to providing a constitutionally adequate education because; as State innovations officer Dr. Laurel Ballard identified, student mental health issues negatively impact a student’s ability to learn. R. at 6597; Tr. Vols. II at 352, 353-354, 358, 359, 472, 494, 495, III at 727, 814-815, IV at 959, VI at 1459; VII at 1790-1791, VIII at 1850, 1973- 1974. Counselors address critical social-emotional needs that enable students to focus on learning, while also supporting academic achievement, addressing behavioral challenges, and improving overall school climate. Tr. Vols. II at 494-495, III at 727, VIII at 1978-1979. Current programs and funding provided through grant programs or COVID funds are woefully insufficient, in part because

federal funding sources are limited in duration and will not be continuously funded and further because they cannot address all mental health needs of students that disrupt education. R. at 6597; Tr. Vols. I at 97-98, II at 359-361, VI at 1461-1462, 1467, 1482-1483, 1507. Despite the lack of funding for these positions, the necessity of elementary mental health counselors means that the School Districts still employ elementary counselors. R. at 6597; Tr. Vols. III at 727, 816-817, IV at 1038-1039, VI at 1482, VIII at 1791-1792.

The State maintained that the off-model mental health and student support funding in the Funding Model is sufficient to address any need for elementary mental health counselors. R. at 6594–6495. Yet even the State’s own consultant recommended adding elementary counselors during the 2020 recalibration, a recommendation also echoed by a State-sponsored mental health task force, recommendations the State ignored. R. at 6597; Tr. Vols. VIII at 1977, VI at 1457, 1459, 1468-1470, 1479; Exs. 1023, 2092.

Based on overwhelming and largely undisputed evidence, the District Court found that the increasing prevalence of student mental health and behavioral issues necessitates the inclusion of elementary mental health counselors in the Funding Model. R. at 6596. In particular, the absence of elementary mental health counselors fails to provide the required support for at-risk and special-needs students. R. at 6596-6597.

School Resource Officers

With respect to School Resources Officers (SROs), testimony from School District officials indisputably established that SROs provide safety training to school staff, prevent/manage dangerous or illegal conduct, and foster positive relationships between students and law enforcement. R. at 6598. The evidence presented through the School

Districts' experts establishes that these services are essential to maintaining a safe and effective learning environment. R. at 6599-6600.

The School Districts presented substantial evidence at trial that SROs are employed by most districts and supported through general funds, as the Funding Model provides no dedicated funding. R. at 6480, 6599; Tr. Vols. I at 100, III at 730-734, VII at 1784-1786, IV at 1036, VIII at 1855, 2019-2020; Exs. 2171, 2172, 2229, 2230. Although in fairness, one of the School District witnesses testified that her School District does not employ SROs, but that is because they are not funded in the Funding Model. R. at 6480; Tr. Vol. IV at 958.

The evidence at trial demonstrated that SROs play a critical role in ensuring school safety and security, which directly impacts students' ability to learn. R. at 6598; Tr. Vol. VIII at 2020-2021; Ex. 1217. Indeed, the State's own advisory committee recognized the critical role. *Id.* In 2015, a school safety and advisory committee created by the Governor recommended developing an SRO program for all 48 Wyoming school districts. The advisory committee noted that all Wyoming school districts "almost unanimous[ly]" desire to have SROs in their schools. R. at 6599; Ex. 1217.

Regarding the State's evidence on the issue of SRO necessity, it only had one witness, Dr. Seder, who offered equivocal testimony, conceding the information he reviewed to form his opinions did not support or oppose SROs "one way or the other." R. at 6599-6600; Tr. Vol. XIV at 3554-3555, 3562-3565. The District Court expressly found Dr. Seder lacked credibility and afforded more weight to the opinions of the education professionals than it did to Dr. Seder. R. at 6600.

The School Districts also presented overwhelming evidence demonstrating the educational necessity of SROs and establishing that the State's failure to fund these positions leaves districts unable to provide constitutionally required services. R. at 6599-6600; Tr. Vols. IV at 1036, 1041, VIII at 1856, 1860. The District Court also observed that the inclusion of SROs in some districts but not others create disparities in educational opportunities, violating the constitutional requirement for a uniform education system. R. at 6617; Tr. Vol. IV at 958, 1041.

Based on this evidence, the District Court found that the presence of SROs enhances students' feelings of safety and security, which are essential for a conducive learning environment. R. at 6600. "As the result of local innovation, SROs have been shown to be needed for a proper education. Therefore, all Wyoming public school students are entitled to the benefit of SROs. SROs have been established as appropriate for the times and should be implemented for all school districts." R. at 6600.

Nutrition Services

Proper nutrition is directly linked to student concentration, behavior, and academic performance. At trial, multiple experts testified that nutrition programs are vital for student learning. Tr. Vols. III at 730, VIII at 2006. Although Wyoming law does not require school districts to offer meals to students, all districts do. R. at 6458; Tr. Vol. XI at 2641-2643. Yet, the State provides no funding for nutrition programs in the Funding Model. R. at 6458; Tr. Vols. I at 96, VIII at 2005, XI at 2650.

The record is replete with evidence regarding the essential role of adequate nutrition in supporting student learning, the State's knowledge of deficiencies in this area, and its

continued failure to provide necessary funding. R. at 6458. As the District Court noted, all parties agree that hungry students cannot learn R. at 6601; Tr. Vol. XVI at 3878-3879.

The State claims that food service programs should be self-sustaining. R. at 6602; Tr. Vols. XI at 2699-2700, XVI at 3878. There is no evidence that this has ever happened since the matching requirement was established in 1981, and the School Districts testified it would not be possible. R. at 6601-6602; Tr. Vols. I at 91-92, VIII at 1845-1846. While the State argues federal subsidies save the day, the unrefuted evidence establishes that such subsidies are insufficient to sustain school meal programs and that the School Districts cannot raise meal prices enough to cover the gap, forcing them to divert general funds to cover shortfalls. R. at 6458-6459; Tr. Vols. I at 89, III at 729, VIII at 1844, 2005-2006, XI at 2652, 2659; Ex. Z4. This then creates an illusion that the State is helping in this area. Specifically, when the School Districts transfer general fund dollars to cover nutrition shortfalls, WDE counts those dollars as the State's contribution toward its required federal match. R. at 6459; Tr. Vols. III at 728-729, XI at 2650-2653, 2682-2683, 2698; Ex. Z4. As the District Court observed, "[t]he State passes on its matching requirement to school districts, but the State does not provide any funding to the school districts." R. at 6601-6602, 6459; Tr. Vol. XI at 2651-2653, 2682-2683, 2698; Ex. Z4.

Because all parties agree that nutrition is essential for learning, the dispute surrounds whether the State should include nutrition services in the Funding Model. The District Court concisely dispensed with the State's argument:

In other words, all agree that students must have sufficient nourishment for a successful education. Therefore, the Court must conclude that providing meals to students while at school is an essential part of successful teaching and learning. Nutrition programs are necessary for a proper quality education, must

be implemented, and are a required component of the educational basket of goods and services.

R. at 6601.

Further, the uncontroverted evidence establishes that the State's failure to provide any funding for school meal programs results in inadequate access to nutritious meals for many students, particularly in high-poverty districts. R. at 6458-6459; Tr. Vols. III at 729, VIII at 2006. As such, the District Court found that the lack of State funding for nutrition services creates disparities among the School Districts (and all Wyoming school districts) and fails to meet the constitutional mandate to provide an adequate education for all Wyoming students. R. at 6601-6603.

Technology

One-to-one technology devices are essential to a modern education and must be incorporated into the Funding Model. R. at 6509, 6537-6538, 6603. Substantial evidence establishes that technology is integral to teaching and learning in this modern era and that digital access is critical to educational equity. R. at 6509-6570; Tr. Vols. I at 148-159, III at 738-740, 766-767, 802, VIII at 2058.

The record contains uncontroverted evidence that technology devices are essential for delivering a modern education and ensuring equitable access to instruction. Specifically, the evidence shows that one-to-one technology supports individualized learning, expands access to advanced coursework, and prepares students for postsecondary success. Evidence presented to the District Court established that the current three-to-one student-to-device ratio is inadequate and that federal COVID-19 relief funds, which temporarily supported one-to-one access, are no longer available. R. at 6537-6538; Tr. Vols. III at 766-767, VII at 1783-

1784, 1817-1818, VIII at 2058. Based on evidence, the District Court found that the State's failure to fund one-to-one technology deprives students of the tools necessary to succeed in a modern educational environment. R. at 6595-6596. Case in point, "Computer Science" was recently added to the State's Basket of Goods after years of neglect, yet the State has refused to fund the technology necessary to provide this component. R. at 6547; Tr. Vols. I at 101-103, III at 738, 752, 766-767, VII at 2058, VIII at 2001-2002, 2058. The Funding Model contains no mechanism to ensure that each student has individual access to an essential electronic device. R. at 6486, 6602; Tr. Vols. I at 101-103, III at 738, 766-767, VII at 2058.

B. Factual Findings That The State Has Failed To Adequately And Evenly Assess School Facilities For Educational Suitability Are Not Clearly Erroneous.

The District Court's Findings regarding school facilities span nearly one hundred paragraphs, with multiple citations to trial exhibits and testimony. The State did not appeal the District Court's ruling that the "State has failed to maintain a constitutionally compliant school facilities system by allowing unequal and inadequate school facilities to exist for too long of a period." R. at 6603; State's Br. at 35, n. 4.

The State only appeals the District Court's ruling that the "State has failed to maintain a constitutionally compliant school facilities system by not adequately and evenly assessing school facilities for educational suitability." *Id.* But, the District Court's ruling that the State allowed unequal and inadequate facilities to exist for too long connects directly to the State's failure to adequately and evenly assess school facilities for educational suitability after *Campbell IV*. R. at 6603.

Educational suitability generally refers to:

[T]he ability of a school facility to support and enhance the delivery of the

defined educational program. *Educational suitability is one of the three aspects used to determine school facility adequacy.* The other two aspects of school facility adequacy are condition and capacity. Assessing a school facility's educational suitability generally requires evaluating instructional spaces, school facility sites, safety and security, building accessibility, acoustics, technology readiness, equipment, lighting, heating and cooling, sightlines, building perimeter, ingress and egress, and air quality.

Tr. Vols. VII at 1628-1632, XIII at 3431- 3433; Ex. 2123; R. at at 6465. (Emphasis added).

School District witnesses testified extensively describing the significant difference between older schools that are not educationally suitable verses newer schools that are educationally suitable. Tr. Vols. I at 267-268, 275-277, II at 304-306; R. at 6492.

The Laramie #1 Executive Director of Support Operations opined that “about 10 of Laramie #1’s schools are not educationally suitable.” R. at 6492; Tr. Vol. I at 268; Ex. 2235, p. 41. Newer schools in Laramie #1 provide significantly different educational opportunities to students than those attending older schools due to myriad factors such as adequate space, sufficient lighting, and better opportunity for collaboration. R. at 6495; Tr. Vol. II at 349-350. Older educationally unsuitable schools such as Arp Elementary in Laramie #1 suffer from outdated designs without recovery rooms, collaborative spaces, and behavioral intervention rooms. R. at 6492; Tr. Vols. I at 267-268, II at 304. Newer Laramie #1 elementary schools like Meadowlark Elementary, constructed in 2016, are educationally suitable due to larger classrooms with greater natural lighting, collaboration spaces, open spaces, pull out spaces for student interventions and recovery, integrated technology, air conditioning, and adequate power outlets. R. at 6492-6493; Tr. Vol. II at 304-306.

Older schools that are not educationally suitable also create inequities for students attending those violative facilities:

[E]ducational suitability is an essential component in determining whether a school is adequate . . . having schools that are not educationally suitable creates inequity between students attending different schools. Some students attend newer more educationally suitable schools while others do not . . . educationally unsuitable schools negatively affect the learning environment and experience.

R. at 6494; Tr. Vol. II at 309-310.

Similarly, Campbell County High School is “not educationally suitable, because when compared to other high schools, its security, natural light access, climate control, classroom design, and sewer system are all below standard.” R. at 6530; Tr. Vol. V at 1126. Campbell County High School’s principal provided specifics such as significant security issues, bathrooms that are not ADA compliant, classrooms not designed for the class being taught in the room, and significantly inconsistent and varying temperatures throughout the building, which impacts student learning because it affects students’ and teachers’ ability to focus. R. at 6525-6526; Tr. Vols. IV at 1066, 1068-1069, V at 1080-1082, 1101-1104. He also described sewage backups into the bathrooms and floor drains following heavy rains. R. at 6526; Tr. Vol. V at 1082-1086. Based on his experience, these facility inadequacies cause educational interruptions that did not exist at a newer high school where he previously served as principal. R. at 6526; Tr. Vol. V at 1088-1089. Like the facility disparities/inequities in Laramie #1, Campbell County High School students do not have the same educational experience and opportunity as students at Thunder Basin High School, also located in Gillette. R. at 6525; Tr. Vol. V at 1090.

The District Court also noted the ongoing suitability issues with the Rock Springs

High School such as “backed up sewer lines into the building, hazardous glycol leaks, insufficient lighting, electrical service problems which violate fire codes and cause circuit breaker failures.” R. at 6543-6544; Tr. Vol VIII at 1946-1947. Trial testimony showed that Rock Springs High School is not educationally suitable and that “the State’s failure to provide a timely replacement for Rock Springs High School has significantly impacted Sweetwater #1’s ability to provide a quality education to its students.” R. at 6545; Tr. Vol. VIII at 1943, 1944-1945.

To address these issues, around 2008 the State adopted an assessment instrument; however, it was never used to assess and prioritize school buildings for educational suitability. R. at 6465; Tr. Vols. V at 1201, VII at 1638-1639. Further eroding the checks in place to prevent predicaments of inadequate facilities, in 2021 the legislature deleted educational suitability from statute. R. at 6466; Tr. Vol. VII at 1597-1598, Ex. 2121, pp. 1-2. Consequently, the State does not currently assess educational suitability directly. R. at 6466, Tr. Vo. I at 275. Instead, the State implemented an administrative process in 2024 authorizing a school district to bring a claim when it “is unable to provide the required programs because of its educational space,” referred to as the Chapter 3, Section 8 Process. R. at 6466. As discussed below, the Chapter 3, Section 8 Process is deficient on many levels. R. at 6608.

C. Factual Findings Concerning The Credibility Of Witnesses Are Not Clearly Erroneous.

It is important to make the distinction between the parties’ witnesses. The District Court gave less weight to several of the State’s witnesses “because of demonstrated bias,

unreasonableness, and/or due to demonstrated flaws in their opinion.” R. at 6578.³ The District Court properly performed its function as the finder of fact, as it resolved the credibility of witnesses, the weight of the evidence, and conflicts in the evidence. *Bennett v. Bennett*, 2024 WY 7, ¶ 12, 541 P.3d 1092, 1096 (Wyo. 2024) (“Our rule is that the credibility of witnesses, the weight of the evidence, and conflicts in the evidence must be resolved by the finder of fact.” (cleaned up)). The State’s lead witness, Dr. Seder, testified in defense of his own work. He admitted that he is defending work that he has done for the State of Wyoming over the past twenty-three years. Tr. Vol. XIV at 3607, 3614. Oddly, the State had him defend the 2004 MAP model he helped create, which is a model that has not been used for decades. Tr. Vols. XIV at 3607-3609; XIII at 3418. Adding to his bias, Dr. Seder helped develop the monitoring process and co-authored the monitoring reports, and other monitoring tools. Tr. Vols. XIII at 3507, XIV at 3609. Dr. Seder worked with and advised the WDE on a wide variety of projects and advised LSO and the State office of school litigation. Tr. Vol. XIV at 3609-3610. He also testified before the legislature on multiple occasions, and provided written reports. *Id.* at 3610.

But his bias does not stop there. Dr. Seder played an integral role in the State’s trial strategy in this case. He sat through the entire trial and helped prepare the State’s witnesses in this litigation. He recommended the State’s experts (Stoddard, Taylor, Koedel), attended Dr.

³ In its brief, the State acknowledges the District Court’s finding affording lesser weight to Drs. Seder, Stoddard, Taylor, and Koedel, as it refers to them generically as “expert” rather than highlighting their individual testimony or sponsored exhibit by name.

Stoddard's trial preparation session and participated in Dr. Taylor's deposition preparation. Tr. Vol. XIV at 3610-3612. He reviewed Dr. Koedel's expert report before it was finalized. *Id.* at 3613. Equally concerning, Dr. Seder admitted that he stated Wyoming's high-dollar model is creating a "socialist utopia." *Id.* at 3614-3615. Most telling, Dr. Seder confirmed that in every prior case where he testified about school funding, he never found the funding to be inadequate. *Id.* at 3606.

The District Court further gave less weight to the testimony and evidence of Drs. Stoddard, Taylor, and Koedel based on their reliance on a flawed premise, because "[t]heir analyses about personnel salaries were based upon actual salaries being paid by school districts and were not based on the salaries used in the Funding Model [Model Salaries]." R. at 6579-6580.

By contrast, the School Districts presented "professional and very experienced public school education experts." R. at 6613. The School Districts presented the testimony of eighteen witnesses, including twelve non-retained experts who the District Court correctly found were "very experienced professionals" with first-hand experience in the issues facing Wyoming students. R. at 6589-6590. While page limitation prevents a recitation of the credentials of all the School District witnesses, a sampling includes⁴:

⁴ A complete listing can be found in the District Final Order as follows: *James Cicarelli, R. at 6482-83; *Victoria Thompson, R. 6487-6488; *Andy Knapp, R. at 6491; Stephen Newton, PhD., R. 6494-6495; Nathan Cowper, R. at 6498, *Stephen Slyman, R. at 6499-6500, *Kathleen Kniss, PhD., R. at 6502-6503, *John Williams, PhD., R at 6505, Ryan Thomas, R.

- **Kate Kniss, PhD** - Chief Academic Officer for Albany #1, worked at Albany #1 22 years, experience as classroom teacher, interventionist, instructional facilitator, and professional development coordinator; bachelor's degree in political science and elementary education, master's degree in curriculum and instruction, and a PhD in curriculum and instruction; as Chief Academic Officer, defines curriculum, to include academic instruction, practice, and assessment. R. at 6502-6503.
- **John Williams, PhD** - Chief Financial Officer for Uinta #1 since 2006; bachelor's degree in elementary education, master's degree in educational leadership and policy, a master's degree in public administration, and a doctorate in school business administration; worked with one of the principles who developed the original Wyoming funding model; previously worked as a fifth-grade teacher, at the Rockefeller Institute of Government as the acting provost's research assistant, and as a researcher at Albany University. R. at 6506.

D. Factual Findings That The Current School Funding System Results In Disparities Are Not Clearly Erroneous.

In addition to the facts already set forth above, the School Districts provide further evidence that the current funding system causes disparities between districts and within districts, which bolster the District Court's factual findings and reaffirm such are not clearly erroneous.

Superintendent Teresa Chaulk's expert opinion is that the Funding Model results in disparities in education provided to students based on the size of the district. R. at 6616; Tr. Vol. IV at 950-955. Ms. Chaulk's School District is required to offer the full curriculum

at 6507, *Teresa Chaulk, R. at 6511, Steve Core, R. at 6523, Chad Bourgeois, R. at 6525, Larry Reznicek, PhD, R. at 6526-6527, *David Barlett, R. at 6529, Kirby Eisenhauer, R. at 6537, *Mike Hamel, R. at 6539, *Daniel Selleroli, R. at 6543, *Kelly McGovern, R. at 6545. * Indicates designation as non-retained expert. R. at 1114-1132.

(“basket of goods”), which means she might have only five students in a calculus class, while a larger district could have 20 to 25 students in the same class. This situation forces her School District to maintain much smaller class sizes than what it is funded for, making it inequitable and extremely challenging to meet all requirements. *Id.* at 951.

In smaller or medium-sized districts, the Funding Model causes enrichment opportunities to be limited or unavailable and results in a lack of elective course offerings for students. Tr. Vol. IV at 952-955. Superintendent Chaulk’s expert opinion is that by not offering a range of available electives or enrichments, students’ educational opportunities are harmed and as a result, her School District is not providing a quality education to all students. *Id.* at 954-955.

Regarding facilities, the District Court rightly found, and the State concedes, that there are unequal and inadequate school facilities. State’s Br. at 35-36; R. at 6612, 6620.

E. Factual Findings That The Evidence Established Harm To The Right To Education Are Not Clearly Erroneous.

Despite a fleeting mention of the constitutional concept of efficiency in closing argument, the State provided absolutely no evidence of a compelling state interest. Tr. Vol. XVI at 3847-3848. Rather, the State claims that the School Districts did not meet their burden of persuasion or proof, arguing that the School Districts did not provide data to support their claims. *Id.* The record belies the State’s contention, as the evidence that the District Court found sufficient included qualitative and quantitative data.

The State surmises that school districts acknowledge they provide quality education through certain assurances signed in the accreditation process, therefore funding must be adequate. State’s Br. at 5. However, in signing the Assurances, districts are not assuring the

State that they are providing an equal opportunity for a quality education. Tr. Vol. VIII at 1986. The Assurances do not measure the quality of implementation and lack the substance necessary to determine whether a quality education is being provided. Tr. Vols. XI at 2601, VIII at 1987. Further, the Assurances do not certify the level of rigor and/or measure or guarantee the quality of teacher. Tr. Vols. XI at 2601, 2617, III at 588, IV at 1008. The purpose of the Assurances is for a district to assure it is complying with state requirements and using funds accordingly; however, it is not a measure of outcome. Tr. Vol. III at 588. Put plainly, the Assurances are not a reliable or valid measure of how well districts perform. R. at 6615; Tr. Vol. IV at 1008. Districts must sign the form or risk loss of accreditation and funding. Tr. Vol. VIII at 1988. If districts are not accredited, then the district's diploma "means nothing." Tr. Vol. II at 396.

The State further relies upon statewide test scores and average graduation rates to establish the lack of educational harm. *See* Tr. Vols. X at 2440-2441, XIII at 3523-3524. NAEP testing is administered to a sample of Wyoming fourth and eighth grade students and are of limited utility because they do not represent the full set of content students are expected to master. Tr. Vols. XV at 3753, XIV at 3672-3674. Statewide average scores on NAEP or other statewide assessments do not mean that Wyoming is fulfilling its obligation to move all students forward in their education; rather, these scores are geared toward college readiness while not measuring career readiness. Tr. Vol. III at 585-586. Further, several of the State's charts and graphs actually demonstrated decreases in statewide student performance. Exs. J4, M4.

Finally, the State relies upon annual WDE form 662 teacher assessment ratings to claim that students are being taught by high quality teachers. Tr. Vol X at 2418. The WDE 662 provides only two options, labeling a teacher as “effective” or “ineffective”, whereas the teacher evaluation process is more comprehensive, including evaluation tools, observations, artifacts and collaboration with educators. Ex. 2258; Tr. Vol. XIV at 3702. The ineffective/effective rating on the WDE 662 form is not relevant to determining the quality of a teacher. R. at 6491; Tr. Vol. XIV at 3704. The State admitted: (1) that research shows that the rating systems are not informative; and (2) that initial contract teachers are not included in the analysis. Tr. Vol. X at 2417-2419, 2508-2509; R. at 6558.

By contrast, the District Court relied upon both quantitative and unrefuted qualitative data presented by the School Districts that established harm to the fundamental right to an education, both of which are generally accepted within the educational realm. R. at 6612; Tr. Vol. III at 615-616. As set out in Relevant Facts Sections III. A- D, *supra*, a Wyoming child’s fundamental right to an education has been harmed by the State’s failure to assure adequate personnel salaries, failure to properly adjust for inflation, failure to maintain a cost-based funding model, failure to include and fund all essential components of a quality education program, and failure to ensure equal and adequate facilities. The School Districts’ experienced school education experts provided unrefuted evidence of harm. For example, Dr. Steve Newton, Superintendent of Laramie #1, testified to the difficulty in recruiting high quality teachers, meaning not every student is being taught by a high-quality teacher. Consequently, Laramie #1 is unable to provide every student with a high-quality education. R. at 6497; Tr. Vol. II at 377-78, 382.

It is no surprise that the lack of high-quality teachers has resulted in poor student performance. *Id.* Dr. Kate Kniss testified that the public school system is not providing ample opportunity for at risk students, who are not receiving special education services, as well as for advanced students. R. at 6504; Tr. Vol. III at 578-79. Superintendent Kelly McGovern of Sweetwater #1 testified that her district was only able to provide a minimal level of education, as reflected in declining ACT scores, poor reading scores, poor math scores, and a 79 percent graduation rate. R. at 6548; Tr. Vol. VIII at 1999-2000, 2017. She concluded that the cuts to school funding have harmed the education of Sweetwater 1's students. Superintendent McGovern testified, "[w]e have an opportunity to educate kids, and we're blowing it". *Id.*

GENERAL LEGAL PRINCIPLES

Before turning to the myriad issues raised by the State, the School Districts believe it is prudent to first provide the Court with an overview of controlling Wyoming law.

Beginning with Wyoming's Constitution, Article 1, Section 23 affirms that education is a recognized right: "The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts." Sections 1 through 23 of Article 7 – known as the Education Article – address various aspects of education. Section 1 of Article 7 directs the legislature to establish and maintain a complete and uniform system of public instruction, including free elementary schools of all necessary types and grades. Section 9 of Article 7 requires the legislature to provide funding by taxation or other means to create and maintain a thorough and efficient system of public schools, ensuring proper instruction for all Wyoming youth aged six to twenty-one years, without charge.

Since 1971, the Court has consistently addressed challenges to Wyoming's school finance system, establishing a robust framework for protecting constitutional educational rights. The Court first recognized the harm of wealth-based disparities in Wyoming's education finance system in *Sweetwater County Planning Committee for Organization of School Districts v. Hinkle*, 491 P.2d 1234, 1237 (Wyo. 1971)(*Hinkle*). There, the Court concluded that “we can no longer ignore inequities throughout our state in the matter of taxation for school purposes.” *Id.*

In 1980, the Court decided the landmark case of *Washakie County School District Number One v. Herschler*, 606 P.2d 310 (Wyo. 1980). The Court built upon *Hinkle*'s “bare-bone proposal” for corrective legislation to address funding disparities. *Id.* at 319. After reviewing numerous constitutional provisions, the Court found education to be a fundamental constitutional right and as such must be subject to strict scrutiny analysis. *Id.* at 333.

Washakie held that “education of the children of Wyoming is a matter of fundamental interest,” noting that the United States Supreme Court has identified education as “perhaps the most important function of state and local governments.” *Id.* (citing *Brown v. Board of Education of Topeka*, 347 U.S. 483, 493 (1954)). The Court rejected the notion that funding disparities do not affect education quality, stating, “[i]t is nothing more than an illusion to believe that the extensive disparity in financial resources does not relate directly to the quality of education.” *Id.* at 334. The Court held that wealth-based disparities violated the Wyoming Constitution, and no compelling state interest justified the system. *Id.* at 335.

Twelve years after *Washakie*, the issue of education finance returned to the Court, culminating in a series of cases collectively known as the *Campbell* cases.⁵ The trial court in the present case provided a thorough summary of the *Campbell* cases and the standards detailed in those cases for education finance in Wyoming, which the School Districts adopt by reference. R. at 6440-6444. However, considering the State's arguments on appeal, reaffirmation of the articulated rulings in the *Campbell* cases is important for the Court's analysis and ultimate decision.

In 1995, *Campbell I* examined the legislature's response to the unconstitutional school finance system tested in *Washakie*. *Campbell I*, 907 P.2d at 1250. Through a detailed constitutional analysis, the Court found that the framers intended a complete and uniform system of public instruction serving a common purpose of educating the public. *Id.* at 1247, 1257-1258, 1263, 1272, 1275. The Court defined a thorough and efficient system of public schools as adequate to the proper instruction of the state's youth. *Id.* At 1258-1259. Based on this foundation, the Court concluded that Wyoming's Constitution mandates the legislature to provide an education system of character that provides students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually. *Id.* at 1259.

⁵ The *Campbell* cases include *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238 (Wyo. 1995) (*Campbell I*); *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 19, 19 P.3d 518 (Wyo. 2001) (*Campbell II*); *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 90, 32 P.3d 325 (Wyo. 2001) (*Campbell III*); *Campbell Cnty. Sch. Dist. v. State*, 2008 WY 2, 181 P.3d 43 (Wyo. 2008) (*Campbell IV*).

Campbell I established that the constitution “commands the legislature to provide and fund an education system which is of a quality appropriate for the times” and that this command “goes well beyond simply allowing the legislature to dispense a minimal level of elementary and secondary education.” *Id.* at 1279. The Court declared that “supporting an opportunity for a complete, proper, quality education is the legislature’s paramount priority; competing priorities not of constitutional magnitude are secondary, and the legislature may not yield to them until constitutionally sufficient provision is made for elementary and secondary education.” *Id.*

The *Campbell I* court rejected the State’s contention that the separation of powers doctrine foreclosed judicial review of legislative action by clarifying that the Court’s proper role is to interpret the meaning of the Wyoming Constitution in order to determine the duties imposed upon the legislature. *Id.* at 1265. The Court determined that all legislative school financing reforms face strict scrutiny review, requiring any state action interfering with the constitutional right to education to serve a compelling purpose through the least restrictive means. *Id.* at 1267. After examining the various components of education finance, the Court held that Wyoming’s public school finance system was unconstitutional. *Id.* at 1274. The Court noted that the education finance system must be a function of state wealth, requiring the legislature to achieve the constitutional mandate of a cost-based, state financed educational system. *Id.*

After *Campbell I*, the legislature hired the consulting firm of Management Analysis & Planning, Inc. (MAP) to develop a constitutionally sound school finance system using a block grant model. *Campbell II*, ¶ 11, 19 P.3d at 529. However, the legislature did not fully fund the

selected model finance system, known as MAP 3, leading to another court challenge. *Id.* at ¶¶ 14-15, 19 P. 3d at 530. Following two trials, in 2001 the Court issued *Campbell II* and held the MAP model was “capable of fulfilling” the constitutional right to an education “appropriate for the times.” *Id.* at ¶ 139, 19 P. 3d at 566. However, the Court determined various deficiencies remained in the system’s implementation. *Id.*

Campbell II confirmed that Wyoming’s Constitution required the State to fund the actual cost of an education that is “appropriate for the times.” *Id.* at ¶ 44, 19 P. 3d at 536. It must be both “visionary and unsurpassed.” *Id.* at ¶ 51, 19 P. 3d at 538. As such, the Court required the model to be re-evaluated and recalibrated every five years and adjusted every two years at a minimum to account for inflation between recalibrations, warning that “there will undoubtedly come a time when inflationary cost increases render the funding levels inadequate to deliver the basket” without proper adjustments. *Id.* at ¶¶ 87, 90, 19 P. 3d at 548, 549.

The *Campbell II* Court established that because of the complexity of the block grant model system, courts must “scrutinize all aspects of the system because, if one assumption fails, many others are jeopardized.” *Id.* at ¶ 56, 19 P. 3d at 540. This requires examining whether contested components accurately reflect the cost school districts incur to provide that component. For any funding model to remain constitutional, it must account for inflation and stay cost-based over time. *Id.* at ¶ 90, 19 P. 3d at 549-550. The Court also established critical teacher quality standards, emphasizing that teacher quality is essential to providing a constitutional education. *Id.* at ¶ 91, 19 P. 3d at 550. The Court warned that “[i]t is unacceptable for essential teaching positions to remain unfilled or to be consistently filled by unqualified applicants.” *Id.* The Court specifically directed the legislature to monitor the supply of qualified

teachers and take appropriate action if conditions worsen to the detriment of Wyoming schools. *Id.* These standards directly relate to the legislature’s obligation to fund the complete educational system.

Following *Campbell II*, the State immediately petitioned for a rehearing on the mandates for capital construction funding. So, that same year (2001), the Court issued *Campbell III* and made minor clarifications but confirmed that capital construction funding must continue within the time frame announced in *Campbell II*. *Campbell III*, ¶ 24, 32 P.3d at 330. Ultimately, *Campbell III* established that facilities must be educationally suitable and that “allowing schools to have inadequate facilities cannot meet the constitutional standard set forth in *Campbell I* of elimination of deficient facilities.” *Id.* at ¶ 18, 32 P. 3d at 329. The Court again rejected the State’s recycled arguments attempting to restrict judicial review under separation of powers and political question doctrines. *Id.* at ¶¶ 29-45, 32 P. 3d at 331-336:

While we recognize the legislative and executive branches of Wyoming’s state government have broad powers and responsibilities in providing the fundamental right of an education to our children, the powers of each branch of government are bound by the mandates and the constraints of the Wyoming Constitution. “If the executive and legislative branches fail to fulfill their duties in a constitutional manner, the Court too must accept its continuing constitutional *responsibility* ... for overview ... of compliance with the constitutional imperative.”

Id. at ¶ 32, 32 P. 3d at 332 (quoting *Unfulfilled Promises: School Finance Remedies and State Courts*, 104 Harv. L. Rev. 1088 (1991)).

In 2008, the Court considered the fourth iteration of the *Campbell* cases. The case arose after significant revisions to the funding model following *Campbell II*, with the Court assessing whether those changes met the earlier decision’s requirements. The school districts argued the State had failed to comply with the *Campbell II*’s mandates for both operations and capital

construction funding. *Campbell IV*, ¶ 6, 181 P.3d at 48.. Following a trial on the merits in 2005, the district court found that the State met the *Campbell II* mandate for numerous components. *Id.* at ¶ 7, 181 P. 3d at 48. Critically, the district court found that “the recalibration of the MAP model in 2001 was cost-based and reasonably and accurately captured the cost of education.” *Id.*

On appeal, the *Campbell IV* Court noted the issues before the district court were factual in nature: “whether or not the State’s revisions and the recalibration reflected costs as closely as could reasonably be expected.” *Id.* at ¶ 13, 181 P. 3d at 50. Accordingly, the State bore the burden of proving compliance by a preponderance of the evidence.” *Id.* The Court then held that “the system is constitutional” but emphasized that “[s]ome deficiencies exist, some changes are required and new issues will arise.” *Id.* at ¶ 4, 181 P. 3d at 48. Importantly, this approval was explicitly conditional upon continued compliance with specific ongoing requirements established in *Campbell II*. *Campbell II* required that “the model needed to be recalibrated beginning in 2001, and every five years thereafter, to assure that it continued to reflect the true cost of education over time as accurately as possible.” *Id.* at ¶ 12, 181 P. 3d at 50. *Campbell IV* reaffirmed that constitutional compliance depended on the State’s continued adherence to these mandates. “If the state complied with that mandate by revising those components to better reflect true costs and conducting the recalibration appropriately, the system of funding school operations would be considered devoid of wealth-based disparities, to adequately provide the education the state required, and thus, be constitutional.” *Id.*

The Court emphasized the ongoing nature of these requirements, noting that *Campbell II* “mandated that the model must be re-evaluated and recalibrated every five years” and “every

two years at a minimum . . . to account for inflation that will occur in the interim between recalibrations.” *Id.* at ¶ 67, 181 P. 3d at 64. Because the district court found that the State met *Campbell II’s* mandates, the Court applied a clearly erroneous standard when reviewing the remaining deficiencies. *Id.* at ¶ 10, 181 P. 3d at 49. However, the Court clarified that this deferential review had a limited scope. It explained that “[i]f they did [reflect costs as closely as could reasonably be expected], then any differences in funding between school districts were not wealth-based and, therefore, did not invoke the equal protection provisions of our constitution. In this context, the strict scrutiny test . . . is not in play.” *Id.* at ¶ 13, 181 P. 3d at 50.

STANDARD OF REVIEW AND BURDEN OF PROOF

The State applies the wrong standard of review as it mistakenly believes the constitutionality of a statute is being challenged. State’s Br. at 36-37. As stated in their Complaint, the School Districts are not challenging the constitutionality of the school funding system as reflected in statutes. “The challenge here concerns the failure to maintain a school finance system for operations and capital construction that is constitutionally compliant.” R. at 321. The applicable standard of review therefore is well settled.

“When a trial court in a bench trial makes express findings of fact and conclusions of law, [this Court] . . . review[s] the factual determinations under a clearly erroneous standard and the legal conclusions *de novo*.” *Hansuld v. Lariat Diesel Corp.*, 2003 WY 165, ¶ 13, 81 P.3d 215, 218 (Wyo. 2003). In reviewing the factual findings, this Court applies the following standard:

The factual findings of a judge are not entitled to the limited review afforded a jury verdict. While the findings are presumptively correct, the appellate court

may examine all of the properly admissible evidence in the record. Due regard is given to the opportunity of the trial judge to assess the credibility of the witnesses, and our review does not entail re-weighing disputed evidence. Findings of fact will not be set aside unless they are clearly erroneous. A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.

Life Care Centers of America, Inc. v. Dexter, 2003 WY 38, ¶ 7, 65 P.3d 385, 389 (Wyo. 2003)

(internal quotations and citations omitted).

Findings, however, may not be set aside because then appellate court might “have reached a different result.” *Double Eagle Petroleum & Min. Corp. v. Questar Exploration & Production Co.*, 2003 WY 139, ¶ 6, 78 P.3d 679, 681 (Wyo. 2003). In reviewing a trial court’s findings of fact, this Court “assume[s] that the evidence of the prevailing party below is true and gives that party every reasonable inference that can fairly and reasonably be drawn from it. We do not substitute ourselves for the trial court as a finder of facts; instead, we defer to those findings unless they are unsupported by the record or erroneous as a matter of law.” *Dexter*, 2003 WY 38, ¶ 7, 65 P.3d at 389. Thus, this Court will “affirm the trial court’s findings if there is any evidence to support them.”

Id.

When reviewing questions of law *de novo*, this Court gives “no deference to the decision of the district court.” *Double Eagle Petroleum & Min. Corp.*, 2003 WY 139, ¶ 7, 78 P.3d at 681.

I. Strict Scrutiny Applies To The Fundamental Right To Education

This case presents a new challenge to the constitutionality of the quality of the public education being provided as it exists now . . . Whether the challenge to legislative action or inaction is based on disparities in funding, disparities in the quality of the education being provided, or the general inadequacy of the quality of the education being provided because of a lack of funding, strict scrutiny must be applied to any proven harm to or disparity in the fundamental right to education.

R. at 477-478. The District Court concluded that it will therefore “apply strict scrutiny to proven legislative action or inaction which harms the fundamental right to a public education

regardless of whether the harm is caused by disparities or is a harm to the constitutionally required quality or level of the education being provided.” R. at 478.

The District Court correctly applied strict scrutiny in analyzing the School Districts’ and WEA’s claims of harm to the fundamental right to education. R. 6576. The District Court’s application of strict scrutiny was not novel; it was compelled by decades of Wyoming precedent.

A. *Washakie* And *Campbell* Establish Strict Scrutiny As The Governing Standard For Reviewing Harm To The Fundamental Right To Education, Consistent With Other Wyoming Precedent On Fundamental Rights.

The Court has long recognized that certain rights are fundamental and require the highest protection from government encroachment. When such rights are implicated, statutes and state action are reviewed under strict scrutiny. *Washakie*, 606 P.2d at 333. “When a fundamental interest is affected ... the classification must be subjected to strict scrutiny to determine if it is necessary to achieve a compelling state interest, [and] the state [must] establish that there is no less onerous alternative by which its objective may be achieved.” *Id.* Strict scrutiny requires the “establishment of the compelling state interest and the showing that the method of achieving such is the least intrusive of those methods by which such can be accomplished.” *In re RM*, 2004 WY 162, ¶ 13, 102 P.3d 868, 873 (Wyo. 2004).

This is not a new or unsettled area of law. Across a wide range of contexts, the Court has consistently applied strict scrutiny when a fundamental right is at stake. *See, e.g., Michael v. Hertzler*, 900 P.2d 1144, 1147-48 (Wyo. 1995) (parental right to control upbringing of children); *White v. State*, 784 P.2d 1313, 1315–16 (Wyo. 1989) (substantive due process and equal protection challenges); *Miller v. City of Laramie*, 880 P.2d 594, 597 (Wyo. 1994) (property

rights under state constitution); *In re RM* ¶ 13, 131 P.3d at 873 (fundamental right to education). These cases confirm the well-established framework that Wyoming courts adjudicate fundamental rights claims under strict scrutiny.

Education fits squarely within this established framework. As the District Court noted, “[a] series of cases involving challenges to school finance provide significant guidance on the proper level of scrutiny.” R. 475. In *Washakie*, the Court first recognized education as a fundamental right under the Wyoming Constitution. *Washakie*, 606 P.2d at 333. That principle was expanded and reaffirmed in the *Campbell* cases.

In *Campbell I*, the Court held that “the strict scrutiny test applies to legislative action which affects a child’s right to a proper education.” *Campbell I* at 1267.

We hold the district court erred in applying equitable allocation/rational scrutiny. Among other valuable lessons, *Washakie* teaches that this court will review any legislative school financing reform with strict scrutiny to determine whether the evil of financial disparity, from whatever unjustifiable cause, has been exorcized from the Wyoming educational system. The triggering issue in *Washakie* was wealth-based disparities; however, we now extend that decision beyond a wealth-based disparity to other types of causes of disparities.

Because the right to an equal opportunity to a proper public education is constitutionally recognized in Wyoming, any state action interfering with that right must be closely examined before it can be said to pass constitutional muster. Such state action will not be entitled to the usual presumption of validity; rather, the state must establish its interference with that right is forced by some compelling state interest and its interference is the least onerous means of accomplishing that objective. *Citing Miller v. City of Laramie*, 880 P.2d 594, 597 (Wyo. 1994).

Campbell I at 1266-67. *Campbell I* further emphasized that education cannot be separated from the funding that makes it possible: “Education does not occur in a vacuum; it is achieved as the result of public expenditures.” *Id.* at 1267.

In *Campbell II*, the Court rejected the State’s argument that only the “system as a whole” was subject to strict scrutiny while individual components could be reviewed under rational basis. Instead, it held that the interaction of components required review of the entire funding model under one standard: strict scrutiny. *Campbell II*, ¶43, 19 P.3d at 535. (“Because education is a fundamental right... all aspects of the school finance system are subject to strict scrutiny...”). *Id.* at ¶ 42, 19 P. 3d at 535. *See In re RM*, ¶ 15, 102 P.3d at 873 (“Education and how it is funded, maintained, and provided on a day-to-day basis is complex and made up of many different interconnected parts. We . . . think it unwise and . . . impractical to use different constitutional tests for the various aspects of that important right. Thus, we conclude that strict scrutiny is the appropriate test to apply”).

Accordingly, Wyoming precedent is settled: because education is a fundamental right under the Wyoming Constitution, any state action that results in disparities or inadequacies in public school funding must be reviewed under strict scrutiny. The State bears the heavy burden of proving that such action is necessary to achieve a compelling state interest and that no less onerous means exist.

B. *Campbell IV* Does Not Overturn Longstanding Precedent: “Good Faith” Is Not The Standard.

The District Court noted that, most recently, the Court observed in *Campbell IV* that strict scrutiny was “not in play” because the case involved factual compliance with revision and recalibration orders rather than a constitutional challenge to the funding system. *R.* at 477. The District Court correctly rejected the State’s contention that this language means strict scrutiny does not apply to adequacy challenges. The issues in *Campbell IV* were factual and arose in the context of a continuation of the earlier *Campbell* cases, after which the Court

terminated jurisdiction. *Id.* By contrast, this case presents a new challenge to the constitutionality of the State’s Funding Model and the adequacy of the education it provides. As the District Court explained, *Campbell IV* did not overrule the established principle that “the strict scrutiny test applies to legislative action which affects a child’s right to a proper education.” *Id.*; see Hr’g. Tr. Summ. J. at 14 (State counsel conceding the Funding Model has not been judicially determined constitutional).

On appeal, the State argues that different constitutional tests apply to equity and adequacy claims, asserting that strict scrutiny is triggered only by wealth-based disparities, while adequacy claims should be judged under a deferential presumption of constitutionality or a “good faith” standard. State’s Br. at 37-46. This argument misreads *Washakie* and the *Campbell* cases. Once a right is deemed fundamental, strict scrutiny applies to all state action burdening it, whether through disparities (equity) or overall sufficiency (adequacy). *Campbell I* reaffirmed that the State has an affirmative duty to provide every child an equal opportunity for a quality education, and *Campbell II* confirmed that the inquiry extends beyond wealth-based differences to whether the system, as a whole, delivers the constitutionally required “basket of goods and services,” which is the essence of adequacy. *Campbell I* at 1264; *Campbell II*, ¶ 20, 19 P. 3d at 531.

The District Court properly held, both in its Order on Burden and in its Final Order following trial, that *Campbell IV* does not limit strict scrutiny to disparities and that strict scrutiny applies equally to challenges based on inadequate funding. R. at 471-79, 6576 n. 17. The “good faith effort” language in *Campbell IV* was limited to the legislature’s ongoing recalibration duties; it did not establish a new constitutional test.

Nor can the State plausibly argue that the Court silently overruled decades of precedent. The Court has repeatedly explained the circumstances under which it will depart from stare decisis, such as when a prior decision is unworkable, unjust, or contrary to plain principles of law. See *Arnott v. Arnott*, 2012 WY 167, ¶ 29, 293 P.3d 440, 453, (Wyo. 2012); *SLB v. JEO (In the Interest of ANO)*, 2006 WY 74, ¶ 6, 136 P.3d 797, 799, (Wyo. 2006); *Brown v. City of Casper*, 2011 WY 35, ¶ 43, 248 P.3d 1136, 1146, (Wyo. 2011); *Borja v. State*, 2023 WY 12, ¶ 26, 523 P.3d 1212, 1218, (Wyo. 2023); *Ellis v. Hiser*, 2025 WY 87, ¶ 20, 2025 WL 2218144, at *4 (Wyo. 2025); *Weaver v. Mitchell*, 715 P.2d 1361, 1368 (Wyo. 1986).

And when the Court has chosen to depart from precedent, it has done so clearly and openly, with a full explanation of its reasoning. See, e.g., *Arnott*, ¶¶ 28–41, 293 P.3d at 453–457 (providing detailed justification before expressly overruling *Watt v. Watt*, 971 P. 2d 608 (Wyo. 1999))). Nothing in *Campbell IV* suggests the Court intended to abandon its prior holdings. Rather, the Court applied established principles to the factual compliance issues before it. Had the Court intended to overrule precedent, it would have said so.

The constitutional touchstone has never been the State’s intent or effort, but the result: whether the funding system, as implemented, provides every child the opportunity for a proper education through the constitutionally mandated basket of goods and services. To reduce the inquiry to “good faith” would render judicial review meaningless and allow the State to fall short of its constitutional duty so long as it claimed to have tried. Wyoming law requires more. Wyoming’s students deserve better.

C. The State's "Negative vs. Positive" Rights Theory Is Contrary To Wyoming Law.

The State's attempt to divide the right to education into "negative" and "positive" components, with only the former subject to strict scrutiny, is inconsistent with Wyoming precedent. *See* State's Br. at 40-42. To support its theory, the State cites an academic article that draws on federal law, where education is not recognized as a fundamental right. *See* Jeffrey Omar Usman, *Good Enough For Government Work: The Interpretation of Positive Constitutional Rights in State Constitutions*, 73 Alb. L. Rev. 1459 (2010); *see also San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 35 (1973). But Wyoming has rightfully chosen a different path. In *Washakie* and the *Campbell* decisions, the Court firmly established that education is a fundamental right and expressly rejected attempts to separate the right itself from the funding necessary to secure it. *Campbell I* at 1267.

Even the authority cited by the State undermines its position. The Usman article recognizes that other state courts apply strict scrutiny to affirmative rights, including Montana (clean and healthful environment), West Virginia (education), and New Jersey (school funding). *Usman*, at 1508–11. The author also acknowledges that when the political branches fail to meet constitutional mandates, the judiciary must act. *Id.* at 1534.

This Court has already rejected the artificial separation of education from funding. Quoting Justice Page in *Skeen v. State*, 505 N.W.2d 299 (Minn. 1993), *Campbell I* held:

The court goes to great lengths to distinguish the fundamental right to an education from education funding, but there is no meaningful distinction between the two. Nothing in the Education Clause of our constitution suggests that the fundamental right to an education applies only to the education itself, not to the money needed to fund that education. Education does not occur in a vacuum; it is achieved as the result of public expenditures.

Campbell I at 1267 (quoting *Skeen* at 322).

This reasoning disposes of the State’s attempt to classify adequacy as merely a “positive” right beyond the reach of strict scrutiny. Whether the claim concerns disparities (equity) or the overall sufficiency of the system (adequacy), both implicate the same fundamental right and both are subject to strict scrutiny. Enforcing that duty does not intrude on legislative prerogatives; as this Court explained in *Campbell I*, when the legislature fails to act, the judiciary must safeguard individual rights by requiring compliance with constitutional mandates. *Id.* at 1264–65. “Constitutional provisions imposing an affirmative mandatory duty upon the legislature are judicially enforceable in protecting individual rights, such as educational rights.” *Id.* at 1264.

The State’s theory is therefore inconsistent with Wyoming law, which squarely recognizes education as a fundamental right subject to strict scrutiny. *See Washakie*, 606 P.2d at 333; *Campbell I* at 1258–1267; *Campbell II*, ¶¶ 58–60, 19 P.3d at 541–542.

D. Legislative Deference Has No Place Where A Fundamental Right Is At Stake.

The State’s renewed call for legislative deference is no more persuasive now than before, and it remains contrary to binding precedent. In *Campbell I*, the Court held that when the legislature fails to act, the judiciary’s duty to protect individual rights includes compelling the action mandated by the Constitution. *Campbell I* at 1264–65. Citing the Kentucky Supreme Court’s decision in *Rose v. Council for Better Education, Inc.*, 790 S.W.2d 186, 209 (Ky. 1989), the Court emphasized that the judiciary must interpret and enforce constitutional guarantees even when doing so checks the activities of another branch. The Court reiterated this principle in *Campbell III*:

Our school finance decisions ... have been firmly and faithfully anchored in the plain language of the Wyoming Constitution, a fundamental law established by and expressing the will of the people. Because it falls to us to preserve, protect, and defend the people's fundamental law, we cannot declare valid any legislation which contravenes that fundamental law. To deny this would be to affirm that the people's representatives in the legislature are superior to the people.

Campbell III, ¶ 31, 32 P.3d at 332.

The *Campbell* decisions foreclose the State's theory of broad legislative deference. When a fundamental constitutional right is at stake, the judiciary has both the authority and the duty to ensure compliance with the Wyoming Constitution.

To conclude, as the District Court recognized, when state action or inaction implicates a fundamental constitutional right or a suspect class, the usual presumption of constitutionality is reversed, and the burden shifts to the State. R. at 473. Pursuant to precedent, the District Court properly ruled it "will apply strict scrutiny to proven legislative action or inaction which harms the fundamental right to a public education regardless of whether the harm is caused by disparities or is a harm to the constitutionally required quality or level of the education being provided." R. at 478.

ARGUMENT

I. The State Has Failed To Maintain A Constitutional Public Finance System

The Court has addressed the constitutionality of school funding beginning in 1980. In 2008, the Court held the State's system to fund school is constitutional if properly maintained. Had the legislature followed the Wyoming Constitution and adequately funded the State's school system, we would not be before the Court. But beginning in 2010, the State began to deviate from the requirements imposed by the Court, by failing to adequately fund the cost of education and provide for adequate and equal school facilities. As a result, State funding for

education has eroded, impacting the ability of school districts to offer an equitable, thorough and efficient, high-quality education that is visionary and unsurpassed.

At trial, the School Districts presented extensive and credible evidence establishing the State's failure to adequately fund education and the harm caused to schools and students from this failure. Seasoned and highly credentialed School District witnesses provided opinions based on first-hand knowledge of the impacts of insufficient funding – from inexperienced and oftentimes unqualified teachers instructing students, to overstressed and overworked educators, to the unmet mental health needs of students, to the elimination of programs and courses to prepare students not only for college but also for careers, to the lack of bus drivers to drive routes or food workers to serve food, to raw sewage in the hallways, and to unequal and inadequate schools – just to cite a few examples. Accordingly, the District Court's findings and conclusions of law are clearly supported by the record and should be upheld.

Turning to the sections that follow, the overarching dispositive constitutional question requires the Court to determine whether the District Court correctly declared that Wyoming's public school financing system violates the fundamental right to education guaranteed by the Wyoming Constitution, due to the legislature's systemic failure to adequately fund education, thereby resulting in educational harm. That said, the School District has structured the sections to effectively address the State's attempt to fragment this constitutional violation into seven challenges.

A. The State Has Failed To Maintain A Constitutionally Compliant School Finance System By Not Properly Adjusting For The Effects Of Inflation.

In determining whether the State is funding the actual cost of an education “appropriate for the times,” the Court must look at individual components of the Funding Model, rather than at the total block grant guarantee. In *Campbell II*, the State argued that “decisions concerning the level of funding for the school finance system are a matter for the legislature upon which the court cannot encroach.” *Campbell II*, ¶ 56, 19 P.3d at 540. The Court rejected that argument. “The complexity of the block grant model system chosen by the legislature forces this court to scrutinize all aspects of the system because, if one assumption fails, many others are jeopardized.” *Id.* Accordingly, the Court examined whether the contested components accurately reflect the cost a school district should incur to provide that component. *Id.*

“[I]n order for the [Funding Model] to remain cost-based, an external cost adjustment for inflation or deflation, as warranted, must be applied on an annual, or at a minimum, biennial basis.” *Id.* at ¶ 67, 19 P.3d at 543. The Funding Model “must be regularly adjusted for inflation in order to remain accurate representations of actual, current costs.” *Campbell IV*, ¶ 67, 181 P.3d at 64 (citing *Campbell II*, ¶ 90, 19 P.3d at 549-50). Inflationary adjustments keep the school funding model cost-based. Tr. Vol. IX at 2150. ECAs maintain the status quo of school districts’ purchasing power by adjusting base resources in the Funding Model for inflation. *Id.* at 2124. The purpose of an ECA with respect to personnel is to “maintain the ability of districts to staff their schools in the face of rising labor costs.” Tr. Vol. X at 2371. Without these cost adjustments inflation can leave school districts unable to provide necessary educational resources. Tr. Vol. IX at 2146.

Adjustments made consistent with the Wyoming Cost of Living Index (WCLI) are presumed adequate. “If other methods of adjustment are chosen by the legislature, they must be structured to assure quality of education remains adequate.” *Campbell II*, ¶ 90, 19 P. 3d at 550. The primary constitutional issue is whether the “State’s chosen method of funding represent as closely as possible, the cost of education.” *Campbell IV*, ¶ 31, 181 P. 3d at 55.

These directives are codified in Wyo. Stat. Ann. § 21-13-309(o), which provides in relevant part:

To the extent specifically provided by the legislature, and between periods of model recalibration..., the amount computed for each district under [School Foundation Program] **shall be adjusted to provide for the effects of inflation....**

The adjustment under this subsection shall not be applied until the expiration of the school year immediately following the first school year of application of the recalibrated model, and shall be adjusted **on a cumulative basis each school year** thereafter and until the first school year of application of a subsequent model recalibration. (Emphasis added).

It is indisputable that inflation has occurred since 2010. Ex. P1, Tbls. 7, 8, p. 11. In fact, the State concedes that salaries for professional and non-professional staff should have increased by 35% and 38% respectively to remain consistent with inflation. Tr. Vol. IX at 2190, 2195-96. Further, by way of example, the School Districts’ expert provided an unrefuted analysis establishing that inflation had eroded the value of revenues available for one School District, Uinta #1, over time. Ex. 2395, Tbl. 1, p. 3, Fig. 1, p. 4.; Tr. Vol. III at 643-644, 651.

Yet, despite the controlling law and precedent, the State acknowledges that it has failed to regularly adjust the Funding Model for inflation. R. at 6452, Ex. P1, pp. 5-6. The Court warned of this very harm, noting that “without such adjustments, legislative inaction appears

inevitable, and, ultimately, the funding of education will be below the cost in contravention of the constitution.” *Campbell II* , ¶ 88, 19 P.3d at 549. The Court further cautioned that “[t]here will undoubtedly come a time when inflationary cost increases render the funding levels inadequate to deliver the basket.” *Id.* at ¶ 87, 19 P. 3d at 548.

The State attempts to excuse its failure, alleging that: (1) the Funding Model no longer relies on historic costs; (2) the State provides funding at least consistent with accepted estimates of cost; and (3) the State monitors and responds to cost pressures. State’s Br. at 47. The District Court correctly rejected these same arguments. R. at 6580-6585.

1. The plain language of Wyo. Stat. Ann. § 21-13-309(o) requires an inflation adjustment.

As an initial matter, the State ignores the plain language of Wyo. Stat. Ann. § 21-13-309(o). The plain meaning of the statute, derived from a plain reading of the text, should be upheld unless it is unreasonable, produces an absurd result, or is obviously contrary to the legislature’s intent. *Parker Land and Cattle Co. v. Wyoming Game and Fish Comm’n*, 845 P.2d 1040, 1050 (Wyo. 1993).

The primary objective in statutory interpretation “is to give effect to the legislature’s intent.” *Cheyenne Newspapers, Inc. v. Bd. of Trustees of Laramie Cnty. Sch. Dist. No. One*, 2016 WY 113, ¶ 10, 384 P.3d 679, 682 (Wyo. 2016) (quoting *Nicodemus v. Lampert*, 2014 WY 135 ¶ 13, 336 P.3d 671, 674 (Wyo. 2014)). This Court’s longstanding method of statutory interpretation begins by first determining if the statute in question is “clear and unambiguous” or “ambiguous or subject to varying interpretations.” *Ultra Resources, Inc. v. Hartman*, 2010 WY 36, ¶ 69, 226 P.3d 889, 916 (Wyo. 2010). “Clear and unambiguous” language is wording “reasonable persons” would agree as to its meaning. *Id.*; *Parker Land and Cattle Co. v. Wyoming Game and Fish Comm’n*, 845 P.2d 1040, 1043 (Wyo. 1993) (citations omitted). When a statute is clear and unambiguous, the statute’s plain language is given effect. *Ultra Resources*, ¶ 69, 226 P.3d at 916; *Parker Land*, 845 P.2d at 1043 (citations omitted).

Sinclair Wyoming Ref. Co. v. Infrasure, Ltd, 2021 WY 65, ¶ 12, 486 P.3d 990, 994 (Wyo. 2021). Statutory interpretation in this case is straightforward. The statutory language requiring an ECA unmistakably originates from the Court’s holding in *Campbell II* that “the model and statute must be adjusted for inflation/deflation every two years at a minimum.” *Campbell II*, ¶ 90, 19 P.3d at 549-50. The plain language of Wyo. Stat. Ann. § 21-13-309(o) mandates that in between recalibrations, the legislature must adjust the Funding Model to account for inflation. Further, this adjustment must be applied in a cumulative manner.

2. The Funding Model relies upon historic costs.

The State conveniently disregards Wyo. Stat. Ann. § 21-13-309(o) altogether. It merely argues that the requirement for an ECA is conditioned on language from *Campbell II* directing “adjustment so long as a cost of education model using historic costs is relied upon,” claiming the legislature abandoned reliance on “historic” costs. State’s Br. at 48. First, if that was the legislative intent, it should have amended Wyo. Stat. Ann. § 21-13-309(o). Second, the claim that the legislature has abandoned reliance on “historic costs” is incorrect.

Following the 2005 recalibration, the State’s expert made a recommendation for Model Salaries to be included in the Funding Model for 2005-2006. Tr. Vol. XIII at 3490. Since that time, and as the State admits, the base Model Salary component of the current Funding Model has not been updated. Tr. Vol. XIII at 3377. Importantly, this means the School Districts receive the same amount of funding for salaries today as in 2005, except in the limited instances the legislature provided for a cumulative ECA. Thus, contrary to the State’s assertion, 79% of educational resources, professional and non-professional salary components of the Funding

Model, are comprised of the “historic costs” dating back to the 2005 recalibration. Ex. U8, p. 2.

While the monitoring process may examine how current actual wages paid by school districts compare to surrounding states, “the Funding Model salaries, not actual salaries, are used to calculate the Funding Model’s salary component of each school district’s guarantee,” and it is undisputed that Funding Model Salary component has not been updated, absent an ECA, since 2005. R. at 6579. Contrary to the State’s claim, the evidence established that the legislature continues to rely upon historic costs, requiring an inflation adjustment.

3. The State’s method for accounting for inflation is flawed.

The State further contends that the legislature has discretion to compare the Funding Model’s total expenditures to the total expenditures from the Consultant’s Model to determine whether to provide an ECA. State’s Br. at 48-52. This argument also fails. First, it depends upon the unproven proposition that the Consultant’s Model is an accurate and reliable estimate of cost. Second, the State’s argument relies upon actual salaries, not the salaries funded by the legislature, to establish overfunding. As the District Court correctly held, the “State’s method used to account for inflation is flawed . . . There was no evidence presented that the existence or non-existence of “cost pressures” is an accurate method for determining whether inflation exists.” R. at 6582.

The State tries to knock the District Court for casting aside the Consultant’s Model as an accurate and reliable estimate of cost. State’s Br. at 50-51. Yet, the State did not provide any evidence at trial to establish its estimate of costs is accurate and reliable. For example, the State did not call the author of the Consultant’s Model as a witness to support the cost-basis

of his Model. Nor did it put on any evidence to support the “cost basis” of the Consultant’s Model, even admitting that the Consultant’s Model had never undergone an independent review. Tr. Vol. XIII at 3403-3404.

Accordingly, the District Court properly found that “[c]omparing total funding of the Funding Model to total funding of the Consultant’s Model may show that the Funding Model is overfunded, but it does not establish the reasons for overfunding and, certainly, does not establish the existence or non-existence of inflation” for each of the individual components R. at 6582. Even the State’s own witness conceded that to be “cost-based,” each individual component of the Funding Model must “have a reasonable and accurate costs basis to [it].” *Id.* at 3465.

Furthermore, the State’s theory of overfunding is premised on salaries being above market value in 2010. State’s Br. at 48. The fundamental defect with this theory is that the 2010 analysis examined actual salaries paid by school districts, not the professional and non-professional salary components of the Funding Model to determine overfunding. Ex. C1 at 001476, Tr. Vol. IX at 2112-2114. As the District Court concluded, “[i]f the amount of funding provided to school districts is calculated using the salaries in the Funding Model, then a determination of whether salaries are above market should be based upon the Funding Model salaries and not the actual salaries paid by school districts.” R. at 6582-6583. Moreover, the State’s expert admitted her opinion of whether salaries are competitive could change if she relied upon Model Salaries. Tr. Vol. XII at 2869, 2871-2872, 2874. “Therefore, one of the State’s essential assumptions used for its inflation accounting method . . . has not proven to be true.” R. at 6583.

Importantly, Drs. Stoddard and Taylor could not state whether the salaries in the Funding Model are sufficient to attract and retain high-quality teachers. Tr. Vols. IV at 849-50, IX at 2159. “Suffice it to say, if teacher salaries are not adequately adjusted for inflation in keeping with [the Court’s] holding on the external cost adjustment, they will no longer be constitutionally cost-based.” *Campbell II*, ¶ 67, 19 P.3d at 543.

The State’s method is further flawed as incongruent with the holdings in the *Campbell* cases. The *Campbell II* Court foresaw the problem with the State’s methodology and provided prescient instruction - “It will be of great assistance to this court and all interested parties if the adjustment is adopted as a separate component of the model which would avoid the potential confusion, as occurred in this case, whether adjustments to the model for other reasons should be considered as inflation adjustments.” *Campbell II*, ¶ 90, 19 P.3d at 549-50. In *Campbell IV*, the Court understood the school districts’ “trepidation” in allowing the State to use a method not tied to an index to make an inflation adjustment. *Campbell IV*, ¶ 71, 181 P.3d at 65.. Yet as the Court directed, the determination of whether school funding is constitutional “is governed by whether the legislature does, in fact, make the adjustments necessary to assure that the historic costs continue to represent the actual cost of education.” *Id.* In *Campbell IV*, the Court noted with favor that the State had adjusted for inflation on an ongoing basis, citing adjustments which exceeded the increase in the WCLI, as well as WCLI-based inflation adjustments between recalibrations. *Id.* at ¶¶ 68-70. That is not this case here.

The legislature has failed altogether to adjust for inflation or has applied ECAs in an arbitrary manner, and when applied, ECAs have rarely been cumulative. Additionally, since 2014-15, the legislature has not made appropriations outside the Funding Model to account

for inflation, the type of evidence considered in *Campbell IV*. See P1, p. 6. Rather, the evidence established that the legislature has consistently cut education funding, by manipulation of the ECA and other means. Ex. 2143, pp. 14-18.

Stated simply to sum it up, the State's method is not based on inflation, but upon the flawed premise that the Funding Model is overfunding the cost of education. However, as set out herein in Argument Sections I. B-C, and II, *infra*, the State's methodology "does not represent as closely as possible, the cost of education." *Campbell IV*, ¶ 31, 181 P. 3d at 55.

4. The State's chosen process for accounting for inflation has signaled the need for adjustments beginning in 2017.

Even if the Court were to disregard the District Court's findings and conclusions and deem the monitoring process an accurate replacement for an inflation adjustment, the State's argument still fails in that it has ignored the signals requiring an ECA. It is undisputed that the Consultant's Model has required more funding than the Funding Model since 2018-2019, a gap that has persisted consistently since 2020-2021, undermining the States's convergence theory, and thus its basis to refuse an ECA. State's Br. at 21; Ex. P1, Fig. 2, p. 32, Tbl. 2 p. 5. As the District Court astutely found, "[t]he State has not accounted for inflation to assure education continues to adequately support the actual cost of education, as required by *Campbell IV* and as mandated by Wyo. Stat. Ann. § 21-13-309(o)." R. at 6584.

Furthermore, in the 2017 recalibration, the State's consultant recommended increasing the Model Salaries by \$3,900, noting that accounting for inflation and rising wages in non-teaching jobs, "teacher salaries have fall by up to 13 percent since 2012." Ex. 1196, pp. 50-53. The State ignored this recommendation.

Additionally, beginning in 2018, the State’s labor economist began reporting to the legislature about the erosion of teaching wages, noting that the ratio of teaching wages to other Wyoming occupations had eroded, Wyoming’s advantage in teaching salaries relative to the region has fallen, and exit rates of teachers exhibited a steady rise. Ex. L1, p. 12. By 2019, Dr. Stoddard added to these conclusions that “[actual] teaching salaries in Wyoming have remained flat over the past several years.” Ex. M1, p. 13. By 2021, Dr. Stoddard’s analysis again highlighted the erosion of teaching wages and found that “Model salaries now lie below the average salary in the region.” Ex. N1, p. 13. By 2022, Dr. Stoddard reiterated that teaching salaries have remained flat and found that “Model salaries now lie 3 percent below the average salary in the region”. Ex. O1, p. 14. Finally, by 2023, she noted a particularly sharp decline in the ratio of teaching salaries to comparable occupations, finding it “significantly lower than in any year recorded”. Ex. P1, p. 17. She further found that Wyoming’s competitive advantage relative to the region has fallen in half since 2018/19 and Model Salaries continue to be three percent below the average salary in the region. *Id.* She also documented that exit rates had jumped and that rates for new and midcareer teachers were the highest recorded in Wyoming. *Id.* In total, Dr. Stoddard’s reports had been signaling the need to adjust salaries for inflation since at least 2018. Similarly, the State’s witness charged with oversight of the Funding Model, conceded that the fact that school districts pay more over time for professional and non-professional salaries could serve as a “check engine light” on a car. Tr. Vol. IX at 2270-2272.

Despite these warning signs, between school years 2017-18 and 2022-23, the legislature adopted just one ECA for salaries, in 2019-2020, which it did not apply cumulatively. *Id.* at 2263-2264; Ex. 2044. In 2022, the Joint Education Committee recommended the Joint

Appropriation Committee (JAC) adopt ECAs based on the appropriate indices, yet the JAC “didn’t even consider the ECA for personnel indices that year.” Tr. Vol. XIII at 3369. It was not until after this litigation was instituted that the legislature enacted an ECA and, as if its hands were caught in the cookie jar, it provided an ECA intended to capture inflationary indices for the previous year. Ex. P1, pp. 5-6. The State should not be rewarded for finally taking action to ensure the Funding Model remains cost-based long after its monitoring process signaled the need to adjust for the effects of inflation.

Finally, and in conclusion, the State incorrectly contends that the District Court required automatic ECAs. State’s Br. at 55-56; *contra* R. at 6580-85, 6618-19. The District Court simply found that the State is not in compliance with *Campbell II*’s requirement that the Funding Model be adjusted for inflation. R. at 6583. Further, the District Court held that “it is unconstitutional to not adequately adjust teacher salaries for inflation” and that the monitoring process “is not escalating the costs based on inflation so as to assure education funding continues to adequately support the actual cost of education, and is therefore, unconstitutional”. R. at 6585.

As this Court has recognized, separate ECA indices are preferable. *Campbell II*, ¶ 90, 19 P.3d at 549-550. And as the State’s expert concedes, indices “remain the best available measures of inflationary pressures in Wyoming.” Ex. U8, p. 6. To be clear, the School Districts are not demanding automatic ECAs. Rather, as required by the *Campbell* cases and Wyo. Stat. Ann. § 21-13-309(o), the School Districts simply request the Funding Model be adjusted in a cumulative manner to account for the effects of inflation.

The State has failed to adjust for inflation and/or has enacted ECAs in an arbitrary manner, resulting in harm to Wyoming students and districts, in violation of the mandates of the Wyoming Constitution.

B. The State Has Failed To Maintain A Constitutionally Compliant School Finance System By Not Providing Salaries Adequate For The School Districts To Recruit And Retain Personnel To Deliver The Basket Of Quality Educational Goods And Services.

1. The District Court Correctly Applied the *Campbell* Holdings.

The State asks this Court to reverse the District Court “[t]o the extent the district court imposed an expenditure-based standard as the measure of “actual costs” for salaries.” State’s Br. at 62-63. The State contends the District Court “impose[d] an improper expenditure-based system” that would require the legislature to fund “whatever districts pay” in salaries. State’s Br. at 35, 56. That is a mischaracterization. The District Court did not require reimbursement of every expenditure. Instead, it required precisely what the Court has already mandated in prior precedent: that the Funding Model’s estimate of salaries reflects the actual cost of recruiting and retaining qualified personnel necessary to deliver the constitutionally required basket of goods and services. R. at 6586, 6591, 6619-20; *Campbell II*, ¶¶ 57, 91, 19 P.3d, at 540, 550.

Drawing on *Campbell II*, the District Court provided the personnel component of the Funding Model its closest scrutiny, R. at 6586, and applied *Campbell II*:

By far, the most expensive component of any education system is personnel, primarily classroom teachers. The record demonstrates those costs reflect 80 percent of the total. Consequently, the estimate of this component cost deserves the closest scrutiny. If it cannot be concluded that the estimate of teacher costs reflects the actual cost of the teachers necessary to deliver the basket, the system cannot be constitutional.

[T]eacher quality is critical to providing a constitutional education ... it is unacceptable for essential teaching positions to remain unfilled or to be consistently filled by unqualified applicants.

¶¶ 57, 91, 19 P.3d at 540, 550; R. at 6586.

Guided by these principles, the District Court concluded, by a preponderance of the evidence, that “the Funding Model’s estimate of the cost of salaries for personnel no longer accurately reflects the actual cost of school district personnel, and therefore violates the *Campbell* holdings.” R. at 6586.

The State’s appellate argument to the Court ignores the clear distinction the District Court carefully drew. The District Court did not hold that actual salaries define constitutional adequacy. Rather, it used the unrefuted evidence that School Districts consistently pay salaries above the Funding Model as evidence that the State’s estimates have fallen below cost. R. at 6586, 6591, 6619-20; R. at 6586, *citing Campbell II* at ¶¶ 88-89, 19 P.3d at 549 (“Evidence that actual salaries being paid by Wyoming school districts are consistently higher than the Funding Model salaries shows that the Funding Model’s salaries may be below the cost of providing the required education”). That is not the imposition of an “expenditure-based” system, it is the faithful application of *Campbell II* and *Campbell IV*.

Campbell II held that the school financing system cannot be constitutional unless the estimate of teacher costs reflects the actual cost of the teachers necessary to deliver the basket of goods. *Campbell II*, ¶ 57, 19 P.3d at 540. *Campbell IV* did not alter that standard. Instead, it approved the 2006–07 MAP salaries as cost-based, *Campbell IV*, ¶¶ 23, 68, 181 P.3d at 53, 64–65, while at the same time cautioning against an expenditure-based system that would require the State to fund “whatever the districts request.” *Id.* at ¶ 75, 181 P. 3d at 66. *Campbell IV* also

clarified that while the Court would not “not dictate the method the state must use to determine the cost of education,” it must still determine whether the model adopted is constitutionally adequate. *Id.* at ¶ 31, 181 P. 3d at 55. “The primary constitutional issue [is] does the state’s chosen method of funding represent, as close as reasonably possible, the cost of education.” *Id.* Thus, the judiciary’s role remains to test whether the legislature’s estimates are in fact cost-based, and to ensure compliance with the constitutional benchmark of adequacy.

The District Court did exactly that. It reviewed the evidence of what it costs to hire staff in Wyoming today, found Model Salaries inadequate, and ordered correction. This was not a departure from precedent, but constitutional compliance. The State’s challenge collapses once its mischaracterization is stripped away: the court did not require funding “whatever districts pay,” it required Model Salaries that reflect the actual cost of securing qualified personnel. R. at 6586, 6591, 6619–6620.

This conclusion is reinforced by the record. Again, as the Court has gleaned from the briefing, the State does not challenge the District Court’s factual findings, which are reviewed only for clear error. *See, e.g., Hopper v. All Pet Animal Clinic, Inc.*, 861 P.2d 531, 538 (Wyo. 1993). As detailed below, the evidence, from School District testimony to the State’s own labor market studies, uniformly confirms that Model Salaries are no longer competitive or cost-based, and thus fail to reflect the actual cost of recruiting and retaining qualified personnel.

2. The Evidence Establishes that Model Salaries are No Longer Competitive or Cost-Based.

As fully set forth in the *Statement of Relevant Facts*, *supra*, the record contains overwhelming evidence supporting the District Court’s finding that Model Salaries are out of

line with the cost of securing quality personnel. Teacher quality is the single most important factor in student achievement, and competitive salaries are essential to recruit and retain such personnel. Tr. Vols. II at 542; III 562-563, 743; V at 1143-1144, VIII at 1840, 1981. Yet, no district in Wyoming can hire at the Model Salary levels. The School Districts testified without contradiction that they cannot fill positions at those rates, routinely receive few or no qualified applicants, and must settle for candidates they would not have considered in the past. Tr. Vols. I at 219; II at 367–368, IV at 933, 1010, V at 1124–1125, 1159, 1166-1167.

The reason is plain: the Model Salary has been frozen since 2005 apart from unreliable ECAs, leaving the Weighted Model Salary in 2022–23 at only \$53,506, which is virtually unchanged from \$53,046 in 2010–11. Tr. Vol. XIII at 3377; R. at 6474; Ex. 1213, p. 4. This fact is striking and Wyoming has thereby lost the competitive advantage it once held. And to drive the point home, the State’s own consultant, Dr. Stoddard, concluded that Model Salaries are now three percent below the regional average and that Wyoming’s edge relative to surrounding states has been cut in half since 2018. Ex. 1213, p. 2; Tr. Vol. IV at 871–872, 893.

The predictable result is a recruitment and retention crisis. Since 2019, mid-career teachers have left Wyoming in increasing numbers, the number of University of Wyoming education graduates has declined by more than one-third since 2012, and the School Districts are increasingly forced to rely on long-term substitutes, EAs, and PIC permits rather than qualified teachers. R. at 6613–6614; Exs. 2201, 2294; Tr. Vols. V at 1136-1137, 1144, VIII at 1972.

This evidence left little doubt that Model Salaries have fallen out of line with the actual cost of recruiting and retaining personnel. At trial, the weight of testimony and exhibits

overwhelmingly favored the School Districts, and the State has not meaningfully challenged the evidence or credibility determinations on appeal. The District Court itself recognized this balance, giving “significant weight to the testimony of each of these very experienced educational professionals and [finding] it more convincing than the statewide statistical evidence presented by the State.” R. at 6589, 6612–6616.

3. The Court’s Credibility Findings Confirm its Ruling.

In terms of witness credibility, the District Court found the State’s witnesses less persuasive. And for good reason. Dr. Koedel suggested two reasons districts pay more than Model Salaries: either higher pay is needed to staff schools or teacher labor groups influence salaries. R. at 6587. He deemed the latter more plausible. *Id.* When pressed, Dr. Koedel conceded he had no evidence that “teacher labor group influence” explained higher salaries in Wyoming and acknowledged the State has no collective bargaining statute. *Id.* With his alternative explanation unsupported, the only remaining reason he identified was the obvious one: higher salaries are necessary to staff schools. *Id.* Further, Drs. Koedel, Stoddard, and Taylor did not base their analyses on Model Salaries, relying exclusively on actual salaries paid by districts. R. at 6579. Dr. Stoddard’s admitted her opinions were based on comparisons of actual district salaries rather than Model Salaries. R. at 6579-6580. She even acknowledged her conclusions might change if based on the Model Salaries. *Id.* Dr. Stoddard also admitted she could not opine whether Model Salaries were sufficient to attract and retain teachers because the State failed to provide her with necessary data. R. at 6588-89; Tr. Vol. IV at 839–842, 849–850. Her limited conclusions were undermined by the very evidence she presented showing Wyoming’s salaries have fallen behind.

The District Court’s credibility findings were well supported and are entitled to deference. The State does not challenge those determinations. Instead, it argues that this Court should defer to legislative funding estimates. That contention, however, rests on a fundamental misreading of *Campbell II* and *Campbell IV*.

4. The State Misreads *Campbell II* and *Campbell IV* in Arguing for Deference.

The State contends that *Campbell II* and *Campbell IV* require deference to the legislature in setting Model Salaries. State’s Br. at 57. However, the State’s contention misinterprets the Court’s opinions in those cases.

First, *Campbell II* expressly requires Wyoming salaries to remain “competitive regionally and nationally.” *Campbell II*, ¶ 66, 19 P.3d at 543. Competitive salaries cannot be assessed in the abstract. They must be evaluated against evidence of whether Wyoming districts can, in fact, recruit and retain qualified teachers. The District Court’s reliance on evidence that districts consistently pay salaries above the model was not to “dictate the use of actual salaries” but to confirm that Model Salaries no longer provide the constitutional level of competitiveness that *Campbell II* requires.

Second, *Campbell IV* did not insulate legislative salary estimates from judicial review. *Campbell II* made clear that the school financing system cannot be constitutional unless the estimate of teacher costs reflects the actual cost of providing the teachers necessary to deliver the basket of goods. *Campbell II*, ¶ 57, 19 P.3d at 540. *Campbell IV* applied that standard when it approved the 2006–07 MAP salaries as cost-based, *Campbell IV*, ¶¶ 23, 68, 181 P.3d at 53, 64–65. Unlike the present case, in *Campbell IV*, the evidence supported a finding that salaries and benefits were adequate to attract and retain qualified teachers. At the same time,

the Court cautioned against an automatic expenditure-based system that would require the State to fund “whatever the districts request.” *Id.* at ¶ 75. But nothing in *Campbell IV* suggests that courts are barred from considering actual salary evidence to determine whether legislative estimates remain cost-based and constitutionally adequate.

It is also significant that the State has moved away from the MAP model, which this Court in *Campbell IV* expressly approved as cost-based. *Campbell IV*, ¶¶ 23, 68, 181 P.3d at 53, 64–65. The current Funding Model no longer employs that cost-based methodology, and the State has offered no credible evidence showing its present salary estimates are constitutionally adequate. Instead, it relies on testimony and exhibits from witnesses the District Court found lack credibility. The legislature’s departure from the MAP framework removes any presumption of validity and underscores the judiciary’s duty to determine whether the State’s estimates still reflect the actual cost of recruiting and retaining qualified personnel.

Finally, the State’s reliance on legislative “deference” is misplaced. While the legislature may design the model and make cost estimates, this Court has consistently held that adequacy is a constitutional question for the judiciary, not a political question for the legislature. *See Id.* at 15, 181 P.3d at 51. The District Court fulfilled its duty by testing the State’s estimates against overwhelming credible evidence of teacher shortages, declining competitiveness, and increased reliance on underqualified staff.

The District Court’s ruling on salaries faithfully applied *Campbell II* and *Campbell IV* and is grounded in overwhelming evidence and supported by credibility determinations entitled to deference. The court did not impose an expenditure-based system; it applied the constitutional

requirement that Model Salaries reflect the actual cost of recruiting and retaining qualified personnel.

C. The State Has Failed To Maintain A Constitutionally Compliant School Finance System By Not Properly Funding The Actual Costs Of School Districts To Provide The Basket Of Quality Educational Goods And Services.

The constitution requires education in Wyoming to be cost-based. *Campbell II*, ¶¶ 89-90, 19 P.3d at 549. Accordingly, the Funding Model must be cost-based. R. at 6591; Tr. Vols. IX at 2267-2268; XIII at 3337. Cost-based means determining whether the State's funding of model components such as salaries equals actual cost. Tr. Vols. IX at 2268; XIV at 3616.

At issue in this litigation is whether the State's new method by which it funds education is cost-based. Tr. Vol. XIV at 3632. As the State acknowledges, prior to this litigation, no court "has determined . . . whether that new model, new system, new way of determining the appropriate funding is constitutional." Tr. Hr'g-Summ. J., p. 14.

If the "new model" or "new system" fails to fund the actual cost of education, "the constitutional right to an equal and adequate education is obviously compromised and the strict scrutiny standard is appropriate." *Campbell II*, ¶ 44, 19 P.3d at 536. The Court's constitutional inquiry does not "end upon blessing of the model without examination of its inputs." *Id.* at ¶ 55, 19 P. 3d at 539. The complexity of the block grant model system requires scrutiny of all aspects of the system because, if one assumption fails, many others are jeopardized. *Id.* at ¶ 56, 19 P. 3d at 540. Based on precedent, the District Court properly inquired whether the "State's chosen method of funding represent[s]" the cost of education as close as reasonably possible and found that it did not. R. at 6581 (citing *Campbell IV*, ¶ 31, 181 P. 3d at 55); R. at 6594. The State does not contend that the Funding Model is determined

by actual costs. In fact, the State's own witnesses could not confirm whether the Funding Model is cost-based. When asked by the Court whether the Funding Model is "cost-based", the State's school finance legislative analyst replied that "[i]t reflects a cost", informed by the consultants, "and the legislature has chosen to modify those, or ignore some recommendations". Tr. Vol. XIII at 3404. When pressed, he replied that "[i]t is what is deemed as the legislature's cost, what they feel is the appropriate measure of cost." *Id.* at 3405. Further Dr. Seder could not definitively opine that the Funding Model is based on the actual cost of education. *Id.* at 3541. Perpetuating the unproven theory of overfunding, Dr. Seder concluded that the Funding Model was "at least" cost based. *Id.* at 3542. However, in follow-up to this assertion, the District Court mused, "I think his terminology of 'cost based' and what I'm trying to figure out are two different things...." *Id.* at 3543.

No evidence presented by the State provides that the Funding Model is, in fact, cost-based. Instead, the State claims there is unrefuted evidence of "overfunding" which demonstrates the overall adequacy of funding. State's Br. at 63. However, the State merely relies on the discredited testimony of Dr. Seder, who opined that a model not relied upon since 2006 (MAP Model) somehow established that the Funding Model was overfunded. State's Br. at 51. Yet, when questioned, Dr. Seder admitted he had conducted no research to support his opinion. Tr. Vol. XIV at 3644. He admitted that his analysis was premised on the fact that teaching and learning has not changed much in twenty years since the State abandoned the MAP Model. *Id.* at 3640. Moreover, the State presented no evidence that the policy choices the legislature has made regarding the Consultant's Model results in a Funding Model that is cost-based. "Even assuming the Consultant's Model is cost-based, the State's

method of comparing the total amount of funding using the Consultant's Model to the Funding Model's total funding does not mean each of the components of the Funding Model have a reasonable and accurate basis to them." R. at 6594.

In fact, the evidence unmistakably establishes that the essential components do not have a reasonable and accurate basis. The State baselessly contends that the District Court required "an unrealistic standard of precision where any marginal error render the entire model deficient." State's Br. at 63. The State would have the Court believe that so long as it gets "close enough", the Funding Model is cost-based, arguing there will always be a margin of error. However, as discussed in Argument Section I. B, *supra*, the District Court properly held that the School Districts "proved by a preponderance of the evidence that the Funding Model's estimate of the cost of salaries for personnel no longer accurately reflects the actual cost of school district personnel", in violation of the *Campbell* holdings. R. at 6586. Evidence presented established that personnel salaries and benefits account for 80% to 85% of a school district's operational budget. *Id.* As the Court has recognized, "the estimate of this component cost deserves the closest scrutiny. If it cannot be concluded that the estimate of teacher costs reflects the actual cost of the teachers necessary to deliver the basket, the system cannot be constitutional." *Campbell II* at ¶ 57, 19 P.3d at 540.

Further, as discussed in Argument Section I. A., *supra*, the District Court correctly found that "[t]he State's monitoring process is not escalating the costs based on inflation so as to assure education funding continues to adequately support the actual cost of education and is, therefore, unconstitutional". R. at 6585, citing *Campbell IV*, ¶ 69, 181 P. 3d at 65. According to the State's economist, Model Salaries for professional and non-professional staff

should have increased by 35% and 38% respectively to remain consistent with inflation. Tr. Vol. IX at 2190, 2195-96. However, salaries did not increase by the stated percentages, and considering the significant portion of funding tied to these costs, this discrepancy extends well beyond the State’s characterization of “minor” underfunding. State’s Br. at 69. Accordingly, the preponderance of evidence demonstrates that the State’s failure to account for the actual cost of education substantially exceeds its alleged “margin of error.”

Even the State’s own expert acknowledged that for the Funding Model to be cost-based, it must have sufficient funding so that all districts can provide a high-quality education. Tr. Vol. XIV at 3617-3618. To achieve a high quality, uniform education, the Funding Model must work for all districts, not just some. *Id.* at 3617. Contrary to the State’s bald assertion that its evidence was “set aside”, State’s Br. at 66, the District Court actually considered such evidence but “was not persuaded by the State’s evidence”. R. at 6614 Further, the District Court was surprised that the “State did not present any testimony from a witness employed by or previously employed by any of the other forty school districts about the quality of Wyoming’s public-school education.” *Id.* By contrast, the District Court found School Districts’ witnesses to be “professional and very experienced public school education experts” with first-hand experience in the issues facing Wyoming students. R. at 6589-90, 6613. As the Court is well aware, district courts have the prerogative to weigh evidence and determine its persuasiveness during bench trials. *See e.g. Bloedow v. Maes-Bloedow*, 2024 WY 115, ¶ 13, 558 P.3d 576, 582 (Wyo. 2024).

The District Court set out in detail why it rejected the State’s evidence. R. at 6614-6616. For example, the State leaned heavily on the Assurances form signed during the accreditation

process as indication that a school district is providing the required basket of goods. Tr. Vol. XI at 2592. Yet, the District Court noted with favor the testimony of the School Districts' expert, Dr. Kniss, who explained that the Assurances are not "a measure of the outcome" but rather "a promise" that a school district is spending its money to accomplish the requirements set forth in the Assurances. Tr. Vol. III at 587-589. Signing Assurances does not ensure that students have achieved a particular standard, only that the programs comply with the standard. *Id.* at 590; R. at 6614. After reviewing the evidence, the District Court found that the Assurances do "not establish school districts are able to provide all their students with a quality education." R. at 6615.

Similarly, the District Court rejected the State's claim that the annual State teacher assessment ratings (WDE 662) ensured "there are enough high-quality teachers to provide the required education to all students." R. at 6615. The evidence established that the WDE 662 is not relevant in determining the quality of a teacher. R. at 6558; Tr. Vols. X at 2417-2419, 2508-2509, XIV at 3704. Finally, based on the evidence, the District Court rejected the State's claim that "graduation rates, statewide average NAEP scores, statewide average ACT scores, and increases in students qualifying for the Hathaway scholarship program" proved school districts are able to provide a quality education. R. at 6615-6616. Again, the District Court cites with favor Dr. Kniss, who opined that statewide average scores on NAEP or other statewide assessments such as the ACT do not mean that Wyoming is fulfilling its obligation to move all students forward in their education, and are geared toward college readiness while not measuring career readiness. R. at 6615; Tr. Vol. III at 585-586. Reliance on NAEP scores is further defective as it is only administered to a sampling of fourth and eighth grade students

in reading and math every four years. Tr. Vols. XIV at 3672-3674, XV at 3753. The District Court also found several of the State's charts and graphs actually contradicted the State's position. R. at 6616; Ex's. J4, M4.

In sum, pursuant to precedent, it is the District Court's role to weigh testimony and evidence. While the State may not like the District Court's decision, such a decision is based upon a preponderance of the evidence presented at trial.

One final observation merits mentioning. Citing *Campbell IV*, the State would have the Court believe that the legislature's obligation is to merely make a "good faith effort" to assess adequacy of funding. *See e.g.*, State's Br. at 67, 70. However, the seminal distinction between this case and *Campbell IV*, is that in *Campbell IV* the State had made efforts to adjust funding to reflect actual costs. *Campbell IV* at ¶¶ 20, 23, 24, 68, 181 P. 3d at 52-53, 64. As set out in detail herein, the facts do not support a "good faith" effort. In reality, the legislature has been making funding decisions not based on objective evidence, but rather has been making judgment calls based on the flawed premise that salaries were overfunded beginning around 2010. The elaborate scheme of monitoring is a ruse to avoid ensuring the Funding Model reflects the actual cost of education, in violation of the constitution, thereby harming students and school districts. The Court should not endorse this alleged methodology.

II. District Court Properly Concluded The State's Funding Model Excludes Constitutionally Required Components

The District Court properly grounded its analysis in *Campbell's* recognition of the "aspects of a quality education," including "low student/personal computer ratios" and "ample, appropriate provision for at-risk students [and] special problem students." R. at 6595; *Campbell I*, 907 P.2d at 1279. *Campbell* makes clear that when local innovations emerge, "all

students are entitled to the benefit of that change,” and the State’s funding system must “assure each child the opportunity to receive a quality education regardless of where that child resides” and provide “appropriate and sufficient teaching material and equipment.” R. at 6595-6596; *Campbell I*, 907 P.2d at 1274; *Campbell IV*, ¶ 138, 181 P.3d at 84 (quoting *Campbell I*, 907 P.2d at 1278). The Court further relied on *Campbell’s* recognition that “[c]hildren with an impaired readiness to learn do not have the same equal opportunity for a quality education as do those children not impacted by personal or social ills.” R. at 6596; *Campbell I*, 907 P.2d at 1278. These principles underscore that the funding model must evolve to address disparities and ensure equal access to a quality education for all Wyoming students.

Drawing on *Campbell IV*, the court underscored the Legislature’s duty to fund a system that equips all students for the future and the judiciary’s duty to ensure it is not underfunded. R. at 6595; *Campbell IV*, ¶¶ 14–15, 181 P.3d at 50. Applying that framework, the District Court properly found that counselors, SROs, nutrition programs, and one-to-one technology are “appropriate for the times and necessary to provide a ‘thorough and uniform education of a quality that is both visionary and unsurpassed’” and that failure to fund them results in unconstitutional underfunding. R. at 6596.

A. Elementary Mental Health Counselors

The District Court concluded:

the Funding Model must include elementary level school mental health counselors as a component. Not providing elementary health counselors results in a failure to provide the constitutionally required ample and appropriate provision for at-risk and special problem students. The evidence established providing elementary school counselors represents a major change and innovation in public school, which should be available to all Wyoming Students.

R. at 6597–6598. Presumably in recognition of the overwhelming weight of the trial evidence, the State effectively conceded the point, making no argument in its appellate brief and not even asking this Court to overturn the District Court’s finding. Under Wyoming law, such silence operates as a waiver. W.R.A.P. 7.01; *Zanetti v. Zanetti*, 689 P.2d 1116, 1122-23 (Wyo. 1984).

B. School Resource Officers

The District Court concluded SROs are an essential component of education in Wyoming. The evidence firmly demonstrated SROs enhance student learning by fostering safety and security; educators unanimously agreed they are necessary for a quality education. Having emerged through local innovation, SROs are “appropriate for the times,” and all Wyoming students are entitled to their benefit. R. at 6600.

Contrary to the State’s attempt to dismiss the findings as “district preferences,” the record establishes otherwise. Recalibration reports recognized the need to consider SROs; a Governor’s task force endorsed SROs statewide; and superintendents across Wyoming testified they are essential to educational programs. R. at 6599; Ex. 1217. The District Court properly credited Wyoming educators over the State’s lone witness, who lacked Wyoming K-12 experience and relied solely on national literature, a credibility determination entitled to deference. R. at 6600; *Life Care*, ¶ 7, 65 P.3d at 389. The State does not claim clear error, but simply repeats arguments previously rejected. Nor does *Campbell IV* help the State. While affirming the legislature’s policymaking role, it also charged courts with ensuring constitutional adequacy. *Campbell IV*, ¶ 15, 181 P.3d at 51. Here, the District Court fulfilled that duty by

finding SROs “appropriate for the times” and essential to quality education, a conclusion firmly supported by the record and entitled to affirmance. R. at 6600.

C. Nutrition Services

The District Court likewise found nutrition programs to be an essential component of a constitutional education, crediting the largely uncontroverted testimony that hungry children cannot learn, that federal subsidies are inadequate, and that School Districts are compelled to divert millions from general funds each year to cover shortfalls. R. at 6601-6602; Tr. Vol. XVI at 3878-3879.

The Court concluded that “[t]he evidence demonstrated a school funding model which does not include a nutrition component and funding for school nutrition is unconstitutional because nutrition is an essential component of a quality education.” R. at 6603. This conclusion is consistent with the *Campbell* legal framework, which requires “ample, appropriate provision for at-risk and special problem students.” *See* R. at 6695–96; *Campbell I*, 907 P.2d at 1278–1279; *Campbell II*, ¶ 51. Nutrition is essential to readiness to learn, and children impaired in readiness lack equal opportunity. *Id.* Accordingly, an education “appropriate for the times” cannot be adequate without meal programs. *Id.*

The State does not challenge the District Court’s factual findings as clearly erroneous, but instead characterizes nutrition programs as “social programming” or family responsibility. State’s Br. at 78. That argument seeks only to reweigh the evidence and displace factual determinations that are owed deference. *Life Care*, ¶ 7, 65 P.3d at 389. The record established that when the State fails to fund nutrition, lower-income districts and students suffer disproportionately, as meal programs cannot be self-sustaining without excluding needy

students. Tr. Vols. III at 729; VIII at 2006. Superintendents testified that hungry children cannot concentrate, learn, or succeed in school, making nutrition not an “adjacent social service” but essential to a constitutional education. R. at 6601; *Campbell IV*, ¶ 138, 181 P.3d at 84. Absent school nutrition programs, thousands of students are denied the meaningful opportunity to benefit from instruction guaranteed under the Wyoming Constitution. R. at 6601.

Under *Campbell*, adequacy turns not on budgetary choices but on whether the system provides every child an equal opportunity to learn. *Campbell IV*, ¶ 138, 181 P.3d at 84. Because education is not static, it must incorporate substantive innovations “appropriate for the times.” *Campbell I*, 907 P.2d at 1274, 1279; *Campbell II*, ¶ 125, 19 P.3d at 560. Nutrition is such an innovation and the District Court correctly held that a Funding Model excluding nutrition services fails the constitutional mandate.

D. Technology

The District Court correctly found that one-to-one computer access is indispensable to a constitutional education and must be funded as “appropriate for the times” to provide a “thorough and uniform education of a quality that is both visionary and unsurpassed.” R. at 6604. That conclusion was supported by unrefuted testimony from superintendents and district officials that the three-to-one ratio embedded in the Funding Model is obsolete, leaving districts dependent on temporary COVID relief funds to provide basic access. R. at 6603. Witnesses uniformly testified that one-to-one devices are now required to deliver instruction, meet state curriculum standards, including Computer Science, and guarantee equal access to

textbooks, which are increasingly electronic. Tr. Vols. III at 738, 766-767, 801-803, VIII at 2058; *see also* R. at 6603-6604.

Unable to challenge the District Court's findings as clearly erroneous, the State resorts to a pleading objection that the record itself forecloses: the Complaints alleged underfunding of textbooks and technology, the issues were developed in depositions and at trial, and the evidence was admitted without objection. R. at 16-17, 28, 322, 1123, 1124, 1127, 2855-2856, 3084-3085, 3130-3131, 3628, 4863, 6486-6487, 6603; Tr. Vols. III at 738, 766-67, 801-803, VIII at 2058. Issues tried by express or implied consent are treated as raised in the pleadings. W.R.C.P. 15(b)(2); *Jankovsky v. Halladay Motors*, 482 P.2d 129, 133 (Wyo. 1971). The District Court itself advised the State at the close of the School Districts' case that "there's some evidence that the one-to-one computers is appropriate, and so I think there has been a factual showing that the adequacy of the education being provided to the public school students is not up to constitutional muster." Tr. Vol. IX at 2099. Having had full notice and opportunity to be heard, the State's objection now is reduced to mere dissatisfaction with the District Court's factual determinations, findings that are entitled to deference. *Life Care*, ¶ 7, 65 P.3d at 389.

The District Court correctly applied the *Campbell* cases in concluding that one-to-one technology is no longer optional but essential to providing equal educational opportunity. This Court has held that education must be "dynamic and evolving", and "appropriate for the times", and that when local innovations become essential to providing equal opportunity, all students are entitled to their benefit. *Campbell II*, ¶ 125, 19 P.3d at 560; *Campbell I*, 907 P.2d at 1274, 1279. The record established exactly that: one-to-one technology is required for

electronic textbooks, required Computer Science instruction, and equal access to the curriculum. R. at 3085, 6603. As the District Court found, technology has become a substantive innovation “appropriate for the times” that must be included in the Funding Model. R. at 6604.

III. The State Has Failed To Maintain A Constitutionally Compliant School Facilities Finance System By Not Adequately And Evenly Assessing School Facilities For Educational Suitability

At the outset, it is important to note the State has not identified which, if any, of the District Court’s extensive findings regarding facilities are clearly erroneous. Rather, the State simply disagrees with the fact the District Court wasn’t buying what the State was selling.

In this regard, it is important to note the District Court’s rebuke of the State’s evidence:

Although the evidence established the State has appropriated a significant amount of funding to repair and replace hundreds of school facilities across the State, this Court cannot find that the State has acted in *good faith* to assure school facilities have sufficient funding to provide adequate school facilities, which require only routine maintenance, to all school districts in the state. Even Director [of the State Construction Department] agreed he informed the legislature that school facility needs continue to outpace available resources.

R. at 6609 (emphasis added.)

The finding/conclusion that the State has not acted in “good faith” is fatal to the claim that it “should be allowed to continue using whatever reasonable and effective means it may choose to ensure adequate facilities, including the current administrative processes for educational suitability.” State’s Brief at 82. As set forth in the District Court’s Final Order, the current administrative process, set out in Chapter 3 Section 8, for assessing educational suitability is fundamentally flawed because it does not adequately and evenly assess existing school facilities for educational suitability.

The continued reliance on an *ad hoc* assessment of educational suitability for existing facilities is contrary to the District Court’s ruling that the legislature has allowed unequal and inadequate school facilities to exist for too long. As previously noted, the State has not appealed this ruling.

The State acknowledges that it “must ensure the ‘adequacy’ of school facilities, which includes consideration of a facility’s condition, capacity, and suitability.” State’s Br. at 27, generally citing *Campbell III*, 2001 WY 90, 32 P.3d 325. Notwithstanding the acknowledgement that educational suitability is a component of adequacy, the State has failed to assess educational suitability following the *Campbell* decisions.

In this regard, the District Court noted the “evidence established the State does not assess existing school facilities for educational suitability in the same manner it assesses existing school facilities for condition and capacity. The legislature repealed the statutory suitability assessment requirement in 2021.” R. at 6606. As a result, the District Court concluded that “the State’s failure to assess every school facility for educational suitability is not consistent with the mandates of the *Campbell* decisions.” R. at 6608-6609.

Among the *Campbell* mandates is the mandate that “the State bears the burden of funding and providing constitutionally adequate facilities to school districts that provide an equal opportunity for a quality education.” *Campbell II*, ¶ 123, 19 P.3d at 559. The State’s failure to comply with *Campbell* mandates:

has allowed many Wyoming public-school students to be educated in educationally unsuitable schools for many years. For example, students attending CCHS [Campbell County High School], RSHS [Rock Springs High School], and Arp Elementary [located in Laramie 1] have been educated in inadequate school facilities for at least 10 years. The State presented no evidence to suggest that those facilities were educationally suitable. The

Campbell decisions do not authorize the State to fail to assess educational suitability because educational suitability is difficult to assess.

R. at 6609.

The failure to assess educational suitability is contrary to the *Campbell II* and *III* decisions that:

determined that a proper education could not be adequately delivered to children who attended schools that had long been denied adequate maintenance and construction funding. Legislative studies, experts and consultants, as well as school district reports, identified and proved what was known anecdotally by parents, teachers and students that, throughout the state, seriously deficient buildings were negatively impacting the quality of education.

Campbell IV at ¶ 95, 181 P.3d at 71-72. The ongoing failure to separately address educational suitability in existing facilities ignores the fact that school buildings are not corner gas stations. Ex. 2272, p. 2.

The State attempts to avoid the consequences of its systemic failure to assess educational suitability by touting an administrative process, Chapter 3, Section 8, it created in 2024, after this litigation was initiated. Chapter 3, Section 8 essentially requires that a school district persuade the agency that the district's facility is no longer educationally adequate before it can queue up for a possible remedy. Tr. Vol. XIV at 3583-3584.

Based on the evidence, the District Court concluded that Chapter 3, Section 8 is "deficient on many levels" and gave the agency "unfettered discretion" to determine whether a remedy is warranted. R. at 6608. The District Court noted, Chapter 3, Section 8 has *inter alia* "no set of objective criteria or score [and] creates a significant potential for arbitrary, unequal, and disparate results." *Id.* This arbitrary administrative process is clearly contrary to the

mandate of an equal opportunity to a quality education: “[D]isparate treatment of schools based upon arbitrary standards cannot be justified.” *Campbell II*, ¶ 100, 19 P.3d at 553.

The State has complied with the mandates of the constitution regarding capital construction when:

1. The legislature has funded the facilities deemed required by the state for the delivery of the required educational programs to Wyoming students in all locations throughout the state.
2. The legislature has enacted a comprehensive plan, separate from operations, to provide adequate funding for adequate facilities from state wealth;
3. The legislature measures an adequate facility as one requiring only routine maintenance, although it may utilize different methodologies to measure adequacy.

Campbell IV, ¶ 103, 181 P.3d at 73.

It is undisputed there are school facilities in Campbell #1, Laramie #1, and Sweetwater #1 that are not educationally suitable – i.e., not adequate. These School Districts have been denied adequate funding for years to remedy these inadequate facilities that require much more than routine maintenance.

Notwithstanding the evidence and law to the contrary, the State portrays Chapter 3, Section 8 as an acceptable “methodology” for assessing educational suitability. State’s Br. at 84-86. In reality, it’s simply an administrative lottery that creates winners and losers among the school districts. Such an arbitrary system is the antithesis of the *Campbell* rulings.

The continued failure to properly assess educational suitability of existing facilities means that unequal and inadequate facilities will continue to exist within and among the school districts. In *Campbell IV*, the Court concluded that it agreed:

[]ith the district court that the state’s failure to comply with the mandate and the remaining demonstrated inadequacies require a new approach. We regret that so many children have passed through facilities requiring major repair or replacement; however, our review of the evidence . . . persuades us, as it did the district court, that the state has acted in good faith in trying to meet the mandate through research-based policymaking, statutory enactment and appropriations of large sums.

¶ 101, 181 P.3d at 73. As discussed above, students continue to pass through inadequate facilities. And as found by the District Court, unlike in *Campbell IV*, the State has not acted in good faith to prevent this harm.

IV. The State’s Failure To Maintain A Constitutionally Compliant School Finance System Has Harmed The Fundamental Right To An Education

The District Court properly found that the State’s actions and inactions of failing to maintain a constitutionally compliant school finance system have harmed the fundamental right to an education. The court summarized the harm:

Plaintiffs proved by a preponderance of the evidence that the State’s actions and inactions of failing to properly adjust for inflation, failing to assure school district personnel salaries are funded based upon cost, failing to maintain a cost-based funding model, failing to include and fund all essential components of a quality education, and failing to maintain and fully fund a system for assuring all school facilities are educationally suitable and adequate have each caused harm to the fundamental right to education. The State’s failures have affected Wyoming children’s right to a proper education.

R at 6612.

These findings are supported by the record and are not clearly erroneous. Indeed, the State does not argue to the contrary. The evidence at trial demonstrated that the lack of adjustments to base Model Salaries and failure to implement a cumulative and consistent ECA have impacted School District funding, which has resulted in an erosion of resources Districts can provide to students. Tr. Vol. II at 537-538, 541. Despite their best efforts to minimize the

impact these cuts have on students, the erosion of resources results in School Districts cutting programs and services provided to students. Specifically, Dr. Kniss testified: “I would say a slow erosion of access to opportunity and instruction for students in particular as it pertains to intervention resources, instructional facilitation, professional development and electives and specials . . .at the elementary level, but opportunities for students to engage in any of that programming has also slowly eroded over time.” *Id.* at 537. Dr. Kniss’s testimony vividly demonstrated that as funding decreases, School Districts are forced to make tough choices about where to cut funds. *Id.* at 539-540.

Similarly, Superintendent McGovern testified about the impact on Sweetwater #1: “We have done extensive cuts every year for the last ten years – and beforehand. We have trimmed – there is no extra fat in their whatsoever. We are bare bones.” *Tr.* Vol. VIII at 1993-1994. Ms. McGovern testified at trial that Sweetwater #1 could not balance its budget because of continued state budget cuts and consequently “75 paraprofessionals lost their jobs.” *Id.* at 1997. Furthermore Sweetwater #1 was forced to cut programs, including the elimination of advanced placement programs. *Tr.* Vol. VIII at 2015.

The evidence showed that Albany #1 has cut resources to fund electives and enrichments, resulting in harm to students. *Tr.* Vol. II at 544-546. Dr. Kniss’s trial testimony illustrated this point: “We have to either focus on college readiness or career readiness, but we don’t always have the opportunity to be able to give students the agency to be college and career ready.” *Id.* at 546.

For Laramie #1 the reduced funding has meant that it is no longer able to offer a myriad courses that were part of a quality education. *Tr.* Vol. II at 365-367. Evidence

established that reduced funding for Laramie #1 has also resulted in the elimination of gifted and talented and elementary athletics, and reduced funding for professional development, and a reduction in administrative and classified staff. Tr. Vol. I at 103-104.

Further, the evidence at trial demonstrated that resources for educators have been cut, thereby harming students. Tr. Vol. IV at 936-938. Superintendent Chaulk noted in her trial testimony that the need to reduce textbooks negatively impacts students and teachers. *Id.* at 939. She further testified at trial that when Districts reduce teacher resources, it hurts both teachers and students. *Id.* at 939.

The School Districts have further been required to reduce the number of certified positions, such as instructional facilitators and coaches, resulting in harm to students. Tr. Vol. II at 373, 542. Dr. Kniss testified that “the instructional facilitator’s sole job responsibility is to improve instruction practice, and as they work with teachers, the goal is to ensure that every student has access to a quality teacher, and that impacts students at every achievement level.” *Id.* at 542.

Additional cuts to essential positions such as interventionists, graduation coaches, curriculum coordinators, nurses, and other types of educators that has resulted in harm to students. Tr. Vols. II at 370-371, 543-549, VIII at 1847-1849, 2025.

The evidence also showed that difficulties in filling open certified positions have resulted in harm to students. *See e.g.*, Tr. Vols. II at 405-408, V at 1122-1123, 1127-1128. Dr. Reznicek testified at trial about the harm:

Some of our programs have suffered -- I just can't imagine one teacher in a room with eight children and only one aide when there should be three aides in there, with an autistic program. Emotionally disabled, that would be just as tough. And when you don't have those adequate numbers to take care of staff,

I don't believe the instructional strategies are being taught with fidelity. I think we're meeting the minimum requirements, but if I was a parent, I would want the same level of education for my child as every other child's getting, and that's where it suffers.”

Tr. Vol. V at 1123. Other witnesses provided evidence regarding the same. *See e.g.*, Tr. Vol. II at 410-411.

The evidence at trial showed that current funding levels impair the School Districts’ abilities to provide the basket of goods, though they are struggling to do the best they can. Tr. Vol. III at 618. Dr. Kniss testified at trial that Albany #1 is able to deliver the basket of goods “[s]uccessfully for a percentage of our students, but not yet successfully for all of our students.” *Id.* Ms. McGovern testified that Sweetwater #1 was “delivering the bare minimum. We’re delivering the minimum to get by.” Tr. Vol. VIII at 2027.

The School Districts’ witnesses further testified to the impact on graduation rates. Tr. Vol. IV at 1007. Superintendent Chaulk opined that the decline in graduation rates in Lincoln #1 is due to not meeting the needs of students. *Id.* at 1007-1008 (“I believe we’re not meeting the needs of our students to keep them engaged to come to school and giving them what they need.”).

Similarly, the Districts testified they are unable to provide a complete, uniform, high-quality education. Tr. Vol. III at 740. Ms. McGovern testified at trial that “[t]he effects of the state cuts on school funding have caused educational harm to our students. We have one opportunity to educate kids, and we’re blowing it.” Tr. Vol. VIII at 2017-2018.

The record provides ample ground on which this Court may affirm the District Court’s detailed and meticulous findings of fact that the State’s failure to maintain a constitutionally compliant school finance system has harmed the fundamental right to an education.

V. The State Failed To Provide A Compelling State Interest For Depriving Wyoming Students Of A Fundamental Right To An Education

As early as July 31, 2023, the State had clear notice that the court “will apply strict scrutiny to proven legislative action or inaction which harms the fundamental right to a public education regardless of whether the harm is caused by disparities or is a harm to the constitutionally required quality or level of the education being provided.” R. 478. Despite this, the State chose to proceed without presenting evidence of a compelling state interest, ignoring the overwhelming and undisputed evidence of harm. The State offered no facts that could meet its burden, and it presented no evidence of any compelling justification. When pressed at trial, the State identified only “efficiency” as its purported interest—an answer that plainly falls short of strict scrutiny. Tr. Vol. XVI at 3847–3848; R. at 6095. That strategic choice cannot be excused.

The State’s burden is to demonstrate that the disparities or inadequacies in school funding were the least restrictive means of furthering a compelling governmental interest, something far weightier than convenience, efficiency, or cost savings. This Court has already made clear that saving money cannot justify depriving students of their constitutional right to a quality education. *Campbell I* at 1279 (“Because education is one of the state’s most important functions, lack of financial resources will not be an acceptable reason for failure to provide the best educational system. All other financial considerations must yield until education is funded.”). Having failed to make the evidentiary showing required, the State cannot now claim surprise at the standard applied. Again, to be clear, the State is not appealing the District Court’s findings of facts.

Indeed, as the Court can plainly observe, the State’s appellate brief is barren of any argument asserting that the District Court’s findings of facts are clearly erroneous. Such an omission amounts to a lack of cogent argument. “When a brief contains no cogent argument or pertinent authority, we consistently have refused to consider the appeal, whether the brief is by a litigant pro se or is filed by counsel.” *McInerney v. Kramer*, 2023 WY 108, ¶ 9, 537 P.3d 1146, 1148 (Wyo. 2023) (finding that in addition to the procedural infirmities, the appellate issue raised was not developed by cogent argument or supported by legal authority).

Even under the rational basis standard, the most deferential standard, the State’s position fails. At a minimum, the State was required to present evidence showing that educational harm caused by underfunding its new Funding Model was rationally related to a legitimate governmental interest. It did not do so. The State offered no credible evidence to support its claims, and the District Court correctly found the record devoid of facts that could justify the State’s approach. The findings of fact and credibility determinations are supported by the record and are not clearly erroneous. And while conclusions of law are reviewed de novo, the State’s complete failure of proof is fatal under any standard of review.

CONCLUSION

For the foregoing reasons, the District Court’s judgment should be affirmed in all respects.

RESPECTFULLY SUBMITTED this 8th day of September, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *School Districts' Brief* was served electronically via the Wyoming Supreme Court C-Track Electronic Filing System 8th day of September, 2025, on the following parties:

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The original copy will be hand-delivered to the Wyoming Supreme Court on the 8th day of September, 2025.

The undersigned also certifies that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in digital form or scanned .pdf is an exact copy of the written document filed with the Clerk, and that the document has been scanned for viruses and is free of viruses.

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