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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),

Case No. S-25-0136

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).

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NEW ISSUES AND ARGUMENTS RAISED IN APPELLEES' BRIEFS

- I. Appellees argue the State is asking this Court to reweigh evidence. (Dist.'s Br. at 6, 21, 24, 46; WEA's Br. at 13, 18, 51).
- II. Appellees argue the State is misinterpreting the appealed order. (Dist.'s Br. at 65-68, 71; WEA's Br. at 31-32, 34, 54-55).
- III. The Appellee Districts argue that a novel outcome-based standard makes their assurances irrelevant. (Dist.'s Br. at 20, 35-36, 77, 88-91).
- IV. Appellees argue for novel interpretations of *Campbell IV*'s strict scrutiny and good faith effort holdings. (Dist.'s Br. at 41-43, 49-51, 72, 92; WEA's Br. at 27-28, 30, 60-61).
- V. Appellees argue the State's brief ignores a statutory requirement for annual, cumulative External Cost Adjustments (ECAs). (Dist.'s Br. at 57-59; WEA's Br. at 13-14).
- VI. Appellees make novel arguments against the State's use of existing consultant models. (Dist.'s Br. at 6-8, 12, 17, 20-21, 60-61, 71-72, 74-75; WEA's Br. at 10, 20, 23, 39, 45-47).
- VII. Appellees distort evidence to argue the State has intentionally abused the monitoring process to underfund salaries. (Dist.'s Br. at 35-38, 63-69, 78; WEA's Br. at 14, 22, 24, 31-32, 34, 42-50, 52, 56-58, 62).
- VIII. Appellees argue equal protection requires a novel degree of uniformity. (Dist.'s Br. at 19, 34-35; WEA's Br. at 62-63).
- IX. Appellees distort the State's arguments and the law regarding the necessity of "innovations." (Dist.'s Br. at 24, 26, 80-82; WEA's Br. at 1, 15, 28, 64, 68-70, 72, 86).
- X. Appellees argue that the State had notice of the student technology device ratio issue. (Dist.'s Br. at 83; WEA's Br. at 73-74).
- XI. Appellees make novel arguments that an administrative process for addressing suitability is a "lottery" unbounded by any standards. (Dist.'s Br. at 86-87; WEA's Br. at 17, 79, 81-82).
- XII. Appellees make a new plea for equitable relief. (WEA's Br. at 90-91).

ARGUMENT

I. The State asks this Court to clarify the legal standards under which the evidence is to be considered, not to reweigh evidence.

Appellees argue the State is asking this Court to reweigh the evidence, and criticize the State for not identifying “clearly erroneous” factual findings. (Dist.’s Br. at 6; WEA’s Br. at 13). The district court erred before it weighed the evidence. The State argues the district court’s factual findings were “erroneous as a matter of law” because they were considered and weighed under legal standards that misconstrued the court’s role. As Appellees note, this Court does not defer to such findings. (Dist.’s Br. at 46) (quoting *Life Care Ctrs. of Am., Inc. v. Dexter*, 2003 WY 38, ¶ 7, 65 P.3d 385, 389 (Wyo. 2003) (citation omitted)).

The State’s evidence focused on overall adequacy, measures of quality, and the legislature’s good faith efforts. Appellees relied on anecdotes from a few districts, claiming statewide data used to evaluate the adequacy of funding does not satisfy strict scrutiny unless it can disprove the opinions of district staff. (See Dist.’s Br. at 21, 24; WEA’s Br. at 18, 51). Given the lack of overlap, the district court generally did not have to parse contradictory evidence. (R. at 6578). Instead, it decided which body of largely unrefuted evidence it found more relevant based on its incorrect understanding of the legal framework and standard of scrutiny. Thus, the legal standards the district court applied effectively determined the outcome.

The district court erred when it used strict scrutiny to consider the evidence on a blank slate. In doing so, the court failed to recognize the legal necessity of statewide

information, objectivity, and appropriate deference to the legislature’s pre-existing good faith efforts to decide the same issues contested in this case. *See Campbell Cnty. Sch. Dist. v. State*, 2008 WY 2, ¶¶ 13, 75, 79, 181 P.3d 43, 50, 66-67 (Wyo.2008) (*Campbell IV*) (concluding strict scrutiny applies only to claims of wealth-based disparities; approving reliance on statewide average salaries and comparison with other states; clarifying the legislature determines what is necessary, not school districts; establishing a good faith effort standard to assure sufficient funding).

The State discusses evidence in this appeal only to clarify Appellees’ mischaracterizations and illustrate the effects of the district court’s legal errors. The State asks this Court to correct and clarify legal standards so that good faith legislative judgments are not overturned whenever a court might agree with a contrary opinion on matters subject to reasonable dispute.

II. The only plausible means of complying with the appealed order involve State actions the Wyoming Constitution does not require.

Appellees assert the State is setting up “strawman” arguments by misconstruing the requirements in the district court order. (WEA’s Br. at 31, 34). Their semantic distinctions obscure the practical effects of the appealed order in an effort to avoid meaningful appellate review of the remedies they sought and obtained. (*See R.* at 66-70, 323-24, 334).

For example, Appellees argue the district court did not require “automatic” ECAs, merely ECAs that mirror inflation indexes regardless of cost indicators. (Dist.’s Br. at 65; WEA’s Br. at 54-55). This is a distinction without a difference. The Wyoming legislature has discretion to reasonably determine the necessity and amounts of ECAs through cost

monitoring, which the appealed order would clearly prohibit. (R. at 6582-83, 6585, 6619). The only plausible way to comply with this order is to mechanically apply an inflationary index regardless of the alignment between funding and cost.

Appellees also argue the district court did not require model salaries to reflect actual salaries, as the State asserts, merely that they be based on “actual cost.” (Dist.’s Br. at 66-68, 71; WEA’s Br. at 31-32, 34). However, if the State’s market-based estimate of personnel funding is considered invalid and not reflective of “actual cost” anytime it differs from district pay tables, this supposed defect could only be cured by relying on district expenditures, effectively allowing districts to dictate salaries. *See Campbell IV*, ¶¶ 74-75, 181 P.3d at 65-66. (eschewing an “expenditure-based system”).

III. Districts’ annual assurances to the State are reliable evidence of adequacy that cannot be minimized or avoided by insisting on an outcome-based standard.

The Appellee Districts seek to further minimize or avoid the import of the assurances they provide in the State’s accreditation process. (Dist.’s Br. at 20, 35-36, 77, 91). They insist districts represent they are delivering the basket of goods at current funding levels as a superficial means of maintaining accreditation, and that such statements do not indicate “rigor” or “quality,” or that districts are providing an “equal opportunity for a quality education.” (*Id.* at 20, 35-36, 77).

The Appellee Districts’ effort to minimize their own assurances as a meaningless indicator disregards the larger accreditation process, where the State evaluates district performance in substantial detail. (Tr. at 2588:14-2594:3). More importantly, it is troubling that the Appellee Districts would have this Court believe Wyoming schools are (and should

remain) fully accredited while allegedly providing a constitutionally-deficient education. This is a stunning argument from those whose standing has been premised on their responsibility to “provide education to the children of Wyoming.” *See Washakie Cnty. Sch. Dist. No. 1 v. Herschler*, 606 P.2d 310, 317 (Wyo. 1980). If the State’s accreditation process was truly so insignificant, and responses so unworthy of credence, that would be an issue far more concerning than marginal disputes over model inputs and adjustments.

It appears that when the Appellee Districts need to maintain accreditation and avoid further scrutiny or accountability, they assure the State that all is well. But when it is advantageous to securing more funding, they present a dire tale of deficient schools failing to educate kids. (*See* Dist.’s Br. at 88-91). Both stories cannot be true.

The Appellee Districts further disclaim their assurances because they are “not a measure of outcome” that prove districts are “mov[ing] all students forward in their education.” (Dist.’s Br. at 36, 77). The district court embraced this attempt to move the goalposts to improper outcome-based measures of adequacy. (R. 6614-15). Such an approach is not required as the measure of adequate funding, and only invites further litigation over whose subjective performance measures should be credited and whether more funding could ever achieve such ends. The Wyoming Constitution requires only an equal opportunity to learn through funding what is necessary to deliver the education program prescribed by the legislature, not achievement of particular outcomes or arbitrary measures of success. *See Campbell IV*, ¶¶ 75-76, 181 P.3d at 66 (describing measures of constitutional adequacy and quality).

Districts’ annual assurances are more than a minimal promise that they are “complying with state requirements and using funds accordingly.” (Dist.’s Br. at 36, 91). They are admissions that districts are delivering the quality education prescribed by the legislature. (R. at 6295-96, ¶¶ 326-32). As legal representations made outside of litigation, they are one of many reliable indicators of a constitutionally-adequate education system. (See generally R. at 6278-91, ¶¶ 193-295, 6291-98, ¶¶ 296-340). The district court was not at liberty to ignore these assurances by creating an outcome-based legal standard.

IV. Appellees misinterpret this Court’s application of strict scrutiny to nullify the distinction between equity and adequacy in *Campbell IV*.

Appellees make novel arguments that attempt to minimize and reinterpret *Campbell IV*. (Dist.’s Br. at 41-43, 49-51, 72, 92; WEA’s Br. at 27-28, 30, 60-61). They incorrectly insist that this Court’s earlier holdings discussing “any state action **interfering** with” the right to education require strict scrutiny of any education funding dispute, including their adequacy claims. (See Dist.’s Br. at 41; WEA’s Br. at 27) (quoting *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238, 1267 (Wyo. 1995) (*Campbell I*)) (emphasis added).

Statements from *Washakie* and *Campbell I* regarding strict scrutiny of education funding must be understood in the equal protection context in which those cases were decided. *Washakie*, 606 P.2d at 314 (complaint of “inequities that are resulting from the financing system”); *Campbell I*, 907 P.2d at 1250 (addressing claims of “unjustified disparity”). They cannot be interpreted as extending that standard to adequacy claims, because no such claims were presented. These earlier cases strictly scrutinized actions

“interfering” with equal opportunity for education because only the negative right to be free from discriminatory funding was at issue. *See Campbell I*, 907 P.2d at 1266.

Appellees correctly note that, in a later case, this Court broadly applied strict scrutiny to all components of the MAP model under review. (Dist’s Br. at 42, 49; WEA’s Br. at 27) (citing *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 19, ¶¶ 42-43, 56, 19 P.3d 518, 535, 540 (Wyo. 2001) (*Campbell II*)). However, the reason it did so is not present in this case. *Campbell II* addressed the first cost model ever proposed in Wyoming, deciding both the validity of cost-modeling overall and the distributional mechanics required for equitable funding. *Campbell II*, ¶ 3, 19 P.3d at 527. In that context, it is easy to see why the Court applied a single standard to model mechanics whose interactions could allow disparities to persist. *Id.*, ¶ 43, 19 P.3d at 535 (holding the “interdependence” of funding model components required “one level of scrutiny” to avoid “unacceptable disparities”).

By contrast, Appellees’ adequacy claims do not implicate the equity of the current model’s distributional mechanics. (*See*, R. at 321, ¶ 17). It is undisputed that these mechanics are built on the MAP framework found equitable in *Campbell IV*, and have remained fundamentally unchanged and unchallenged for nearly twenty years. (Tr. at 3477:2-3478:2). Thus, this case presents issues much more like those in *Campbell IV*, which assessed the State’s compliance with *Campbell II* and also addressed new claims of inadequate funding. *Campbell IV*, ¶¶ 5, 13, 181 P.3d at 48, 50 (describing disputes over “modifications” to funding alleged to result in “inadequate funding for public education”).

The *Campbell IV* Court clarified that strict scrutiny applies only to alleged “wealth-based disparities,” which would be avoided so long as equitable distributional mechanics

like those ordered in *Campbell II* were maintained. *Id.*, ¶ 11, 181 P.3d at 49. For claims alleging insufficient funding to cover costs, this Court evaluated the legislature’s “good faith effort” to define the required components of the education funding system, reasonably estimate their cost, and provide funding accordingly. *Id.*, ¶ 79, 181 P.3d at 67. Together, *Campbell II* and *Campbell IV* distinguish this Court’s approach to claims of inequitable distribution from its approach to claims of inadequate funding.

Appellees insist this straightforward interpretation of *Campbell IV* requires an implicit overruling of the earlier *Campbell* cases. (Dist.’s Br. at 50-51). However, only Appellees’ insistence on the universal application of strict scrutiny would require this Court to find that *Campbell IV* implicitly overruled *Campbell II*. If strict scrutiny applies to all claims, as Appellees assert, the *Campbell IV* Court would have had no reason to clarify its limited application to wealth-based disparities that invoke equal protection, or defer to the legislature’s good faith effort. *See Campbell IV*, ¶¶ 11, 79, 181 P.3d at 49, 67. These cases can be harmonized when properly viewed as pragmatic responses to different circumstances. Appellees simply seek to avoid this inconvenient reality through revisionist interpretations, unsupported by relevant citations to *Campbell IV*. (*See* Dist.’s Br. at 50; WEA’s Br. at 28, 61).

Appellees further assert the State is “claim[ing] surprise” that strict scrutiny would apply, and that it has failed to meet its burden of proving that allegedly inadequate funding is necessary to achieve a compelling state interest and is the least onerous means of doing so. (Dist.’s Br. at 49, 92). The State is not claiming surprise, merely pointing out the

absurdity of asking what compelling state interest justifies allegedly inadequate funding or whether such funding is being provided through the least onerous means.

These assertions only make sense to Appellees because their argument effectively runs the analysis as a single-stage inquiry rather than sequentially – demanding the State present a compelling state interest to **determine** whether funding is adequate rather than applying this concept only after the threshold finding (as in the equal protection context). (*Id.* at 49, 92). This approach rigs the game in Appellees’ favor by allowing them to prove nothing beyond a *prima facie* showing, while imposing a virtually impossible standard for the State to disprove any constitutional violation Appellees might propose.

Appellees further claim that this Court has fully dispensed with the concept of separation of powers as a limit on the role of courts when reviewing education funding cases. (Dist.’s Br. at 43) (quoting *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 90, ¶ 32, 32 P.3d 325, 332 (Wyo. 2001) (*Campbell III*)). *Campbell III* merely holds that separation of powers does not bar judicial review of education funding. *Campbell III*, ¶¶ 30-32, 34, 32 P.3d at 331-33. It does not suggest the absence of any limiting standards for that review. In fact, *Campbell IV* prescribes precisely the opposite, limiting strict scrutiny to claims alleging disparities, preserving legislative prerogatives, and deferring to good faith determinations of adequate funding. *Campbell IV*, ¶¶ 73-76, 79, 181 P.3d at 65-67.

Appellees decry this balanced approach. They argue that deference to reasonable, “good faith efforts” to adequately fund schools is a meaningless standard that makes education a second-class right, avoiding judicial review so long as the legislature has “tried.” (Dist.’s Br. at 51; WEA’s Br. at 30, 60). The concept of good faith effort known to

the law is not the rubber stamp Appellees imply. *See Wells Fargo Bank Wyo., N.A. v. Hodder*, 2006 WY 128, ¶ 33, 144 P.3d 401, 413 (Wyo. 2006) (defining good faith in various legal contexts). The applicable standard, while deferential, allows for meaningful judicial review without unduly trampling important legislative prerogatives.

Taken together, Appellees' claims that equity and adequacy are inseparable – both requiring strict scrutiny without deference or regard for the separation of powers – amount to a novel framework that would effectively allow courts to appropriate education funds by fiat. Maintaining a legislative middleman would have little purpose if its funding decisions as to whether and how much of a given resource are needed are accorded no deference and can simply be disregarded anytime a single judge disagrees. If this is the state of the law, then perhaps it would be necessary to revisit the *Campbell* paradigm.

However, this Court does not need to overrule anything to confirm the logic and basic premise of its latest ruling in *Campbell IV*. Where disparities in allocation of funding are not at issue, funding choices should start with a presumption of validity. So long as the legislature is making good faith policy choices in reasonable response to reliable factual information, the courts are to apply deferential legal standards that respect these efforts. *See Campbell IV*, ¶ 79, 181 P.3d at 67.

V. Wyoming statutes preserve legislative discretion in making ECAs.

Appellees advance a facially incorrect interpretation of Wyo. Stat. Ann. § 21-13-309(o), asserting the legislature has obligated itself to provide routine ECAs and accusing the State of avoiding this issue. (Dist.'s Br. 57-59; WEA's Br. 13-14). Appellees rely on language indicating that the funding model "shall be adjusted to provide for the effects of

inflation.” Wyo. Stat. Ann. § 21-13-309(o). However, subsection (o) begins with a conditional clause stating that adjustments are made only “[t]o the extent specifically provided by the legislature[.]” *Id.* This limiting language precedes and modifies the entire subsection, unambiguously establishing the legislature’s discretionary control over ECAs.

Related provisions confirming the plain meaning of this statute and the legislature’s discretion must be considered *in pari materia*. *Wyo. Guardianship Corp. v. Wyo. State Hosp.*, 2018 WY 114, ¶ 12, 428 P.3d 424, 431 (Wyo. 2018). Subsection (u) requires reports and recommendations to inform the legislature’s “model adjustment under subsection (o).” Wyo. Stat. Ann. § 21-13-309(u). This advisory process would be rendered pointless under Appellees’ argument for rote, non-discretionary application of ECAs.

VI. Consultant model estimates are a long-accepted and essential part of developing a resource-based cost-model funding system.

Appellees claim the State’s current consultant cost-model (EB model) provides invalid cost estimates and thus cannot be used as a reliable baseline for comparison. (Dist.’s Br. at 6-8, 12, 17, 20-21, 60-61, 71-72, 74-75; WEA’s Br. at 10, 20, 23, 39, 45-47). Their argument ignores the State’s long-standing, unchallenged use of this model consistent with this Court’s precedent. This Court approved modeling reliant on consultant recommendations as a valid means of estimating cost almost twenty-five years ago. *Campbell II*, ¶ 2, 19 P.3d at 526 (finding cost-modeling constitutional). Funding based on the MAP model was found constitutional in *Campbell IV*, making this model a valid point of reference. *Campbell IV*, ¶ 4, 181 P.3d at 47.

At trial, the State demonstrated that both current funding and the current EB model recommendations remain consistent with the funding the MAP model would provide, as adjusted for inflation since its last use in 2005. (Tr. at 3537:9-25; Exs. B11, C11). To avoid the reality that funding remains cost-based, Appellees seek to disqualify both the EB model (because it is not the court-approved MAP model) and the MAP model (because it is not the EB model the State now uses). (Dist.’s Br. at 6-8, 20, 72; WEA’s Br. at 10, 45-47). Having found no way to dispute either model’s substance, Appellees can only prevail on their ECA, salary, and cost-based funding claims by leaving the State with no model comparisons at all. (*See* Dist.’s Br. at 60-61, 74-75, WEA’s Br. at 45-47).

Appellees demand the State prove the EB model’s estimates to justify relying on it as a baseline cost comparison for decades. (Dist.’s Br. at 8, 60-61, 74-75; WEA’s Br. at 10, 45-47; *See* Tr. at 3328:12-23). Their demand is inconsistent and opportunistic. Appellees did not challenge the validity of the EB model when the legislature used it as a guide to dramatically increase funding beyond the court-approved MAP model recommendations. *See Campbell IV*, ¶ 4, 181 P.3d at 47; (*See* Tr. at 3485:9-3486:13; Ex. D10). Only now that the EB model no longer suits their purposes do they suddenly consider it invalid.

Beyond the evidence it has already presented, the State will not attempt to prove the infallibility of the debatable policy judgments first embodied in the EB model almost twenty years ago. If Appellees wanted to challenge this model, they should have done so years ago. Invalidating decades of model estimates and comparisons now unfairly undermines this Court’s approval of cost-modeling altogether. *See Id.*, ¶ 12, 181 P.3d at 49 (noting prior holding that “cost of education model ... was constitutional”).

Appellees' strategy appears designed to pick off every objective method for estimating costs until the only remaining option is the expenditure-based system they pretend not to ask for. (*See* Dist.'s Br. at 12, 17, 60-61, 71, 74; WEA's Br. at 20, 23). The district court credited this strategy, putting Appellees one step away from avoiding any method that would offer an alternative to their own opinions about what Wyoming's schools need. (*See* Dist.'s Br. at 21; WEA's Br. at 39). This Court should correct this legal error and maintain course by affirming that a good faith effort to estimate costs can include comparisons to models that are consistent with precedent, including the comparisons the State has used to gradually realign funding with the EB model's cost estimates.

VII. The State has used the monitoring process to realign funding with cost in response to consultant recommendations, not as a ploy to underpay teachers.

Appellees present numerous arguments in support of the district court's holdings on personnel funding and the need for ECAs. (Dist.'s Br. at 35-38, 63-69, 78, WEA's Br. at 14, 22, 24, 31-32, 34, 42-50, 52, 56-58, 62). These arguments contradict unrefuted facts and impute nefarious legislative motives without evidence.

First, Appellees argue that as soon as the State was free of continuing jurisdiction it "invented a theory" that the cost-based salaries validated in *Campbell IV* were substantially overfunded. (WEA's Br. at 14, 22, 42, 48-49). This argument is a baseless accusation. The salaries on trial in *Campbell IV* were based on the 2005 MAP model recommendations. (Tr. at 3472:25-3473:10). Undisputed evidence shows personnel funding in 2010 was substantially higher than it had been in 2005, due to several increases in the intervening five years. (*See* Tr. at 3485:9-3486:13; Exs. D10, P1 at 006996). Every expert who

analyzed this issue concluded these increases had led to dramatically over-inflated wages. (Ex. C1 at 001259-63, 001266-67, 001458-62). The State plainly did not “invent” the finding that 2010 personnel funding (and the salaries it enabled) exceeded cost. (*Id.* at 001259-62).

Next, Appellees claim the State used the “flawed premise” of personnel overfunding to set up the monitoring process as a “ruse,” using the two-model convergence theory to “consistently cut” funding below “actual cost” up to the present. (Dist.’s Br. at 63, 66-68, 78; WEA’s Br. at 31-32, 43-49, 52, 56). However, Appellees offered no evidence directly attacking the 2010 consultant salary analyses that recommended the convergence approach. The monitoring process is the tool consultants recommended to avoid overcorrecting below cost-based levels. (Exs. C1 at 001262-63, 001287, E1 at 002663). Appellees were well aware of 2010 legislative findings explaining and adopting all of this, yet they sat on their hands and only now allege the State misused the monitoring process to systematically violate the Constitution for more than a decade. (*See* Ex. C1 at 001259-62).

Appellees further attempt to invalidate the monitoring process by misusing information from that very process. Appellees claim the State “ignored the signals” that personnel was underfunded beginning in 2018. (Dist.’s Br. at 63-65; WEA’s Br. at 57-58). It is unclear why these signals would not appear until 2018 (when Appellees claim this underfunding began in 2010). Regardless, the State did not ignore anything. The consultant who supposedly provided these signals concluded that the monitoring process did not show consistent cost pressures until 2022, at which point adjustments were made and have continued in every year since. (Tr. at 2845:9-2846:4, 2847:16-24; Exs. O1 at 004224, P1

at 007008); 2024 Wyo. Sess. Laws ch. 118, § 205; 2025 Wyo. Sess. Laws ch. 140, § 3. Appellees’ own witnesses confirmed their hiring challenges largely fit this timeline. (Tr. at 228:20-229:10, 783:1-8, 786:4-20, 1124:9-25, 1138:7-12, 1158:17-22, 1890:19-1891:13).

Appellees also continue to assert, without evidence in the record, that districts must divert other resources toward teacher salaries. (WEA’s Br. at 47, 62). Unrefuted data disproves this claim, showing districts statewide have had consistent spending patterns for years and currently underspend teacher personnel funding. (Tr. at 2437:3-2438:18, 3517:10-18; Exs. A11, E3, Q9). The “diversions” that are actually occurring tell a rather different story. Over the years, districts have transferred tens of millions of dollars to reserve and investment funds ultimately used for turf fields, stadiums, aquatic complexes, and other enhancements not required by State standards. (R. at 6283-89, ¶¶ 228-77). Appellees urge this Court to simply ignore this evidence as “an intentional distraction” from their story of gross underfunding. (WEA’s Br. at 24).

Appellees next insist that underfunding salaries is reducing teacher quality. (Dist.’s Br. at 36-38, 69; WEA’s Br. at 34). Unrefuted data shows districts almost universally rate their teachers as “effective,” and have relatively low and steady turnover and vacancy rates. (R. at 6329-32, ¶¶ 535-63, 6337-38, ¶¶ 597-605). In litigation, however, Appellees’ witnesses told a different story – insisting teachers are leaving in droves for higher paying states while districts have to hire less qualified applicants to replace them. (*But see* R. at 6333-36, ¶¶ 564-96; 6341-43, ¶¶ 626-42). Appellees presented no “data” supporting this allegation, as their own witness admitted. (*See* Dist.’s Br. at 35, 37; WEA’s Br. at 50; Tr. at 615:1-616:6). As with their accreditation assurances, Appellees’ actions on teacher

ratings outside of litigation are inconsistent with their witnesses’ narratives at trial. This inconsistency demonstrates the need for objectivity over anecdotes to justify overriding the legislature. *Campbell IV*, ¶¶ 75-76, 181 P.3d at 66 (noting “tension between what the districts believe is needed and what the state contends education should cost,” and evaluating adequacy using objective comparisons and defined measures of quality).

The objective evidence described above does not show a “recruitment and retention crisis,” only recent challenges in post-pandemic labor markets. (*See* Dist’s Br. at 69; *see* Ex. N9). Districts may have sensed these challenges more acutely after many years where cost-plus funding had allowed largely frictionless hiring. However, it is undeniable that the monitoring process worked as intended to alert the State to these issues, and the legislature has responded. (Exs. O1 at 004224, P1 at 007010); 2024 Wyo. Sess. Laws ch. 118, § 205; 2025 Wyo. Sess. Laws ch. 140, § 3.

Ongoing adjustments will not, and need not, revive the inefficiently high salaries districts once enjoyed due to overfunding. Efficient, cost-based funding will always involve some tension between having enough but not too much – a balance the monitoring process seeks to preserve. This Court has never required the State to fund personnel as generously as it chose to through 2010, and should not do so now. *See Campbell II*, ¶ 66, 19 P.3d at 543 (salaries need only “remain viably competitive regionally and nationally”).

Despite hearsay that the Wyoming Education Association suggested to this effect, the State is not claiming that personnel funding is substantially above cost today. (*See* WEA’s Br. at 56 (alleging 2017 statements from Dr. Picus, who no party called as a witness)). Rather, the State’s position is that current market-based methods for making

good faith estimates of adequate personnel funding, as adjusted through recent ECAs, are entirely consistent with this Court’s prior holdings. *See Campbell IV*, ¶¶ 73, 75, 181 P.3d at 65-67 (eschewing “expenditure-based system” and allowing estimates based on a “minimalist concept” of economic cost as the “lowest price at which one can purchase something”). The district court erred when it denied the State any plausible option but expenditure-based funding. *See Id.*, ¶¶ 13, 74-76, 79, 181 P.3d at 50, 65-67.

VIII. Equitable allocation of education funding does not require the uniformity Appellees insist is necessary.

Appellees have expanded several arguments on appeal to insist that equal protection requires an extreme degree of uniformity. (Dist.’s Br. at 19, 34-35, WEA’s Br. at 62-63). The vision they present is completely impractical and not legally required. *See Campbell IV*, ¶ 11, 181 P.3d at 49 (explaining that “exact or absolute equality is not required”).

Appellees argue that if students are taught by teachers with different experience or training this variation affects quality, creating disparities in the students’ experience that violate equal protection. (WEA’s Br. at 63). Appellees do not challenge the licensing standards Wyoming uses to regulate the credentialing and training of teachers. *See generally, Rules, Wyo. Pro. Teaching Standards Bd.*, chs. 1-9. Beyond these standards, the State cannot possibly eliminate the natural variation in teacher quality every student will unavoidably face, let alone do so through the funding model.

Appellees also insist that any variation in elective or enrichment opportunities beyond the state-mandated education program also violates equal protection. (Dist.’s Br. at 34-35; WEA’s Br. at 62). Their argument implies the State must increase funding until

every district can offer everything any other district chooses to provide. (*See* Dist.’s Br. at 19). But even this excessive funding would not actually address their concern. No amount of funding will ever eliminate variation in local preferences. The only way for the State to cure this supposed defect is to remove local authority over class offerings altogether.

Finally, Appellees insist that any variation in the amenities or age of schools violates equal protection, and that the State has conceded this inequity. (Dist.’s Br. at 35; WEA’s Br. at 63). The State concedes only that facilities built at different times (with flexibility to accommodate district preferences) will always be different. The State cannot address the district court’s criticisms of the past through actions in the present, except through continued improvements in methodology and funding that have already been implemented. (*See* R. at 6369-70, ¶¶ 818-27, 6609-12); *See* 2024 Wyo. Sess. Laws ch. 118, § 313; 2025 Wyo. Sess. Laws ch. 118, § 1. Equal protection does not require that hundreds of Wyoming schools be, at all times, identical in age, amenities and features to be considered suitable. That would be an impossible degree of uniformity this Court has never required. *See Campbell II*, ¶ 128, 19 P.3d at 561. (“equality of opportunity ultimately requires a **rough measure of equality** of facilities over time”) (emphasis added).

If this Court embraces Appellees’ extreme views of equal protection, the only plausible option would be consolidation of state control and elimination of block grant flexibility. The State does not seek this result, which would render local school districts largely unnecessary. Appellees do not seem to grasp this logical outcome of the precision and uniformity they demand to satisfy their novel vision of equal protection.

IX. Appellees distort the State’s arguments and the relevant law regarding School Resource Officers (SROs) and school meal programs.

Appellees distort the State’s arguments as insisting that the courts have no role to play in deciding whether new components should (or should not) be added to the funding model. (WEA’s Br. at 64). This is not the State’s position. The courts have authority to review these questions, but must use a more deferential and objective framework. (*See* Appellant’s Br. at 72-73).

Here, however, the district court skipped straight to applying its own judgment without first asking whether the alleged innovation was part of the right to education, and then acknowledging the legislature’s prerogative to make good faith decisions in defining and funding the education system. *See Campbell IV*, ¶ 79, 181 P.3d at 67. *Campbell IV* recognizes the legislature’s right to decide, apart from the demands of districts, whether innovations have become necessary parts of that system. *Id.*, ¶ 76, 181 P.3d at 66 (holding districts do not have “authority to determine what level of funding was required”). The State acknowledges that the legislature’s authority is primary rather than exclusive, and therefore does not preclude judicial review. But for that primacy to mean anything the courts cannot erase the presumption of validity and simply brush aside legislative conclusions in favor of substituting their own analysis.

Appellees praise the district court’s approach, and make the novel assertion that the meaning and scope of the education provisions in the Wyoming Constitution are simply factual disputes. (Dist.’s Br. at 81; WEA’s Br. at 1, 28, 86). This Court can easily recognize

that delineating the contours and scope of constitutional rights is a legal question. *Cantrell v. Sweetwater Cnty. Sch. Dist. No. 2*, 2006 WY 57, ¶ 6, 133 P.3d 983, 985 (Wyo. 2006).

Appellees argue the district court properly weighed the evidence to settle the “factual dispute” over proposed new components like SROs. (Dist.’s Br. at 24, 80; WEA’s Br. at 15, 68-69). How the district court chose to weigh the evidence is beside the point. The problem was the lack of any objective legal framework to guide its review. The State was the only party to present the kind of objective information required to determine the necessity of alleged innovations. (*See generally* R. at 6350-58, ¶¶ 683-744). Appellees tout recalibrations that recommended the State consider funding SROs in an attempt to obscure their reliance on subjective policy preferences. (Dist.’s Br. at 24, 80). They fail to acknowledge that those recalibrations made consistent recommendations against this funding. (Exs. D1 at 001782, E1 at 002354-62).

Appellees also see significance in the State offering only one witness on this issue. (Dist.’s Br. at 24, 80; WEA’s Br. at 69-70). This witness summarized objective evidence from numerous studies on SROs that had been conducted since the last recalibration, showing the lack of consensus on the need for SROs. (R. at 6356-58, ¶¶ 727-44).

On meal programs, Appellees make a novel argument that this Court’s rulings requiring resources for at-risk students provide legal support for requiring state subsidies. (Dist.’s Br. at 81). These rulings actually bolster the State’s position that the constitutional obligation must be focused on providing instruction. The at-risk funding this Court validated is not designed for social services unrelated to the provision of instruction. *See*

Campbell IV, ¶ 44, 181 P.3d at 58 (explaining that at-risk programs are “focused on activities in the regular classroom rather than creating special classes”).

Appellees also present the facially absurd argument that meal programs are a post-*Campbell IV* innovation. (Dist’s Br. at 82). Their own witness detailed the long history of these programs, and no evidence explained why they have recently emerged as an essential part of education that would now be reliant on unprecedented state subsidies. (Tr. at 1351).

Finally, Appellees claim the State relies on federal funds to “save the day” and avoid the need for state subsidies. (Dist’s Br. at 26). The State has never made this argument. Meal programs are to be self-sustaining primarily by controlling costs and pricing paid meals efficiently. (Ex. E1 at 002297). The significance of federal funding is only to avoid Appellees’ dire, unsupported predictions that children who cannot afford full-price meals will be malnourished. (*See* WEA’s Br. at 72; Tr. at 2643:24-2644:3).

While the State understands the desire to mitigate the effects of poverty and social dysfunction on children, addressing these issues through education funding goes far beyond the role or ability of schools. Feeding children is simply not the same as educating them. Subsidizing meal programs is a policy choice, and support for this policy must be expressed at the ballot box.

This Court cannot expect constructive debates on unsettled issues like SROs and school meal programs to continue if legislative decisions can be so easily discarded. The law requires a more objective framework to review alleged innovations. The meaning of the Wyoming Constitution cannot be swept into the feedback loop of district demands where wants are deemed sufficient proof of needs.

X. The State had no notice that the specific issue of student technology device ratios would be decided in this case.

On appeal, Appellees argue for the first time that they are seeking a remedy specific to student technology device ratios. (Dist.’s Br. at 83; WEA’s Br. at 73-74). They insist the State had notice of this claim either through: (1) their complaints describing “underfunding of textbooks and technology,” (Dist.’s Br. at 83); (2) the district court mentioning device ratios, (*Id.* at 83); or (3) the State introducing the issue, (WEA’s Br. at 73-74). Appellees insist this issue was “woven into” various claims in the case. (*Id.* at 73). That presentation is precisely the point. Student technology device ratios were not an independent issue; they were used as evidence of the broader issues actually pleaded (primarily Appellees’ ECA claims). (R. at 15-34, 324-27).

The State has already shown that general technology references did not provide sufficient notice of this issue, so it will simply observe what Appellees omit: Appellees’ complaints contain no mention whatsoever of student technology devices, or their ratios. The district court’s comments on device ratios were consistent with the complaints – listing them merely as evidence of supposed general underfunding. (Tr. at 2098:23-2100:3).

One of the State’s witnesses mentioned device ratios when paraphrasing language from the *Campbell* cases, and agreed that these ratios should be considered in the next recalibration. (Tr. at 3465:20-25, 3641:3-3642:4). None of this testimony indicated consent to add an unpleaded issue or “injected” any dispute into this case. (*See* WEA’s Br. at 74).

Appellees very clearly pleaded the other issues that received remedies in this case, but they ask this Court to conclude they requested a remedy for student technology devices

without even mentioning it. (*See* R. at 66-70, 334). Appellees’ *post hoc* opportunism does not cure the prejudice the State suffered when the district court created and decided this issue after the close of evidence.

XI. The State’s use of administrative processes to address school facility suitability is governed by established principles of administrative law.

Appellees insist the process established in chapter 3, section 8, of the School Facilities Commission (SFC) Rules is an “administrative lottery that creates winners and losers” because it lacks a “criteria, score, or standard.” (Dist.’s Br. at 87; WEA’s Br. at 17, 79, 81); *See Rules, Wyo. State Const. Dep’t, Sch. Facilities Comm’n*, ch. 3, § 8. No evidence or law supports this mischaracterization. Nothing in the rule excludes or advantages certain districts. The fact that a case-by-case approach does not generate a list of scores where Appellees can see and dispute who the winners and losers are does not make it standardless. Just as with other new administrative processes, agency precedent will mature over time to produce consistent decisions, guided and corrected by judicial review as necessary. *See generally, Leal v. State ex rel. Dep’t of Workforce Servs., Workers’ Comp. Div.*, 2024 WY 86, ¶ 33, 553 P.3d 1181, 1192 (Wyo. 2024) (noting an “agency must follow its own rules and regulations or face reversal of its action”).

Appellees also claim this rule is improper because it allows “unfettered discretion.” (Dist.’s Br. at 86; WEA’s Br. at 17, 81-82). This claim has no merit under well-established principles of administrative law. Administrative decisions must be within an agency’s scope of authority, supported by evidence, and cannot be arbitrary or capricious. Wyo. Stat. Ann. § 16-3-114(c)(ii). Appellees’ claim that the SFC can simply use whatever standards

it wants or “no standards at all” is farcical. (WEA’s Br. at 82). To the extent evidence demonstrates the need for remedies, the SFC must recommend as much, and the courts ensure the integrity of this fact-dependent process through judicial review as necessary. Wyo. Stat. Ann. § 16-3-114(c)(ii).

Appellees’ attacks on chapter 3, section 8, appear to be aimed not at any specific defect in the rule, but more at the general notion that state agencies would make discretionary decisions within their expertise. Nothing about this rule’s process is so unusual that it would fall outside the broad sweep of decisions state agencies routinely make. Whatever the district court might prefer about statewide suitability assessments, it cannot assume the State’s rule-based process will violate foundational tenets of administrative law as a basis to strike them down. (*See* R. at 6608).

XII. Appellees’ new claim for equitable relief on appeal is legally inappropriate.

Appellees ask this Court to use its “equitable powers to remove incentives currently existing for the legislature” to delay or not comply with the appealed order. (WEA’s Br. at 90-91). It is unclear what form of relief is sought, but neither option is valid.

If Appellees are attempting to revive their request for punitive damages, the district court has already denied that claim in response to the State’s motion to dismiss. (R. at 70, 259). Appellees have not appealed that ruling at any time. If this request for equitable relief is anything else, it is being presented for the first time on appeal and should not be considered. *See Sharpe v. Evans*, 2025 WY 70, ¶ 14, 570 P.3d 731, 736 (Wyo. 2025) (this Court “generally will not consider an issue raised for the first time on appeal”).

CONCLUSION

For the foregoing reasons and for the reasons explained in the State's principal brief, the State asks this Court to reverse the appealed order and remand as necessary, consistent with the State's principal brief.

DATED this 23rd day of September 2025.

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