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9 *Attorneys for Plaintiffs*

10 **FIRST JUDICIAL DISTRICT COURT**
11 **IN AND FOR CARSON CITY, NEVADA**
12

13 CARYNE SHEA, individually and as
14 next friend of her minor children A.S.
and M.S.; VENECIA SANCHEZ,
15 individually and as next friend of her
minor child Y.S.; BETH MARTIN,
16 individually and as next friend of her
minor children R.M. and H.M.; CALEN
17 EVANS, individually and as next friend
of his minor child C.E.; PAULA
18 ARZOIAN, individually and as next
friend of her minor child A.A.; KAREN
19 PULEO, individually and as next friend
of her minor children J.D.Jr., Jas.D., and
20 Jac.D.; CHRISTINA BACKUS,
individually and as next friend of her
21 minor child D.B.; CAMERON BACKUS,
individually and as next friend of his
22 minor child D.B.; ALEXANDRA ELLIS,
individually and as next friend of her
23 minor children L.E., M.E., and B.E.,

24 Plaintiffs,

25 vs.

26 THE STATE OF NEVADA; THE
NEVADA DEPARTMENT OF
27 EDUCATION; JHONE EBERT, Nevada
Superintendent of Public Education, in
28 her official capacity; NEVADA STATE

Case No.:

Dept. No:

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 BOARD OF EDUCATION; DOE
2 INDIVIDUALS, I-XXV; ROE ENTITIES,
3 I-XXV,

4 Defendants.

5 Plaintiffs, by and through their attorneys of record, allege as follows:

6 **I. INTRODUCTION**

7 1. By this lawsuit, Plaintiffs challenge the adequacy of the Nevada public
8 school system, its funding and resources, and its outcomes which fall egregiously
9 short of the sufficiency required by the Nevada Constitution, the laws of this State,
10 and the pronouncements and benchmarks set by the State itself.

11 2. The Plaintiff Students inhabit one of the lowest-rated and worst-
12 performing state school systems in the United States.

13 3. The Nevada system of public education is in crisis, and has been for
14 decades. In fact, the crisis of poor public schools in this state has lasted so long as to
15 have been normalized as an immutable *status quo*. The endemic problems of
16 education in Nevada are longer-lasting than any administration or legislative control
17 by any political party; generations of inaction and shortfalls have left schoolchildren
18 without the tools to succeed in higher education and in eventual careers.

19 4. Solutions to the lack of educational resources, so long leaving students
20 short of announced goals and life opportunities, will require massive, sustained
21 community efforts, and will require the input and energies of legislators, members of
22 the executive branch, school administrators, teachers and staff, citizens far and wide,
23 and jurists. The task is indeed daunting, but the need is too great to continue any
24 longer without forcing the legal issues this lawsuit raises to the fore.

25 5. Plaintiffs ask this Court to determine and find that Nevada public
26 education has fallen short of the requirements of the Nevada Constitution in
27 providing the resources necessary to ensure a basic, uniform, and sufficient education
28 for the schoolchildren of this state.

1 **II. PARTIES**

2 6. Plaintiffs are parents of students enrolled in Nevada public schools and
3 are residents of and taxpayers in the State of Nevada. Their children receive English
4 Language Learning instruction, free and reduced lunch programs, special needs
5 education, and gifted and talented educational programs. They represent the social
6 class, ethnic, and geographic diversity of Nevada.

7 7. Plaintiff Caryne Shea is an individual, parent, and guardian of minor
8 children Audrey and Margot Shea, who attend school in the Clark County School
9 District.

10 8. Plaintiff Venecia Sanchez is an individual, parent, and guardian of
11 minor child Yelena Sanchez, who attends school in the Clark County School District.

12 9. Plaintiff Beth Martin is an individual, parent, and guardian of minor
13 children Reed and Hollis Martin, who attend school in the Washoe County School
14 District.

15 10. Plaintiff Calen Evans is an individual, parent, and guardian of minor
16 child Caden Evans, who attends school in the Washoe County School District.

17 11. Plaintiff Paula Arzoian is an individual, parent, and guardian of minor
18 child Andon Arzoian-Taylor, who attends school in the Washoe County School
19 District.

20 12. Plaintiff Karen Puleo is an individual, parent, and guardian of minor
21 children Jeloy Jr., Jasmin, and Jacob Decker, who attend school in the Washoe
22 County School District.

23 13. Plaintiff Christina Backus is an individual, parent, and guardian of
24 minor child Deklan Backus, who attends school in the Clark County School District.

25 14. Plaintiff Cameron Backus is an individual, parent, and guardian of
26 minor child Deklan Backus, who attends school in the Clark County School District.

27 15. Plaintiff Alexandra Ellis is an individual, parent, and guardian of minor
28 children Lauralee, Matthew, and Bodie Ellis, who attend school in the White Pine

1 County School District.

2 16. Defendant the State of Nevada is here sued *ex rel* its Department of
3 Education, the Nevada State Board of Education, and the individual defendants
4 named herein.

5 17. Defendant the Nevada Department of Education is the executive agency
6 of the State of Nevada responsible for the administration of public education in
7 Nevada.

8 18. Defendant Jhone Ebert serves as Nevada Superintendent of Public
9 Education, and is the primary executive officer of the Nevada Department of
10 Education responsible for the administration of public education in Nevada

11 19. Defendant the Nevada State Board of Education is the executive agency
12 of the State of Nevada that sets policy ensuring equal access for every Nevada
13 schoolchild to educational services

14 20. Defendants herein are sometimes referred to, collectively, as the “State,”
15 for purposes of brevity.

16 **III. JURISDICTION AND VENUE**

17 21. This Court has subject matter jurisdiction pursuant to Article 6 of the
18 Nevada Constitution, which vests the judicial power of the State herein.

19 22. This Court has jurisdiction over Defendants pursuant to NRS 14.065
20 because Defendants are all public officers or departments of the State of Nevada and
21 have sufficient minimum contacts with the State of Nevada to render the exercise of
22 jurisdiction by Nevada courts permissible under traditional notions of fair play and
23 substantial justice.

24 23. Venue is proper in this Court, pursuant to NRS 13.020, because the
25 causes of action, or some part thereof, arose herein, as Defendants are all public
26 officers or departments whose respective offices are required to be kept in Carson
27 City, Nevada.

28

1 required instruction that will support the child’s educational rights. Children are
2 entitled to basic supports to meet their individual needs. Children are entitled to
3 appropriate levels of staffing to ensure the opportunity to learn and thrive, including
4 but not limited to qualified educators, paraprofessionals, counselors, social workers,
5 administrators, and other essential staff. Children are entitled to up-to-date and safe
6 learning environments

7 29. The State of Nevada has failed to meet the above-referenced standards
8 of a basic, sufficient, uniform, and constitutional public school educational system.

9 **A. Nevada’s Student Population**

10 30. According to the Nevada Department of Education, as of October, 2019,
11 approximately 500,860 students attend Nevada public schools.

12 31. More than 70,000 of those students are classified as English Language
13 Learners (“ELL”).

14 32. More than 327,000, or 65%, of Nevada students qualify for free or
15 reduced-fee lunch programs (“FRL”), indicating disadvantaged or precarious
16 economic circumstances.

17 33. More than 63,000 Nevada students qualify for individual education
18 plans (“IEP”) indicating a need for specialized services in education.

19 34. Approximately 10,000 students are enrolled in gifted and talented
20 education (“GATE”) programs, with many students going unidentified due to
21 insufficient resources.

22 **B. Nevada’s Public Schools Performance**

23 35. Nevada continue to hold places near the top of every “bad” list, and the
24 bottom of every “good” list, in myriad rankings of public schools systems and student
25 performance across the country.

26 36. In *Education Week’s* most recent Quality Counts reports, Nevada
27 ranked 50th out of 50 states and the District of Columbia in the Chance-for-Success
28 Index (measuring educational opportunities and performance). The index tracks the

1 share of students enrolled in preschool, proficiency in K-12 reading and math, high
2 school graduation rates, along with parent education and employment factors.

3 37. Nevada ranked 50th out of 50 states in the Quality Counts School
4 Finance Index, receiving an F in education spending, and a D- overall.

5 38. Nevada ranked at or near the bottom of every metric in the nationally
6 recognized Making the Grade 2019 report, receiving an “F” grade in Funding Level,
7 Funding Distribution, and Funding Effort. The report distinguishes Nevada as the
8 most regressive funding formula in the country, meaning wealthier districts receive
9 proportionally more funds than poorer districts

10 39. Children’s Advocacy Alliance’s Children’s Report Card ranks Nevada
11 48th in preschool enrollment, with only 36.7% of 3 and 4 year olds in preschool. It
12 gives the state an “F” grade in School Readiness.

13 40. Nevada has the third largest class sizes and ranked first in the United
14 States of America in class size growth according to the National Education
15 Association. Class size reduction (CSR) program funding, guided by national
16 research, aims to maintain appropriate pupil-teacher ratios for grades Kindergarten
17 through Third Grade. The State’s state goal for CSR is per-pupil ratios of 16:1 for
18 Kindergarten, 17:1 for grades 1 and 2, and 20:1 for grade 3 (with added flexibility for
19 smaller counties).

20 41. In reality, Kindergarten classes average 5 additional students per class,
21 at 21:1, Grades 1 and 2 average more than 19:1, and Grade 3 averages nearly 22:1,
22 according to the State’s most recent NRS 388.700(5) report (“CSR Report”). In total,
23 districts requested 1,024 CSR requirement variances in the most recent quarter. The
24 CSR Report claims CSR allocations “provide sufficient funds for school districts to
25 meet required ratios at the district level.” However, the CSR Report also
26 acknowledges that districts report facilities limitations, lack of funding, and difficulty
27 attracting and retaining high quality teachers as reasons for requesting variances for
28 class size limitations.

1 42. In Grades 4 through 12, class sizes continue to grow, and CSR funding
2 has not been offered for most students beyond 3rd Grade. This leads to severe
3 overcrowding, lack of supplies, and even insufficient chairs and desks in many high
4 school classrooms.

5 43. In addition, the Nevada Report Card reports that in the 2018-19 school
6 year, 3,308 long term substitutes, rather than permanent, qualified teachers, taught
7 elementary students across the state. This is up from 1,623 from the previous year.

8 44. Title 1 and low-rated schools, typically with higher concentration of
9 students with unique educational needs, are especially affected by the use of long
10 term substitutes, inexperienced teachers, high teacher vacancy rates, and large class
11 sizes. These students often need more individualized supports and experienced
12 educators to be successful.

13 45. Nevada students chronically underperform on national and state
14 assessments.

15 46. The 2019 National Assessment of Educational Assessments (NAEP)
16 scores revealed that only 34% of students are proficient in fourth grade math, with
17 ELL at 11%, low income (FRL) at 25%, and special education students at 11%. Math
18 scores further deteriorate in eighth grade, with 26% proficient overall, and ELL at
19 24%, FRL at 16%, and special education students at 5%.

20 47. Reading scores for NAEP paint a similar picture of chronic
21 underperformance. Only 31% of fourth grade students are proficient in reading, with
22 ELL at 9%, FRL at 24%, and special education students at 10%. Only 29% of eighth
23 grade students are proficient in reading, ELL at 3%, FRL at 20%, and special
24 education student at 6%.

25 48. The Smarter Balanced Assessment Consortium (SBAC) testing, which
26 measures proficiency in state academic content standards, exposes the disconnect
27 between what is expected of Nevada students and their ability to meet state
28 standards.

1 49. In every grade level that takes the SBAC assessment in Math, the
2 majority of students are not proficient. In third grade, 48% of students are proficient,
3 with ELL at 29% and FRL at 40%, and special education at 20%. By fourth grade,
4 proficiency drops to 44% overall, with ELL at 23%, FRL at 35%, and special
5 education at 16%. The downward trend continues in fifth grade, with an overall
6 proficiency rate of 37%, with ELL at a staggering 9%, FRL at 28%, and special
7 education at 10%. And in middle school, seventh grade scores deteriorate to 32%
8 proficient overall, with ELL at 5%, FRL at 21%, and special education scores
9 plummeting to 5%. Unsurprisingly, by eighth grade, a majority of students fail the
10 SBAC Math assessment, with only 30% overall proficient, ELL at 5%, FRL at 20%,
11 and special education at 6%.

12 50. SBAC scores in Reading tell a similar story of gross underperformance,
13 especially for Nevada’s most vulnerable students. Only 46% of third graders are
14 proficient, with ELL at 25%, FRL at 38%, and special education at 18%. By fourth
15 grade, 49% students overall meet proficiency, with ELL at 23%, FRL at 41%, and
16 special education at 18%. In fifth grade, overall proficiency is 52%, with ELL sinking
17 to 14%, FRL at 44%, and special education at 14%. By seventh grade, overall
18 students are 50% proficient, with ELL at 8%, FRL at 39%, and special education at
19 11%. By eighth grade, students are 48% proficient, with ELL at 8%, FRL falling to
20 37%, and special education at 9%.

21 51. Insufficient professional development, lack of curricula aligned content
22 standards and higher education requirements, and other resource deficits have
23 impacted students achievement in SBAC assessments and overall achievement.

24 52. Abysmal college readiness scores and high remediation rates reveal that
25 despite recent increases in state graduation rates, students continue to graduate
26 unprepared for college. In the 2016-17 school year the graduation rate improved
27 when the State removed the high school proficiency exam requirement, instead using
28 End of Course examinations to determine proficiency. In the 2017-18 school year,

1 students need not pass the exam, only participate. Currently, the End of Course
2 exam still only accounts for a portion of the final grade for the class, and thus a
3 students can fail the exam while still passing the course and graduating.

4 53. Nevada students' results on the American College Testing exam (ACT),
5 a college admission exam that measures college readiness, exposes the disconnect
6 between the State's stated goal of ensuring college readiness and the reality for most
7 students.

8 54. Nevada has the worst ACT scores in the United States, scoring last in
9 English, Reading, Math, and Science. Only 38% of Nevada students succeed in
10 English, 27% succeed in Reading, 22% succeed in Math, and 19% in Science. This
11 exam is an essential measurement of readiness in most college and universities.

12 55. Even when Nevada students do manage to attain places in institutions
13 of higher education, high remediation rates stifle students' ability to succeed.

14 56. According to a recent report by the Nevada System of Higher Education
15 (NSHE) titled "Traditional Remediation is Not Working," 27% of Nevada graduates
16 that attend a four year university in Nevada require remedial education courses.
17 Two-year university have a much higher rate of remedial students, at 67%. The
18 report explains that students placed in remedial college course are less successful
19 and less likely to take full advantage of educational opportunities than their non-
20 remedial counterparts.

21 57. Remedial Placement and Enrollment reporting pursuant to NRS
22 396.548 illustrates how more than half of all recent high school graduates attending
23 NSHE institutions are placed into remedial courses in Math and/or English. Even
24 more concerning, Black/African American students are placed at a rate of 70%,
25 Hispanic/Latino at 63%, and American Indian/Alaska Native at 55%.

26 58. Career and Technical Education (CTE) schools improve college and
27 career readiness, but are unavailable for many students, and are unfunded for
28 primary grades. Similarly, other courses and programs for earning college credits

1 64. The State must provide sufficient opportunity for all students to succeed
2 in core academic subjects; ensure the availability of high quality teachers and staff
3 with appropriate endorsements; provide access to appropriate class sizes and
4 adequate, safe facilities; ensure students and educators have access to necessary
5 tangible resources; and make available additional supports for students with
6 exceptional needs, such as English Language Learners (ELL), special education
7 students, students who are at risk or living in poverty and gifted and talented
8 students.

9 65. By the State’s own standards, policies, and expectations, it has not
10 provided for the support and maintenance of those common schools, or provided the
11 necessary appropriations to districts to achieve the very system they have put in
12 place. The State has not funded districts at a constitutional level to achieve its own
13 mandated standards, and has failed in a concrete way to fund to the cost of providing
14 a constitutionally-adequate education.

15 66. Nevada has statewide academic standards, rules, and regulations
16 governing nearly every facet of public education, and several reports and findings
17 useful in defining an adequate or constitutional education

18 67. Furthermore, the State, its agents and elected representatives have
19 made official pronouncements of goals and standards that assist in fashioning a
20 definition and structure of a basic education in Nevada.

21 68. NRS 385.005(3) states “[t]he State Board shall [...] advise the
22 Legislature at each regular session of any recommended legislative action to ensure
23 high standards of equality of educational opportunity for all children in the State of
24 Nevada.”

25 69. Further, per NRS 385.3593(2)(d)(1)(I)-(III), the State Board is required
26 to make plans to improve the achievement of children in public schools, including
27 strategies to “instruct pupils who are not achieving to their fullest potential...,” which
28 includes ensuring an appropriate curriculum, improving instruction so that students

1 can achieve on necessary examination and college and career readiness assessments,
2 and ensuring instruction and curricula that improves achievement and for all
3 student groups identified in measurements of statewide accountability.

4 70. At a minimum, according to the State’s own statutory, regulatory, and
5 policy pronouncements, a sufficient and basic public education must address and
6 achieve the following:

- 7 • All students are expected to master the Common Core standards,
8 which “will need to be translated into classroom teaching in a
9 manner which will ensure that teachers help all pupils master these
10 new standards.” S.B. 14, 2011 Nev. Leg. (2011) (enacted as preamble
11 to NRS 389.0187).
- 12 • Students must be taught in English, mathematics, science, and
13 social studies. NRS 389.018(1)
- 14 • High school students also need access to laboratory courses and
15 several history courses. NRS 389.018(2).
- 16 • High school student must pass four end-of-course examinations in
17 courses designed to prepare them college and career to receive a high
18 school diploma. NRS 389.805(2)(a).
- 19 • All students should have the opportunity to take the subjects to
20 ensure career readiness. NRS 388.380.
- 21 • Certain tangible classroom supplies are necessary to achieve
22 academically. For example, “tools might include pencil and paper,
23 concrete models, a ruler, a protractor, a calculator, a spreadsheet, a
24 computer algebra system, a statistical package, or dynamic geometry
25 software.” Common Core State Standards Initiative, Standards for
26 Mathematical Practice, (last visited January 1, 2020), available at
27 <http://www.corestandards.org/Math/Practice/> (as referenced in the
28 State Board regulations).

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- Additionally, clean and safe campuses, lab space, air conditioned rooms, desks, pencils, paper, computers, or other supplies and learning spaces are needed to achieve. NRS 393.100 (buildings must be in a condition of “comfort and health”); NAC 388.290 (facilities in areas assigned for special education must be comparable to facilities for regular education); NRS 388.133, NRS 388.1342 (statutes related to ensuring a safe and respectful learning environment).
- “States and districts recognize that there will need to be a range of supports in place to ensure that all students, including those with special needs and English language learners, can master the standards. It is up to the states to define the full range of supports appropriate for these students.” Common Core State Standards Initiative, *Read the Standards* (last visited January 1, 2020), available at <http://www.corestandards.org/read-the-standards/> (as referenced in the State Board regulations).
- High quality pre-k, especially for children who are at risk or with special needs, is deemed necessary to close the achievement gap and prepare students for successfully entering the K-12 system. NRS 388.475 (for children with special needs); NRS 388.475 (a “special program for gifted and talented students);
- The State should impose and enforce class size restrictions to ensure student reasonable teacher to student ratios for all students. NAC 388.150 (special education); NRS 388.700 (regulates teacher to student ratios for Core Curriculum classes, with full time, licenses teachers).
- Teachers must receive particular training, endorsements, and licensure to teach and to teach particular grades and subjects. NRS 391.100 (professional license requirements); 391.111 (junior high

1 school/high school requirements); NAC 391.087 (Pre-k requirements);
2 NAC 391.098, NAC 391.125, NAC 391.133, NAC
3 391.1301(endorsements in varying subjects and bilingual); NAC
4 391.083 (Licensure requirements); Secondary License (NAC
5 391.120); NAC 391.180, NAC 391.187 (school counselor); see also
6 NAC 391.192 – 391.339 (various other relevant and specific teacher
7 endorsements); NAC 391.3393, NAC 391.343, NAC 391.360-370,
8 .376, .378, 391, .393 (various special education
9 qualifications/endorsements); NAC 391.394 (endorsement gifted and
10 talented education)

- 11 • School district personnel must meet certain qualifications and obtain
12 endorsements. NAC 391.160 (endorsements for nursing, psychology,
13 speech therapy, physical therapy, occupational therapy); NAC
14 3391.170 (professional); NAC 391.175 (conditional); NAC 391.175 (to
15 act as a supervisor of curriculum and instruction).
- 16 • The State Board must make a plan to improve achievement to
17 instruct students not achieving which includes a “curriculum
18 appropriate to improve achievement.” NRS 385.3593(2)(d)(1)(I).
- 19 • The State Board must provide “appropriate professional development
20 [...] to teachers to ensure their ability to instruct and monitor the
21 achievement of pupils in the Common Core Standards.” *Id*
- 22 • Teachers should utilize assessments provide appropriate
23 interventions for students struggling to be college and career ready.
24 NRS 389.807(4)(b).
- 25 • Schools must provide students with special need access while still
26 ensuring a free and appropriate education in the least restrictive
27 environment. NAC 388.284(1)(d); *see also* 20 U.S.C.A. 1412 (a)(5) (“A
28 State funding mechanism shall not result in placements that violate

1 the requirements of subparagraph (A), and a State shall not use a
2 funding mechanism by which the State distributes funds on the basis
3 of the type of setting in which a child is served that will result in the
4 failure to provide a child with a disability a free appropriate public
5 education according to the unique needs of the child as described in
6 the child’s IEP”).

- 7 • Courses of study in academic, career, and personal and social
8 development are to be taught from Kindergarten through 12th grade.
9 NAC 389.187 (teaching students “how to implement strategies and
10 activities which support and maximize the ability of a pupil to learn,”
11 “how to provide the foundation for the development of skills,
12 attitudes and knowledge which are necessary for the pupil to make a
13 successful transition from school to his or her career and from career
14 to career throughout his or her life span,” and “how to develop the
15 foundation for the personal and social development of the pupil as
16 the pupil progresses from kindergarten through high school and into
17 adulthood”).
- 18 • ELL students require high-quality education that addresses the
19 academic and linguistic needs that is culturally relevant and
20 emphasizes parental involvement and reducing the achievement gap.
21 NAC 388.640; NRS 388.405; NRS 388-407.
- 22 • Gifted and talented eligible students must receive not less than 150
23 minutes of differential educational activities each week during the
24 school year, unless the student’s individualized plan states
25 otherwise. NAC 388.435(5). Students should be eligible for services
26 from grade K-12, and students under the age of 6 are not ineligible.
27 *Id.* at (1),(3).
- 28 • All students must have access to a “safe and respectful learning

1 environment,” as the Legislature has declared it “necessary for
2 [students] to achieve academic success and meet the State’s high
3 academic standards.” NRS 388.132(2). This includes mandating that
4 school staff devote time and attention to reporting and preventing
5 incidents of bullying and cyber-bullying, as well as training. *See e.g.*
6 NRS 388.1343, 388.1351.

7 **E. Curricular Mandates, Standards, And Accountability**

8 71. In recent years, the State has adopted the new academic standards
9 called Common Core standards. The Legislature declared in 2011, Nevada “ha[s]
10 signed on to participate in the Common Core Standards, which are internationally
11 benchmarked standards designed to provide a clear understanding of what pupils are
12 expected to learn so that all pupils in this country have access to a high quality
13 education and are fully prepared for the future and for competing successfully in a
14 global economy.” S.B. 14, 2011 Nev. Leg. (2011) (enacted as preamble to NRS
15 389.0187).

16 72. Further, the Legislature declared that adoption of the standards would
17 “help guide and accelerate Nevada’s K-12 public education system into the future by
18 ensuring that every pupil in this State receives the same standard of education in
19 English language arts and mathematics and by ensuring that pupils are held to a
20 common set of expectations and goals regardless of the geographic region or county
21 within which a pupil attends public school.”

22 73. Rather than list the Common Core standards directly in the Nevada
23 Administrative Code (NAC), the State Board promulgated regulations that cite the
24 Common Core website for every grade level in mathematics and English Language
25 Arts/Literacy. The State Board thus deems the information contained in the website
26 as a proper reference for students and districts to understand the expectations of the
27 State. The website’s information, therefore, can properly be employed to help define
28 the contours of a basic education. *See e.g.* NAC 389.232 (referencing

1 www.corestandards.org for information on adopted state academic content
2 standards).

3 74. According to the web-based information referenced by the NAC,
4 Common Core standards were designed to “help prepare students for college, career,
5 and life,” with specific learning expectations for each grade level. The standards aim
6 to “align with college and career expectations” and are designed to “prepare all
7 students for success in the global economy and society.”

8 75. The English Language Arts (ELA) standards stress “critical thinking,
9 problem solving, and analytical skills that are required for success in college, career,
10 and life.” The ELA standards impose an expectation that students “must learn to
11 read, write, speak, listen, and use language effectively in a variety of content areas,
12 the standards promote the literacy skills and concepts required for college and career
13 readiness in multiple disciplines.” The ELA standards are expected to prepare a
14 student for life outside the classroom in the 21st Century.

15 76. Students are expected to be to be fluent readers, and able to read
16 diverse and progressively challenging text from multiple sources. To meet the
17 “College and Career Readiness Anchor Standards” (CCR Anchor Standards),
18 Common Core requires a “curriculum [that] is intentionally and coherently
19 structured to develop rich content knowledge within and across grades.” These CCR
20 Anchor Standards require students read a variety of text, from multiple disciplines,
21 and that students can identify key ideas and think critically about what they are
22 reading.

23 77. The CCR Anchor Standards for Writing require students write various
24 types of texts, with clear organizational skills, that is well researched, and under
25 varying time frames. To achieve these requirements, students must be able to
26 “devote significant time and effort to writing, producing numerous pieces over short
27 and extended time frames throughout the year.”

28 78. The mathematics standards are designed to impart the “knowledge and

1 83. The STIP identifies what is lacking and what needs to be improved in
2 order to meet the state’s obligation to provide a basic education.

3 84. The STIP must also identify, for each strategy, staff responsible for its
4 success, how long for completion, what criteria to measure success, and an
5 appropriate budget.

6 85. Each of the indicators the STIP considers—assessments, graduation
7 rates, student safety, teacher quality, and others—operates as a discrete measure for
8 achievement in providing the required constitutionally-adequate education

9 86. The STIP states the Nevada Assessment System is designed to ensure
10 “all public school students, no matter where they attend school, receive an adequate
11 education.” The STIP identifies various assessments used to measure student
12 achievement from Pre-K through high school.

13 87. The STIP lays out the vision of the NDOE and the State Board, which
14 is, “All Nevadans ready for success in a global 21st century.”

15 88. The mission of the NDOE and the State Board is “[t]o improve student
16 achievement and educator effectiveness by ensuring opportunities, facilitating
17 learning, and promoting excellence.”

18 89. NDOE’s goal is to ensure Nevada is the “[f]astest improving state in the
19 nation.”

20 90. NDOE judges its progress towards this goal by becoming fastest in the
21 nation several goals, including:

- 22 a. Graduation rate;
- 23 b. ACT average composite score;
- 24 c. Children with disabilities in inclusive early childhood programs;
- 25 d. National Assessment of Educational Progress (NAEP) English
26 language proficiency exam; and
- 27 e. Career and Technical Education (CTE) completers.

28 91. The stated goals of the State Board include:

- 1 a. All students are proficient in reading by the end of 3rd grade;
- 2 b. All students enter high school with the skills necessary to
- 3 succeed;
- 4 c. All students graduate college-, career-, and community-ready;
- 5 d. All students served by effective educators;
- 6 e. Efficient and effective use of public funds in service to students;
- 7 and
- 8 f. All students learn in an environment that is physically,
- 9 emotionally, and intellectually safe.

10 92. The STIP reports on essential indicators of student achievement,
11 identifies problems and factors, and reveal the State’s strategies, goals, and
12 benchmarks that are aligned with the NDOE vision, mission, and goals, along with
13 other strategic plans developed by the state education officials.

14 93. The STIP identifies assessments as a measure and descriptor of student
15 performance. The assessments measure a student’s proficiency in reading, writing,
16 mathematics, and science.

17 94. The STIP specifically demarcates assessment data on the success of
18 ELL, Special Education, Free and Reduced Lunch students, black, white, Hispanic,
19 Asian, American Indian/Alaska Native, and two or more races. Many of the
20 subgroups continue to demonstrate significant deficits in achievement on these
21 assessments, while students in specialized college and career readiness programs
22 demonstrate relatively higher achievement levels.

23 95. The STIP uses graduation rates as an indicator for achievement. The
24 report notes graduation rates for varying racial and ethnic groups. The STIP reveals
25 that American Indian/Alaska Native, Hispanic, and black subgroups graduate at
26 significantly lower levels than white, Asian or multi-racial groups.

27 96. The STIP also reports the number of disciplinary incidents, suggesting
28 the State properly considers a “Safe and Respectful Learning Environment” an

1 essential element in student achievement. The report indicates incidences of violence
2 towards other students, violence towards school staff, weapons possession,
3 distribution of controlled substances, possession or use of alcoholic beverages, and
4 bullying and cyber bullying, and indicates trends year-over-year.

5 97. The STIP states that in accordance with the state's federal Every
6 Student Succeeds Act ("ESSA") plan, NDOE is required to ensure students from low-
7 income families and students of color are not taught by inexperienced, unqualified, or
8 out-of-field teachers at a higher rate than other students.

9 98. The STIP reports the statewide total of staffing and vacancies,
10 distinguishing between various school types, such as Zoom, Victory, 1-star, 2-star, 3-
11 star, 4-star, 5-star schools. It further reports staffing and vacancies at Clark,
12 Washoe, and "other districts." The STIP notes that the high number of teacher
13 vacancies in the past three years is "of particular concern," and notes that there is
14 "an inequitable distribution of high teacher vacancies in 1- and 2-star schools" and at
15 Victory and Zoom schools.

16 99. The STIP reports NDOE monitoring of School Performance Plans to
17 evaluate inclusion of family engagement practices and strategies, expecting that
18 inclusion of these strategies will improve student achievement.

19 100. State law also requires the STIP to identify problems or factors common
20 across the districts and charter schools, revealed through data and analysis.

21 101. The list of problem areas in the 2019 STIP included:

- 22 a. Student performance in reading;
- 23 b. Student performance in mathematics (specifically in middle
24 school);
- 25 c. Student performance in middle school level;
- 26 d. Achievement gaps between student subgroups;
- 27 e. Early childhood preparation;
- 28 f. College and Career Readiness;

- 1 g. Equitable distribution of effective educators; and
- 2 h. Support and respect for educators.

3 102. The 2019 STIP also identified three key levers based on “conversation
4 between Department staff and stakeholders” to improve Nevada’s achievement.

5 These include:

- 6 a. Identifying and improving the state’s lowest performing schools;
- 7 b. Developing and supporting great school leaders; and
- 8 c. Making data informed policy and instructional decisions.

9 103. The STIP further lists and discusses the goals the State itself has
10 identified as crucial in meeting a required constitutionally mandated basic education.

11 104. The State acknowledges, through the STIP, that all students should be
12 proficient in reading by the end of Third Grade.

13 105. The State acknowledges, through the STIP, quality early childhood
14 education (birth through 3rd grade), that includes effective early literacy programs
15 and intervention, is “key to developing the solid groundwork for learning” and
16 ensures equal access to future success for students.

17 106. The State, through the STIP, details several strategies for meeting this
18 objective, including increasing the number of seats of high quality childhood program
19 and increasing access to these programs for students living in poverty, and improving
20 rate of children ages 3-5 with IEPs attending regular programs and receiving
21 services through those programs

22 107. To ensure Kindergarten readiness, the State acknowledges the need to
23 improve the quality of early childhood programs and access to these quality
24 programs.

25 108. The State acknowledges, through the STIP, that effective literacy
26 instruction for both emergent skills and domains of literacy are necessary for student
27 success, along with an aligned system of screening and assessment across early
28 childhood programs, are necessary to ensure all students are proficient in reading, as

1 measured by the Measures of Academic Progress (MAP) assessment.

2 109. The State acknowledges, through the STIP, that all students should
3 enter high school with the skills necessary to succeed, and that all students should
4 graduate secondary school college, career, and community ready.

5 110. The STIP emphasizes the importance of properly implementing
6 academic content standards in English language arts, mathematics, and science.
7 This includes maintaining high quality standards, appropriate professional
8 development and support, implementation of state-approved, evidenced-based
9 instructional materials, and building capacity of school leaders to identify and
10 support high quality instruction.

11 111. The State acknowledges, through the STIP, the state must have an
12 assessment and accountability system aligned with the Nevada Academic Content
13 Standards. Further, the data from these assessments from pre-k through high school
14 “reflects progress towards college and career readiness.”

15 112. The State acknowledges, through the STIP, the need for data-informed
16 improvements. It states that data, analytic support, and assistance in a timely
17 manner are necessary to support lowest performing schools, develop and retain
18 school leaders, and make data-driven decisions.

19 113. The State acknowledges, through the STIP, that NDOE has “a moral
20 and statutory obligation to ensure that schools in all zip codes are performing at the
21 highest levels for students across the state.”

22 114. The STIP states that all 1- and 2-star schools shall become 3-star
23 schools in three years, and that all non-5-star schools must have a plan to become 5-
24 star schools.

25 115. The State acknowledges, through the STIP, the improvement of
26 underperforming schools essential to meeting the goal of college and career
27 readiness. Specialized college and career readiness program tend to yield higher
28 graduation and assessment results.

1 116. The State acknowledges, through the STIP, the need to increase number
2 of students who enter college with credit via dual enrollment, Advanced Placement
3 courses, and IB programs. It further identifies the need for equitable access to these
4 programs, advanced coursework, and work-based learning.

5 117. The State acknowledges, through the STIP, the need to increase adult
6 high school student achievement.

7 118. The State acknowledges, through the STIP, the need to increase the
8 overall cohort graduation rates, along with specifically identifying the need to
9 increase the graduation rates of ELL, African-American students, Latino students,
10 and students with IEPs (special education).

11 119. The State acknowledges, through the STIP, each of these objectives as
12 fundamentally necessary to achieve college and career readiness by graduation for all
13 students, an essential element of an adequate education.

14 120. The STIP demonstrates that quality, effective teachers and support are
15 essential for, and therefore necessary to, appropriate student achievement.

16 121. The State has announced objectives for meeting this standard, including
17 strengthening education preparation programs, reducing licensing barriers and
18 maintaining meaningful measures for full-state certification, identifying and
19 addressing educator equity gaps for all students, building capacity for teacher
20 preparation programs.

21 122. The State acknowledges through the STIP, the need to increase high
22 performing educator preparation programs, including increasing program completer
23 specifically for diverse, high-needs schools.

24 123. The State acknowledges, through the STIP, the need to reduce
25 provisional licenses (temporary licenses issued with deficiencies in coursework or
26 testing).

27 124. The State acknowledges, through the STIP, the need for improved
28 parent engagement and NDOE is equally responsible for supporting parent

1 engagement as district and school staff.

2 125. The STIP makes clear the need for access to high quality instructional
3 materials for teachers.

4 126. The STIP notes family engagement as key to educational success, and
5 aims to increase schools using the Nevada Parent Family Engagement Standards.

6 127. The State acknowledges, through the STIP the need to reduce the
7 chronic absenteeism rate by engaging families.

8 128. The State acknowledges, through the STIP, each of these objectives as
9 being essential to meeting the goal of having effective educators serving the needs of
10 all students, a fundamental aspect to providing an adequate education.

11 129. The State has acknowledged, through successive annual STIP, that
12 appropriate levels of funding, and proper and efficient use of funds, are key to
13 providing an adequate education.

14 130. The STIP recognizes the need for modernized audits, effective internal
15 systems for distribution and oversight of funds, and better compliance with usage
16 and tracking of funds.

17 131. The State acknowledges, through the STIP, that social and emotional
18 learning is essential for student success, and is linked to improved performance in
19 within the classroom and assessment.

20 132. The State acknowledges, through the STIP, the need for increased
21 school safety, including additional supports, programs, and social workers; a decrease
22 in violence, expulsions, and suspensions, and decreases in bullying and chronic
23 absenteeism.

24 133. The State acknowledges, through the STIP, that the STIP must include
25 analysis and strategies to improve the allocation of resources to public education, but
26 the State has failed to create the statutorily mandated automated system for
27 accountability under NRS 386.650. NDOE, therefore, proposes continuing 2014
28 exploratory work of analyzing how State allocation of resources improved academic

1 achievement.

2 134. As delineated herein, the State has set forth concrete, measurable
3 standards by which to gauge whether the public education system in Nevada has met
4 the necessary constitutional requirements.

5 **G. Nevada’s Public School Finance System**

6 135. The State currently funds public schools and charters through a
7 formula-based funding mechanism known as The Nevada Plan. NRS 387.121.
8 Pursuant to Senate Bill 543 (2019), the State will transition to a new school funding
9 formula known as the Pupil-Centered Funding Plan (PCFP) in the 2021-2022 school
10 year.

11 136. Under both models, public schools receive funding from a combination
12 state, local, and federal sources. Currently, public education funds are comprised of
13 34% state, 57% local, and 9% federal funds.

14 137. Pursuant to NRS 387.121(1), the Legislature “declares that the proper
15 objective of state financial aid is to ensure each Nevada child a reasonably equal
16 educational opportunity.”

17 138. The Nevada Plan formula divides up a legislatively-determined
18 allocation to school districts and charter schools, determining a guaranteed per pupil
19 funding amount, derived from both state and local sources. This guaranteed funding
20 source accounts for approximately 80% of school districts’ and charter schools’
21 general fund resources.

22 139. Nevada Plan funding consists of state level funds through the
23 Distributive School Account (DSA) and local revenue sources such as Local School
24 Support Tax (LSST) set at 2.6% and one-third of proceeds from a 75-cent ad valorem
25 property tax. State law dictates both the LSST and the property tax rate, therefore
26 counties cannot raise additional revenue to support district general fund revenues
27 outside state law mandated restrictions.

28 140. The Legislature determines the statewide guaranteed per-pupil funding

1 levels by taking the total amount the legislature dedicates for public education and
2 dividing that total by the number of students enrolled in the state. That base per-
3 pupil funding level is then adjusted to account for cost variances due to geography,
4 scarcity, density, and available local wealth.

5 141. The difference between total guaranteed support and available local
6 funds (LSST and 1/3 ad valorem property tax) determines the state contribution to
7 the basic support guarantee. Theoretically, if local revenue sources come up short in
8 any given year, the state aid would increase to make up the shortfall. However, in
9 practice, the State has failed to make up for shortfalls.

10 142. In addition to the basic support guarantee, school districts receive local
11 funds that are not guaranteed by the State. This revenue includes 2/3 of the proceeds
12 of the 75-cent ad valorem property tax rate, a share of the basic governmental service
13 tax, franchise tax, interest income, tuition, unrestricted federal funds, and other local
14 revenues. Like the basic support revenue sources, state law dictates revenue sources
15 and rates, and local counties cannot raise additional revenue for the district general
16 fund outside of these restrictions. Additionally, since these outside local resource are
17 not guaranteed by the state, if actual revenue levels come in under projections, the
18 district incurs a loss in available funding.

19 143. Special education services are funded through a weighted funding
20 model, where students eligible for special education services receive a multiplier of
21 the statewide average basic support per pupil amount. NRS 387.122 (2015).
22 However, districts that exceed 13% enrollment of eligible students receive 50% of the
23 weighted funding level.

24 144. The State provides no weighted funding for GATE students. Instead,
25 GATE is funded with a limited appropriation, where many districts are forced to
26 limit GATE offerings to certain grade levels. Eleven out of 17 districts receive no
27 state funding to provide GATE services.

28 145. The State provides no weighted funding for at-risk or low-income

1 students, FRL, or ELL students. High-needs schools may benefit from limited pilot
2 programs funded outside the Nevada Plan funding formula and through direct
3 legislative appropriation. These programs often dictate how funds can be used and
4 which schools are eligible. The Zoom programs provide additional supports to high-
5 concentration ELL schools, Victory programs serve high concentration low-income
6 schools, and SB 178 serves low achieving students in low performing schools. These
7 programs are funded directly from the state and outside the Nevada Plan funding
8 formula. Mandates for how funding is spent limit the use of most funds for
9 designated purposes, such as pre-kindergarten, extended school day, summer
10 programs, reading skills centers, or professional development, and cannot be used to
11 support other school or district needs. An estimated 68% of ELL students and 84% of
12 FRL students receive no state funding to support programs and services to meet their
13 unique needs.

14 146. Rural school districts often receive so little funding through categorical
15 grants that they must spend additional dollars out of their general education budget
16 in order to effectively utilize grant funding to serve vulnerable student groups.

17 147. One problem that looms large for rural school districts, but is a problem
18 generally for school finance in Nevada, is the lack of state support for facilities and
19 maintenance. Research consistently links availability and condition of school
20 facilities with student performance. Nevada provides no reliable state support for
21 capital outlay, unlike the vast majority of states. The State also fails to provide
22 guidance and oversight for districts that have been struggling to provide adequate
23 and safe spaces for student learning.

24 148. The State has left funding to support school buildings and facilities to
25 local districts, yet the State largely dictates limits on how funds can be raised. NRS
26 387.328, 387.335. Taxes authorized by the Legislature and counties, voter approved
27 funding, and other local and federal revenues support capital funding. *See* NRS
28 377.B160, NRS 244.307, 244.3354, 375.070, 387.328, 387.3285, 387.3228, 387.331,

1 387.3326. Voter approval, tax-rate caps, and abatement caps have created significant
2 challenges for districts. The State’s “Fund to Assist School Districts in Financing
3 Capital Improvements” is currently unfunded. NRS 387.333. School districts are
4 completely reliant on these revenue sources, and do not have the authority to
5 independently raise revenue.

6 149. Further exacerbating the problem, operational fund dollars are often
7 used for repair and maintenance of facilities. Deferred maintenance has become a
8 chronic and growing problem. Insufficient maintenance of school buildings has led to
9 increases in capital construction costs over time. The legislatively-commissioned
10 Spending and Government Efficient (SAGE) Commission reported that districts
11 estimate that every \$1 in deferred maintenance cost will result in \$4 in future capital
12 costs.

13 150. CCSD is currently facing a \$6.1 billion shortfall for capital and
14 maintenance needs through 2025. Common problems include insufficient space for
15 appropriate class sizes and a triage approach to maintaining a crumbling
16 infrastructure, rather than replacing and modernizing older buildings. Children
17 attempt to maintain focus in cramped rooms and portables, sometimes without A/C
18 in triple digit temperatures, and they face a myriad of other infrastructure related
19 challenges.

20 151. Rural counties, with even less options for raising capital funding, do not
21 have a foreseeable way out of their aging infrastructure. White Pine CSD maintains
22 over \$10 million in deferred maintenance, and has two school buildings that are over
23 100 years old. Attempts to update the building to account for newer technology, A/C,
24 and heating have led to a patchwork of visible wires and cables covering walls.
25 Schools struggle with adequate space for parking and are unable to implement
26 disaster preparedness strategies. Students with limited mobility must be carried up
27 flights of stairs due to lack of elevators or ramps. Insufficient funding has left the
28 schools non-compliant with the Americans with Disabilities Act, and more

1 importantly, has hindered access for students with unique needs.

2 152. The SAGE commissioned recommended reforms to increase the state's
3 involvement in capital and maintenance needs, but the State has failed to take
4 action.

5 153. Other revenue funds outside the Nevada Plan include various
6 categorical funds from state, local, federal, and private sources. Typically, school
7 districts and schools can only use these funds for limited purposes, and therefore
8 these revenue source cannot support many basic operational expenses.

9 154. In 2019, lawmakers passed SB 543, changing some aspects of the
10 Nevada Plan. Rather than distinguishing between funds inside and outside the
11 Nevada Plan funding formula, the PCFP deposits various revenue sources into a
12 single account, the State Education Fund. NRS 387.1214. The Legislature will
13 continue to determine a base per-pupil funding amount, which will then be adjusted
14 by different cost factors to account for cost differential related to small districts,
15 necessarily small schools, and wage differences. NRS 387.1214. Like the Nevada
16 Plan, these cost factors are used to divide the legislatively determined funds made
17 available for public education in the state, not to determine actual funding necessary
18 to meet student needs.

19 155. Additionally, the PCFP will convert categorical funding for programs
20 such as Zoom, Victory, and SB 178 into a per-pupil weight for ELL and low-income
21 students. NRS 387.1212, 387.1213. However, there are no target weights codified in
22 statute, and there is no indication the weight will be determined based on actual
23 student need or constitutional sufficiency.

24 156. Similarly, GATE grant funds will also convert to a weight. *Id.* Again, no
25 target weights are codified in statute, and no indication the weight will be
26 determined based on actual student need.

27 157. Neither the Nevada Plan nor the PCFP provide weighted funding or
28 account for pre-kindergarten needs, which is currently funded through state

1 categorical grants and federal funds. Access to pre-kindergarten services is scant and
2 unpredictable, despite recognition by the state that it is essential to kindergarten
3 readiness.

4 158. Importantly, the Legislature did not allocate additional state funding to
5 support the PCFP.

6 159. Accordingly, the PCFP will merely redistribute the existing funding
7 sources and will spread thin dollars that currently serve only a fraction of low income
8 and ELL students. *See Meeting Minutes of the Assembly Committee on Ways &*
9 *Means and the Senate Committee on Finance Joint Hearing on SB 543 (May 21,*
10 *2019) (Testimony of David Jensen, Superintendent, Humboldt County School District*
11 *stating that SB 543 “simply redistributes inadequate resources creating a series of*
12 *winners and losers”).*

13 160. Currently, the Commission on School Funding is examining potential
14 cost factors, weights, and optimal levels of funding for districts and charter schools.
15 CITE. The Commission’s role is purely advisory, and ultimately the State holds
16 complete authority to ensure sufficient resources for all student pursuant to
17 constitutional requirements.

18 161. Historically, the State failed to implement recommendations from
19 numerous State-commissioned studies and recommending bodies.

20 162. In 2006 and 2018, the State commissioned two studies, conducted by
21 Augenblick, Palaich and Associates (“APA”), to determine the resources necessary for
22 all students to have the opportunity to meet Nevada academic content standards.
23 Both studies found Nevada public schools were grossly under-resourced. The studies
24 recommended adequate levels of educator, administrative, and other staff positions,
25 as well as supports, supplies, technology, and other essential resources. Further, it
26 recommended adequate weights for students with unique needs. *See John*
27 *Augenblick, et al., Estimating a Cost of an Adequate Education in Nevada, APA (Aug.*
28 *2006); APA, Nevada School Finance Study (Oct. 22, 2018).*

1 163. The 2018 APA study recommended base per-pupil funding levels under
2 an adequacy or “professional judgment” approach at \$9,238 for all students, with
3 additional funding for ELL students at a weight of 0.50, FRL at 0.30, and students
4 with disabilities at 1.10. This funding excludes available federal funds and
5 transportation funding. The legislatively commissioned Task Force on K-12
6 Education Funding (“Task Force”) recommended similar weighted funding targets.
7 Other studies have also recommended significant changes to Nevada’s public
8 education system and funding levels. *See e.g. Jay Chamber, et al., Study of a New*
9 *Method of Funding Nevada Public Schools*, Amer. Inst, for Research (2012); APA,
10 *Professional Judgment Study Report*, Lincy Inst., (2015).

11 164. The State has failed to implement the recommendations of its own
12 studies and the Task force. Over the past ten years, state per-pupil funding levels
13 have remained largely flat when accounting for inflation, and have failed to come
14 close the State’s own recommendations.

15 165. Base per-pupil funding for the 2020-21 school year, excluding federal
16 funding and transportation, are \$3,020 below APA’s recommendation.

17 166. When using APA’s recommended adequate base per-pupil funding as
18 the basis for applying weighted funding for students with unique needs, a conversion
19 of existing categorical funds to weights demonstrate a stark disconnect between the
20 resources available to these students and what the State’s own study recommends.

21 167. ELL per-pupil funding levels in the 2020-21 school year amount to a
22 0.09 weight when converting current Zoom school funding dollars, compared to
23 APA’s 0.50 recommended weight.

24 168. FRL per-pupil funding levels in the 2020-21 school year amount to a
25 0.04 weight when converting SB 178 and Victory school funding dollars, compared to
26 APA’s 0.30.

27 169. The 2020-21 school year per pupil weight for special education is 0.21,
28 compared to APA’s recommended weight of 1.10.

1 170. The Commission on School Funding is yet again developing
2 recommendations for appropriate base per pupil funding and weights, but if past
3 actions are any indication, these recommendations are likely to be ignored.

4 171. There is no indication in state law, regulations, or otherwise that the
5 funding levels are determined by accounting for actual costs of ensuring all students
6 have the opportunity to meet state standards or mandates, or by reference and
7 faithfulness to the requirements of a constitutionally-adequate public education.

8 **H. Nevada’s Failure To Provide Sufficient**
9 **Resources To Its Students**

10 172. The discrepancy between the legal requirements, policies, and goals for
11 student achievement in this State and the reality of Nevada’s public school student
12 performance leaves no doubt that the system serving those students is inadequate to
13 its constitutional task.

14 173. No state can long perform at this woeful educational level and expect its
15 citizens to sit idly by while generations of schoolchildren fall between the ever-
16 widening cracks in the system.

17 174. From achievement scores to class sizes, from teacher quality to on-the-
18 ground resources for student learning, Nevada has failed its schoolchildren.

19 175. It is now abundantly clear that the political branches of Nevada’s state
20 government are unable to remedy the deep constitutional infirmities of the statewide
21 public education system, and so this lawsuit, unfortunately, has become necessary.

22 **FIRST CAUSE OF ACTION**

23 **Violation of Nev. Const. Article XI, Section 1**

24 176. The allegations in the preceding paragraphs are realleged and
25 incorporated herein by reference.

26 177. Defendants have failed to provide Plaintiffs’ children/students a
27 sufficient education, both qualitatively and quantitatively, as mandated by the
28 Nevada Constitution’s Education Clause.

1 178. Defendants have failed to address, implement, enforce, or otherwise
2 meets the guidelines, policies, and goals that it acknowledges form the basis for
3 meeting its constitutional duties in providing a sufficient education for the students
4 of Nevada.

5 179. The primary cause of this failure is the arbitrary and inadequate
6 Nevada public school finance system, which is compounded by Defendants' failure to
7 monitor effectively the expenditure of public funds for education in the State.

8 180. Inadequate and arbitrary funding of critical programs for Plaintiff
9 students deprive them of a qualitative sufficient education.

10 181. Further, failure to implement appropriately and support fully, with
11 sufficient resources, the obligations and duties owed under other constitutional
12 provisions and the State and its Legislature's laws and pronouncements, which
13 inform and give meaning to the Education Clause, violates the Plaintiff students'
14 basic right to a sufficient education in this State.

15 **SECOND CAUSE OF ACTION**

16 **Violation of Nev. Const. Article XI, Section 2**

17 182. The allegations in the preceding paragraphs are realleged and
18 incorporated herein by reference.

19 183. Defendants have failed to provide Plaintiffs' children/students a
20 sufficiently uniform system of common schools, both qualitatively and quantitatively,
21 as mandated by Nevada Constitution, Article XI, Section 2.

22 184. Defendants have failed to address, implement, enforce, or otherwise
23 meets the guidelines, policies, and goals that it acknowledges form the basis for
24 meeting its constitutional duties in providing a sufficient education for the students
25 of Nevada.

26 185. The primary cause of this failure is the arbitrary and inadequate
27 Nevada public school finance system, which is compounded by Defendants' failure to
28 monitor effectively the expenditure of public funds for education in the State.

1 186. Inadequate and arbitrary funding of critical programs for Plaintiff
2 students deprive them of a qualitative sufficient uniform system of common schools.

3 187. Further, failure to implement appropriately and support fully, with
4 sufficient resources, the obligations and duties owed under other constitutional
5 provisions and the State and its Legislature's laws and pronouncements, which
6 inform and give meaning to Nevada Constitution, Article XI, Section 2, violates the
7 Plaintiff students' basic right to a uniform system of common schools.

8 **THIRD CAUSE OF ACTION**

9 **Violation of Nev. Const., Article I, Section 8(2)**

10 188. The allegations in the preceding paragraphs are realleged and
11 incorporated herein by reference.

12 189. Nevada's Due Process Clause provides that "no person shall be deprived
13 of life, liberty, or property without due process of law." Nev. Const. Art. I, Sec. 8(2).

14 190. Plaintiff students have a basic right to a sufficient education but they
15 have been denied the due process in acquiring that right and the successive right to
16 graduation with credentials as established under state statutes.

17 191. Defendants have denied Plaintiff students' due process by a public
18 education funding system that irrationally and unreasonably denies basic
19 educational opportunities and outcomes at the levels set by the State itself.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs ask that the Court:

22 A. Declare, following the Nevada Supreme Court, that a sufficient
23 education is a basic right under the Nevada Constitution;

24 B. Declare that the Nevada public education system's current funding
25 system is insufficient to guarantee or secure the basic right of a sufficient education
26 to all Nevada schoolchildren, in violation of the mandates of the Nevada
27 Constitution;

28 C. Enjoin Defendants from giving force and effect to any school finance

1 system unless it satisfies the principles of sufficiency established under Nevada law
2 and policy, and remedies the constitutional, statutory, and regulatory violations
3 identified herein;

4 D. Retain jurisdiction until this Court is satisfied fully with the remedies
5 enacted by Defendants pursuant to the Court's direction;

6 E. Grant Plaintiffs their court costs and reasonable attorney's fees as
7 provided by law and equity; and

8 F. Grant other and further relief as this Court deems just and proper.

9

10 DATED this 4th day of March, 2020. WOLF, RIFKIN, SHAPIRO, SCHULMAN &
11 RABKIN, LLP

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