

FILED

October 22, 2025

02:06:33 PM

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).

MOTION FOR STAY

Appellant, State of Wyoming, through undersigned counsel, moves under Rule 16 of the Wyoming Rules of Appellate Procedure for a stay pending appeal. In support of this motion, the State incorporates the following memorandum. *See* Wyo. R. App. P. 16(b).

PRELIMINARY STATEMENT

On February 26, 2025, the First Judicial District Court, Laramie County, issued findings of fact and conclusions of law resolving all issues in *Wyoming Education Association v. State of Wyoming*, 2022-CV-200-788. (R. at 6436-6621). This final appealable order is expansive, holding that the Wyoming Constitution requires statewide school facility assessments and significant alterations to the education funding model for school operations. (*Id.*). Compliance with this order may involve substantial increases in appropriations of public funds for education and would require legislation to overhaul long-standing policies and processes.

After entry of this order, the State timely filed a motion with the district court for a stay pending appeal, which Appellees opposed. (R at 6622-26); *see* Wyo. R. Civ. P. 62. After the State timely filed its Notice of Appeal, the district court summarily denied the State's motion and suggested this Court would be "the more appropriate Court to consider a stay pending appeal." (R. at 6652-56, 6665-68); *see* Wyo. R. App. P. 2.01(a), 6.01(b). The State did not immediately seek a stay with this Court to avoid requesting relief before

it was clearly necessary and to allow for the submission of briefs to more fully inform consideration of the merits of this appeal. However, it is now clear that the timing of this appeal and the upcoming legislative session necessitates a stay.

The Wyoming Legislature is currently recalibrating the education funding model, as it does every five years in accordance with statute and this Court's directives. *See State v. Campbell Cnty. Sch. Dist.*, 2001 WY 19, ¶ 89, 19 P.3d 518, 549 (Wyo. 2001); Wyo. Stat. Ann. § 21-13-309(t). The Select Committee on School Finance Recalibration is working with consultants through a series of interim meetings to prepare recommendations for the legislature's upcoming budget session.¹ This session will begin February 9, 2026, less than three months from the oral argument scheduled in this appeal. (Ord. Setting Oral Arg., Oct. 8, 2025). Given the substantial record and scope of issues, the State recognizes that this Court likely will not decide this appeal before the legislative session.

This motion does not seek to relieve the legislature of its obligation to update and adjust the funding model through recalibration. That process would continue as normal using well-established practices. This motion simply seeks to avoid prematurely obligating the legislature to take action on an unreviewed lower court ruling. A stay is crucial to preserve the practical benefit of the State's right to appeal before the district court's order

¹ 2025 Select Committee on School Finance Recalibration Meeting Schedule, <https://www.wyoleg.gov/Committees/2025/SSR> (last visited Oct. 22, 2025); Wyoming Legislature Meeting Calendar, <https://wyoleg.gov/Calendar/20260201/Meeting> (last visited Oct. 22, 2025).

compels significant disruptions to the education funding system this Court defined decades ago. *See Campbell Cnty. Sch. Dist. v. State*, 2008 WY 2, ¶ 4, 181 P.3d 43, 48 (Wyo. 2008).

ARGUMENT

This Court has inherent authority to stay a lower court order until it has resolved issues on appeal. *See Farmers’ State Bank of Riverton v. Haun*, 213 P. 361, 365 (Wyo. 1923); Wyo. R. Civ. P. 62(f). Appellate courts generally have inherent authority to stay lower court actions, even where no rule or statute explicitly provides it. *O’Donnell v. McGann*, 529 A.2d 372, 373 (Md. 1987); *Pokoik v. Dep’t of Health Servs. of Cnty. of Suffolk*, 220 A.D.2d 13, 16 (N.Y. App. Div. 1996); *Helms Groover & Dubber Co. v. Copenhagen*, 177 P. 935, 938 (Or. 1919); *see In re McKenzie*, 180 U.S. 536, 551 (1901) (recognizing appellate courts’ inherent authority to stay or supersede lower court orders).

I. The federal standard for stays pending appeal is a flexible framework.

The standard for granting a stay pending appeal is not well-established in Wyoming. Federal courts, however, typically apply the following factors when deciding such stays:

- (1) whether the movant has demonstrated a likelihood of success on the merits;
- (2) whether the movant is likely to suffer irreparable harm absent a stay;
- (3) whether the balance of the parties’ hardships favors a stay; and
- (4) where the public interest lies.

Hilton v. Braunskill, 481 U.S. 770, 776 (1987).

These factors are derived from precedent concerning preliminary injunctions. *U.S. v. Omega Solutions, LLC*, 889 F.Supp.2d 945, 947 (E.D. Mich. 2012) (noting federal courts apply “the same four factors considered in deciding a motion for preliminary injunction”).

Although the factors are the same, federal courts recognize that an injunction “demands a significantly higher justification than a request for a stay, because unlike a stay, an injunction does not simply suspend judicial alteration of the status quo but grants judicial intervention[.]” *Respect Maine PAC v. McKee*, 562 U.S. 996, 996 (2010) (citation and internal quotation marks omitted). Thus, federal courts have applied these factors in a flexible, pragmatic manner when used outside of their original context, leading to several different tests. *See* Portia Pedro, *Stays*, 106 Calif. L. Rev. 869, 892-98 (2018).

One such test divides the four factors into two groups and considers them using “a sliding scale, so a stronger showing of one element may offset a weaker showing of another.” *Nat’l TPS All. v. Noem*, 150 F.4th 1000, 1016 (9th Cir. 2025) (citation and internal quotation marks omitted). The Arizona Supreme Court has adopted this sliding scale test because it found “the construct useful[.]” holding that “the moving party may establish either 1) probable success on the merits and the possibility of irreparable injury; or 2) the presence of serious questions and that the balance of hardships tip sharply in favor of the moving party.” *Smith v. Arizona Citizens Clean Elections Comm’n*, 132 P.3d 1187, 1190-91 (Ariz. 2006) (citation and internal quotation marks omitted).

To the extent this Court finds federal precedent instructive for purposes of this motion, it may also find the sliding scale test useful where, as here, the merits of an appeal have already been fully briefed. The sliding scale test allows a court to issue a stay where good cause is shown under the second prong, without needing to provide substantive comment on the merits before the appeal itself is decided. Alternatively, a court may also

issue a stay under the first prong, with the benefit of full briefing. In either case, the sliding scale test provides flexibility that echoes the pragmatic approach taken by federal courts.

II. Analysis of relevant considerations.

This Court has discretion to exercise its inherent authority through any form of analysis it finds appropriate in deciding whether there is good cause to issue a stay. However, the argument below follows the structure of the sliding scale test for the reasons described above, and is focused primarily on the second prong of the test which most clearly demonstrates the need for a stay in this case.

A. This appeal raises serious questions.

Relying substantially on the recommendations of education funding experts, the legislature has exercised its discretion to implement a cost-based funding system adequate to provide the quality education it has prescribed for Wyoming students. (R. at 6266-78, ¶¶ 131-92). Absent a stay, the district court's rulings would require substantial changes to this system, including increased appropriations that cannot reasonably be recovered after the fact. Once the funds at issue in this case are appropriated, they could only be recovered, if at all, by reclaiming them from school district accounts or offsetting them against future appropriations.

Thus, even the threat of prematurely enforcing the appealed order against legislative policy choices, especially those concerning appropriations, hinders legislators elected to represent Wyoming's citizens. Inhibiting the legislature from representing the diverse interests of constituents is a serious matter that should not be undertaken on the authority of an unreviewed lower court order.

Refusing a stay could also be highly disruptive to school districts throughout Wyoming, frustrating their interest in maintaining stable and predictable budgeting. If the legislature is compelled to take immediate action, and the district court order is later reversed in whole or in part, then returning to cost-based funding could require any changes the legislature has made to be undone. For example, enforcing an immediate increase to personnel funding may spur new hiring, pay raises, or both. But if the district court's ruling on model salaries is ultimately reversed on appeal, returning to cost-based funding could require districts to unwind these changes.

This potential for policy and fiscal whiplash, where an action is taken and then later withdrawn, does no good for anyone in the long run. It is more prudent to maintain the *status quo* reflecting voters' preferred policies until this Court has had time to decide the serious questions presented in this appeal.

B. The balance of hardships tips sharply in favor of granting a stay.

Appellees will undoubtedly assert that the balance of hardships weighs against a stay because it would prolong alleged harm to the students they purport to represent. However, such speculative hardships are contingent on the outcome of this appeal. If this Court does not affirm the appealed order due to the district court's legal errors, there will be no finding of any legally cognizable harm to students. Claims of hardship to students essentially collapse into deciding whether the State is likely to succeed on the merits.

Any such claims of immediate harm are also exaggerated. The record in this case does not support a need for urgent action. Each Wyoming student already receives funding that vastly exceeds all regional peer states and the national average. (Exs. Q9, D10, E10).

Largely undisputed, objective measures of education quality and indicators of abundance demonstrate the sufficiency of funding and belie assertions of imminent risk of harm to the education system. (R. at 6278-98, ¶¶ 193-340). While Appellees relied on a handful of anecdotes to speculate about generalized effects on the statewide quality of education, no students or parents appeared as plaintiffs or witnesses to describe any specific, measurable harm to their own interests.

Recent funding increases also mitigate any concerns of imminent harm. *See* 2023 Wyo. Sess. Laws ch. 94, § 205; 2024 Wyo. Sess. Laws ch. 118, § 205; 2025 Wyo. Sess. Laws, ch. 140, § 3. The legislature has repeatedly adjusted funding in recent years in response to indications of cost pressures, with the most recent increases exceeding inflationary adjustments.² These substantial increases make enforcing the appealed order even less urgent, if it is required at all. At worst, a stay would cause a temporary delay in funding further marginal adjustments and new functions as part of an already generous funding model.

A modest delay to allow for appellate review should also come as no surprise to any party. Appellees' claims were destined for this Court's review regardless of the outcome at trial, just like those in every previous school funding case of this kind. The district court was never going to have the final say on the constitutionality of the State's current

² Picus Odden & Associates, 2025 Desk Audit of the Wyoming K-12 Public School Funding Model, (Apr. 18, 2025) <https://wyoleg.gov/InterimCommittee/2025/SSR-202506172025WYDeskAuditFINAL.pdf>

education funding system. Given this expectation of appellate review, it is unclear why enforcement of the appealed order cannot wait on this Court's due consideration – particularly when no litigant sought injunctive relief claiming a need for urgent action.

A temporary stay pending appeal will not materially affect the quality education system Wyoming has operated for decades. The State brings this appeal as of right, and it strains credulity to think that allowing time for this Court to conclusively decide matters of such considerable statewide import will cause any immediate harm to any non-moving party's reasonable expectations or interests. The balance of hardships tips sharply in favor of staying the appealed order until this Court re-settles the state of the law.

C. The State is likely to succeed on the merits of this appeal.

While a stay in this case is justified primarily by the factors discussed above, the sliding scale test still requires some chance of success on the merits. *Benda v. Grand Lodge of Int'l Ass'n of Machinists & Aerospace Workers*, 584 F.2d 308, 315 (9th Cir. 1978). Therefore, to the extent this Court makes use of this test, the State incorporates its briefs by reference to demonstrate its likely success on the merits, as summarized below.

The appealed order contains many novel interpretations and extensions of the State's constitutional duties that are inconsistent with this Court's precedent. (*See* Appellant's Br. at 2-6, 92-94). The State has appealed the following legal errors that affected the district court's consideration of the evidence and its ultimate rulings:

(1) The district court applied strict scrutiny to claims of inadequate funding in a manner inconsistent with this Court's precedent. (*See* Appellant's Br. at 37-46; Appellant's Reply Br. at 6-10).

(2) The district court misinterpreted the purpose of External Cost Adjustments (ECAs), denying the legislature important discretion to maintain the cost-based funding this Court has required. (*See* Appellant’s Br. at 46-56).

(3) The district court effectively required expenditure-based increases to salary funding, which this Court has explicitly proscribed. (*See* Appellant’s Br. at 56-63; Appellant’s Reply Br. at 4, 13).

(4) The district court ordered new funding for alleged “innovations” while failing to analyze objective indicators and ignoring this Court’s directives against simply obliging district demands. (*See* Appellant’s Br. at 70-82; Appellant’s Reply Br. at 19-21).

(5) The district court required funding for more technology devices per student without any notice that this issue would be decided, in Appellees’ pleadings or otherwise. (*See* Appellant’s Br. at 89-92; Appellant’s Reply Br. at 22-23).

(6) The district court mandated a statewide suitability assessment, striking down the State’s preferred, rule-based approach, despite this Court’s allowance of flexible methods to address facility issues. (*See* Appellant’s Br. at 82-88; Appellant’s Reply Br. at 23-24).

All of these rulings are based on the district court’s misinterpretation or misapplication of this Court’s precedent. Thus, the State is likely to succeed on the merits of this appeal seeking correction of these legal errors.

D. The State will suffer irreparable injury absent a stay.

Anytime a state is prevented from “effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.” *New Motor Vehicle Bd. of Calif. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers); *Maryland v.*

King, 567 U.S. 1301, 1303 (2012) (Roberts, C. J., in chambers). This injury would be amplified if the authority of an unreviewed trial court order is allowed to prematurely command the legislature's use of its appropriations power.

As noted above, for all practical purposes, once school funding is provided for a given year it would be exceptionally difficult, if not impossible, to recover at any later time. Thus, the State would be irreparably injured if it is required to appropriate unrecoverable funds beyond what the constitution requires and the legislature desires.

Prematurely compelling substantial appropriations of taxpayer funds against the will of elected lawmakers would also injure the comity required for the legislative and judicial branches to balance their powers. Co-equal branches should not be set at odds by enforcement of the novel, expansive rulings of a single district court without first allowing this Court to determine whether the constitution requires legislative authority to be so substantially usurped.

Commandeering legislative policymaking and appropriations is an enduring, serious exercise of judicial power. Allowing such action to take effect prematurely, upon any authority less than that held by this Court, would cause irreparable injury to the democratic governance of the State.

CONCLUSION

For all of these reasons, and those expressed on the merits of this case in its briefs, the State requests a stay of the district court order pending a decision on this appeal.

DATED this 22nd day of October 2025.

/s/ Mark Klaassen

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CERTIFICATE REGARDING ELECTRONIC FILING

I, Sean Towles, hereby certify that the foregoing MOTION FOR STAY was served this 22nd day of October, 2025, electronically via the Wyoming Supreme Court C-Track Electronic Filing System to the following:

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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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