

No. 14-0776

In the Supreme Court of Texas

MICHAEL WILLIAMS, COMMISSIONER OF EDUCATION,
IN HIS OFFICIAL CAPACITY, *ET AL.*,
Appellants/Cross-Appellees.

v.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellants/Cross-Appellees,

v.

TEXAS CHARTER SCHOOLS ASSOCIATION, *ET AL.*; AND
JOYCE COLEMAN, *ET AL.*,
Appellees/Cross-Appellants,

v.

THE TEXAS TAXPAYER AND STUDENT FAIRNESS COALITION, *ET AL.*;
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, *ET AL.*; AND
FORT BEND INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellees.

On Direct Appeal from the
200th Judicial District Court, Travis County, Texas
No. D-1-GN-11-003130

REPLY BRIEF OF TEXAS CHARTER SCHOOLS ASSOCIATION, *ET AL.*

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ORAL ARGUMENT REQUESTED

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INTRODUCTION

The State has stacked the deck against charter schools and their students. First, the State argues that the charter school plaintiffs, and only the charter school plaintiffs, are barred from suing due to sovereign immunity. Despite well-established precedent that the State does not have sovereign immunity to violate the Constitution, the State contends that this Court has no role to play in vindicating constitutional rights, at least when it comes to the constitutional rights of charter students.

Second, the State argues that this Court cannot consider charter-specific claims. It advances an “all-or-nothing” theory of the Constitution, under which the rights of individual students are entirely irrelevant so long as the system as whole operates well enough. Under the State’s theory, however, the Constitution would effectively guarantee educational opportunities only to students in certain favored neighborhoods. This Court has, of course, repeatedly rejected that view.

Third, the State provides charter schools not only significantly less funding than necessary to achieve a general diffusion of knowledge, but also significantly less funding than it provides to school districts. In fact, it is undisputed that this discrimination costs charter schools \$1,000 per weighted student. The system breeds inadequacy, inefficiency, and unsuitability, ultimately resulting in only 11

percent of charter students testing college- or career-ready on college entrance exams.

In sum, under this Court’s well-established precedents, the public school system does not pass constitutional muster, and that is especially so for charter students. If anyone is entitled to relief in this case, it is the charter school plaintiffs.

ARGUMENT

The charter school plaintiffs have suffered both system-wide and charter-specific constitutional violations. The State’s arguments to the contrary would overturn much of school finance law, including some of the most important principles that this Court has established.

I. The District Court Correctly Ruled That Sovereign Immunity Does Not Bar The Charter School Plaintiffs’ Claims.

This Court has repeatedly reaffirmed the basic principle that the State does not have sovereign immunity to violate the Constitution. *See Klumb v. Hous. Mun. Emps. Pension Sys.*, 458 S.W.3d 1, 9-10 (Tex. 2015); *City of El Paso v. Heinrich*, 284 S.W.2d 366, 372 (Tex. 2009). “[S]overeign immunity is inapplicable when a suit challenges the constitutionality of a statute and seeks only equitable relief.” *Patel v. Tex. Dep’t of Licensing & Regulation*, 2015 WL 3982687, at *3 (Tex. June 26, 2015); *City of Elsa v. M.A.L.*, 226 S.W.3d 390, 392 (Tex. 2007) (“[S]uits for

equitable remedies for violation of constitutional rights are not prohibited.” (internal quotation marks omitted)).

In the face of this precedent, the State acknowledges that sovereign immunity does not bar the full scope of the charter school plaintiffs’ claims. *See* State Cross-Appellees Br. 55 (conceding the charter school plaintiffs can “generally assert . . . that the system as a whole violates article VII, section 1 and should be enjoined prospectively for that reason”). Nonetheless, the State fails to follow its concession to its logical conclusion: none of the charter school plaintiffs’ claims are barred. There is no reason that charter-specific claims should be treated differently than system-wide claims. After all, both are based on the Constitution, and both seek the same relief.

The State singled out suits by charter schools as barred by sovereign immunity on the ground that charters are “in the form of a contract.” State Appellants Br. 73. But contracts neither create immunity nor obviate otherwise applicable exceptions to immunity. *See Fed. Sign v. Tex. S. Univ.*, 951 S.W.2d 401, 413 (Tex. 1997) (Hecht, J., concurring); *Tex. Parks & Wildlife Dep’t v. Callaway*, 971 S.W.2d 145, 150 (Tex. App.—Austin 1998, no pet.); Charter School Plaintiffs Br. in Response 13-14. So sovereign immunity cannot bar the charter school plaintiffs’ claims, just as it does not bar the claims of any other

plaintiff. The State's argument for differential treatment is unsupported by logic or precedent.

II. This Court's Well-Established Precedents Compel The Conclusion That The System Is Unconstitutional.

The public school system created by the Legislature does not satisfy the requirements established in the Texas Constitution. Charter schools are subject to the same system-wide inadequacy that school districts suffer. But charter schools also face uniquely inadequate funding, due in large part to the State's failure to fund facilities. The system is also inefficient and unsuitable in light of the \$1,000 funding gap and the failure to appropriately direct what funding is available.

A. The State's "All-Or-Nothing" Theory Of The Constitution Conflicts With This Court's Historic Role In Protecting Individual Constitutional Rights.

As the charter school plaintiffs have already briefed, this Court should separately analyze the charter-specific claims rather than treat the system as a homogenous whole for all purposes. Trying to avoid the force of the charter-specific claims, the State proposes an all-or-nothing theory of the Constitution, under which the rights of charter students are irrelevant so long as the rest of the system performs well enough. This novel approach contradicts precedent, the original intent behind the Education Clause, and the Legislature's own interpretation. Charter School Plaintiffs Br. in Response 16-21.

In its second brief, the State adds a new argument: that *Neeley v. West Orange-Cove Consolidated Independent School District (WOC II)*, 176 S.W.3d 746 (Tex. 2005), implicitly adopted the all-or-nothing standard by failing to explicitly accept “as applied” findings from the district court. State Cross-Appellees Br. 57-58. This argument is wrong for two reasons. To begin with, *WOC II* itself explicitly analyzed particular types of schools—thus belying any notion that the Court implicitly endorsed the State’s all-or-nothing theory of the Constitution. *See, e.g., WOC II*, 176 S.W.3d at 798 (discussing whether “property-poor districts needed no additional revenue to provide an adequate education”). Moreover, the State cannot point to a single line anywhere in the Court’s opinion, much less a holding, to support its novel all-or-nothing theory. That this Court did not take the time to explain its view on each of the district court’s findings is meaningless in a case like *WOC II*, which involved hundreds of findings.

B. Charter School Funding Is Uniquely Inadequate.

1. The Charter School Plaintiffs Demonstrated That Students Are Not Ready For Post-Secondary Success.

a. The charter school plaintiffs have already presented undisputed standardized testing data to show that far too few charter school students are college- or career-ready. Charter School Plaintiffs Opening Br. 9-10, 23-24. The State argues that poor performance among charter students is excusable because they tend to come from economically disadvantaged backgrounds. State Cross-

Appellees Br. 62, 66. But that turns school finance law on its head. Far from excusing a constitutional violation, the State’s defense proves the violation—and the urgency of remedying it.

The Constitution protects the rights of *all* Texas students, “rich and poor alike.” *Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I)*, 777 S.W.2d 391, 395 (Tex. 1989). That includes students and families who lack significant political clout, like the 71 percent of charter students who are economically disadvantaged. RR 290 at 1169, Ex. 9071 at 7.

That a school must spend additional resources to educate economically disadvantaged students is a reason to provide additional funding, not a reason to excuse poor performance. The Legislature itself recognized this principle even as it neglected to fully fund its implementation. *See, e.g.*, TEX. EDUC. CODE § 42.152 (providing compensatory education allotment for economically disadvantaged students); CR 12 at 363, FOF 476 (“[W]hile the statutory school finance formulas reflect the Legislature’s acknowledgement that economically disadvantaged students cost more to educate, the result of the funding system does not actually send more dollars to districts with higher concentrations of economically disadvantaged students.”).¹

¹ *See also* Gov. George W. Bush, *Excerpts from Bush’s Speech on Improving Education*, NEW YORK TIMES (Sept. 3, 1999), available at <http://www.nytimes.com/1999/09/03/> (Cont'd on next page)

Charter schools have not and will not give up on economically disadvantaged students. They do the best they can with the resources they have to meet their obligations as educators. But to significantly improve the current situation, the charter school plaintiffs need the Legislature to meet its obligation to provide adequate funding.

b. Alternatively, the State challenges the district court’s reliance on college- and career-readiness, by claiming that the only relevant metric for determining adequacy is accreditation. CR 12 at 683-85, FOF 111-22. Although there is a presumption in favor of equating adequacy and accreditation, it can be rebutted, as the district court found in this case. *See West Orange-Cove Consol. I.S.D. v. Alanis (WOC I)*, 107 S.W.3d 558, 581 (Tex. 2003).

Indeed, the district court did the same in *WOC II*—with this Court’s approval. 176 S.W.3d at 787-88. Rejecting the State’s argument that the district court conflated lofty statutory goals with the constitutional standard, this Court expressly approved the district court’s use of “statutory provisions [to] properly inform the construction and application of the constitutional standard.” *Id.* at 789. Moreover, this Court’s reasoning relied on two statutory provisions still in force

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us/excerpts-from-bush-s-speech-on-improving-education.html (“Now some say it is unfair to hold disadvantaged children to rigorous standards. I say it is discrimination to require anything less—the soft bigotry of low expectations.”).

today: section 4.001(a), which “linked the stated mission of public education to the constitutional standard,” and section 28.001, which identified “essential knowledge and skills” to “prepare and enable all students to continue to learn in postsecondary educational, training, or employment settings.” *Id.* at 788-89. The State’s current effort to overturn the district court’s finding below therefore fails for the same reasons it failed in *WOC II*: the Legislature itself has linked adequacy to college- and career-readiness. State Appellants Br. 82-94. *See also* Calhoun County ISD Plaintiffs Br. of Appellees 94-99.

In light of the fact that adequacy requires schools to prepare students for post-secondary success, the overwhelming evidence demonstrates an adequacy violation. Among the wealth of statistics demonstrating inadequacy, one particularly stands out: only 11 percent of charter school students test post-secondary ready on the SAT or ACT. Charter School Plaintiffs Opening Br. 9-10, 23-24. The State’s only response is to once again suggest that the Court ignore the “more difficult student populations” so that the number becomes 15 percent. State Cross-Appellees Br. 66. That position is wrong for the reasons stated above, but even if one accepts the State’s faulty premise, 15 percent is still an unacceptable, and unconstitutional, result. If the goal is to prepare students for post-secondary endeavors, the State has failed, regardless of whether 11 or 15 percent is the relevant number.

Moreover, to the extent that accreditation is relevant, the State has recently moved to revoke at least twenty different charters. That is particularly significant in light of the fact that there were only about 200 active charters. With 17.6 percent of charter schools rated academically unacceptable, the charter school plaintiffs have demonstrated unconstitutional inadequacy even under the State's standard. These results are not surprising since each of these charter schools received less funding than required to provide an adequate education. Charter School Plaintiffs Br. in Response 7; CR 12 at 567, FOF 1508. Indeed, on average, charter schools receive at least \$1,000 less than the district court found necessary for a general diffusion of knowledge. Charter School Plaintiffs Opening Br. 6-7; CR 12 at 398-99, FOF 635-36.²

2. The State Mischaracterizes Charter School Funding.

No one disputes that the Foundation School Program ("FSP") provides \$1,000 less per weighted average daily attendance ("WADA") to charter schools than districts. Charter School Plaintiffs Opening Br. 7. The State tries to discount

² The State also claims that the district court never ruled that charter school students were not receiving an adequate education. State Cross-Appellees Br. 61. But the district court expressly declared that "[a]ll performance measures . . . demonstrated that Texas public schools are not accomplishing a general diffusion of knowledge." CR 12 at 195, Final Judgment at 8. Because charter schools are public schools, the court included the charter school plaintiffs in the granting of that declaratory relief. *See id.* ("This Court GRANTS FINAL JUDGMENT to the ISD Plaintiffs, as well as the Charter School Plaintiffs on their requests for declaratory relief in connection with their Article VII, Section I adequacy claims.").

this metric, but under this Court’s precedents, FSP funding per WADA is the most relevant funding statistic. *Id.* at 8-9.

a. For constitutional purposes, the FSP is the relevant source of funding because it includes 95 percent of state and local funding for education. *See WOC II*, 176 S.W.3d at 764. Rather than focus on FSP funding, the State proposes that this Court consider metrics based on the “general fund” and “all funds.” State Cross-Appellees Br. 49-50. These metrics are irrelevant, and this Court has never relied on them before.

“General fund revenue” is substantially under-inclusive because it fails to account for facilities funding. *See* RR 143 at 207, Ex. 1818 at 109:17-22 (“general fund” does not include “I&S money”). Similarly, both “general fund” and “all funds” are unreliably over-inclusive. By including federal funding not attributable to the Legislature, they incorporate funding not subject to state constitutional control. *See* Tex. Educ. Agency, Glossary for the Academic Excellence indicator System 2010-11, Appendix B: Financial Accounting Codes for Revenue and Expenditure Items, *available at* <http://ritter.tea.state.tx.us/perfreport/aeis/2011/glossary.pdf> (showing that federal revenues go to “General and All” funds). Indeed, this Court has traditionally refused to consider federal funding. *See Edgewood Indep. Sch. Dist. v. Meno (Edgewood IV)*, 917 S.W.2d 717, 735 n.19 (Tex. 1995) (declining to discuss federal funding); *Carrollton-Farmers v.*

Edgewood Indep. Sch. Dist. (Edgewood III), 826 S.W.2d 489, 494 n.4 (Tex. 1992) (same).³

b. This Court has repeatedly relied on funding per WADA rather than unweighted metrics like ADA, because an accurate understanding of school finance requires weighting based on the cost of educating particular students. *See WOC II*, 176 S.W.3d at 762; *Edgewood IV*, 917 S.W.2d at 731. Using ADA, as the State proposes, would imply that the cost of educating students does not vary by student. But this Court has already rejected that proposition. *See Edgewood Indep. Sch. Dist. v. Kirby (Edgewood II)*, 804 S.W.2d 491, 495 n.9 (Tex. 1991). The State’s statistics that rely on “per ADA” or “per pupil” measurements are therefore more misleading than helpful.⁴

Moreover, most of the State’s statistics rely on outdated data. Every single statistic purporting to show charter schools did not suffer from a funding gap

³ In this respect, the federal government is unlike school districts, which are creations of the State. For purposes of the Education Clause, local tax revenue collected by school districts is attributable to the Legislature. *See WOC II*, 176 S.W.3d at 794 (“The State may discharge its duty to make suitable provision for free public schools through school districts by relying on local tax revenues . . .”).

⁴ The State notes that facilities needs do not differ based on economic disadvantage, State Cross-Appellees Br. 50-51, but there is no dispute that the vast majority of school funding varies significantly depending on the student’s economic status. Using ADA instead of WADA would thus massively overcorrect for the alleged problem perceived by the State.

relates to 2010-2012. State Cross-Appellees Br. 49-50.⁵ None of the State’s data alters the fact that charter schools suffer a \$1,000 gap in 2015. Charter School Plaintiffs Opening Br. 7-8.

c. The charter school plaintiffs identified two significant factors to explain the \$1,000 funding gap: the lack of facilities funding and the use of inapplicable “average” adjustments in charter funding. Charter School Plaintiffs’ Opening Br. 5-6. The State argues—for the first time, on appeal in this Court—that “charter schools *do* receive funding for facilities.” State Cross-Appellees Br. 51. But at trial the State’s own expert stated precisely the opposite. According to Lisa Dawn-Fisher, “[c]harter schools are not eligible to receive facilities funding.” RR 119 at 132, Ex. 1188 at 13.⁶ Of course, money is fungible, so charter schools pay for necessary facilities only by short-changing instructional needs. *See* RR 234 at 94-95, Ex. 9007 at 3-4. What’s more, even that is not enough to ensure adequate facilities. *See* RR 234 at 96-98, Ex. 9007 at 5-7; RR 42 at 94:24-95:10.

⁵ The State does rely on one statistic from 2015, which shows that charter schools receive \$300 less per ADA than districts do. State Cross-Appellees Br. 49. As discussed, when considered on a weighted basis, the gap is actually \$1,000.

⁶ The State points to the New Instructional Facility Allotment, State Cross-Appellees Br. 48, but Ms. Dawn-Fisher considered the program so insignificant that it did not alter her conclusion that “[c]harter schools are not eligible to receive facilities funding.” RR 119 at 132, 134, Ex. 1188 at 13, 15. Notably, the State does not even bother to argue that whatever funding might someday become available under this program would make a noticeable dent in the funding gap.

The State also claims that the average adjustments do not actually harm charter schools. State Cross-Appellees Br. 51. The charter school plaintiffs continue to disagree, Charter School Plaintiffs Opening Br. 21-22, but the debate is more academic than practical. At the end of the day, charter schools receive \$1,000 less per WADA than districts do. Whether that gap is caused by the use of averages or some other factor, the fact remains that the gap exists—and that it harms charter school students.

Attempting to justify this funding gap, the State asserts, without evidence, that charter schools have accepted a “tradeoff” under which they operate with less funding in exchange for fewer regulations. State Cross-Appellees Br. 43. The charter school plaintiffs, by contrast, demonstrated at trial that charter schools and school districts face many of the same costs in achieving state standards. *See* RR 42 at 77:8-79:21. There is no evidence in the record to suggest that the different ways in which public schools are regulated could justify a \$1,000 funding gap, and the State does not even attempt to claim otherwise.⁷

C. Charter School Funding Is Inefficient.

The State argues that the Efficiency Clause does not protect charter schools or their students as a matter of law. Ignoring much of this Court’s previous

⁷ The State repeats its argument that funding is irrelevant to adequacy. State Cross-Appellees Br. 60-61. That argument is both wrong and contradicted by this Court’s reasoning in *WOC II*. Charter School Plaintiffs Br. in Response 21-24.

language, the State argues that efficiency pertains only to the taxing power—which charter schools of course do not have. State Cross-Appellees Br. 68.

The charter school plaintiffs have presented an efficiency claim based on “access to educational funds,” not tax rates. Charter School Plaintiffs Opening Br. 24 & n.11 (quoting *WOC II*, 176 S.W.3d at 753). Previous school finance cases involved only school districts, so this Court has at times described efficiency in terms of tax revenue. But that was merely one specification of a larger principle: students “must be afforded a substantially equal opportunity to have access to educational funds.” *WOC I*, 107 S.W.3d at 566.

After all, as this Court has made clear, “the constitutionally imposed state responsibility for an efficient education system is the same for *all* citizens”—not just students who happen to attend schools that have the power to impose local taxes. *Edgewood I*, 777 S.W.2d at 396 (emphasis added). To be sure, this Court has observed that the power to impose local taxes “makes it difficult to achieve efficiency”—implying that a system that does not rely on local taxes might have an easier time surviving an efficiency challenge. *WOC II*, 176 S.W.3d at 79. But that only proves the point: the system would nevertheless remain subject to the constitutional requirement of efficiency. *See also id.* (suggesting that the constitutional requirements might be easier to satisfy after “fundamental changes in the structure of the system”). What’s more, a system without local taxes would

be easier to uphold only in the sense that it should be easy as a practical matter for the Legislature to allocate state funds equally—something the Legislature has nevertheless failed to do for charter schools, as detailed here.

Neither text nor structure supports the State’s cramped interpretation of the Efficiency Clause. First, the Efficiency Clause is not textually limited to taxation. *See* TEX. CONST. art. VII, § 1 (requiring the Legislature “to establish and make suitable provision for the support and maintenance of an efficient system of public free schools”). In contrast, the Equal and Uniform Clause is expressly limited to taxation. *See id.* art. VIII, § 1(a) (“Taxation shall be equal and uniform.”). The Framers knew how to limit a provision to taxation when they so intended. Second, the Efficiency Clause limits the Legislature’s discretion in determining how to fund public schools. Surely, the Legislature cannot avoid this crucial protection for economically disadvantaged students altogether, simply by denying schools the ability to tax.

Because the Efficiency Clause applies to charter schools and their students, this Court must determine the constitutional significance of the \$1,000 funding gap. The State tries to minimize its importance by suggesting that this Court has previously upheld larger gaps. *State Cross-Appellees Br. 70*. But those gaps were not comparable: while they compared extremes (property-rich vs. property-poor districts), this \$1,000 gap compares *average* schools. The average charter school

receives \$1,000 less in FSP funding per WADA than the average district. This evidence was confirmed by testimony comparing particular charter schools and districts “that were not only located in the similar area, but served the same student population, the same size student population.” RR 61 at 44:20-22. For example, charter schools in the Austin area received roughly \$1,500 less per WADA than Austin ISD did. RR 290 at 1196, Ex. 9071 at 24.

When comparing extremes, the gap dramatically increases. Of the roughly 200 charters across the state, the highest funded charter school received only \$6,068 per WADA, and of the 10 highest funded charter schools (representing 5 percent of charter schools), some received as little as \$5,641. RR 290 at 1179, Ex. 9071 at 17. By contrast, the top school district had more than \$19,000 per WADA, a gap of \$13,000, and each of the top 50 school districts (representing 5 percent of districts) received at least \$9,000 per WADA, a gap of \$4,400. These gaps are multiples larger than any gap the State claims this Court has approved in the past. State Cross-Appellees Br. 70 (arguing that gaps of \$300, \$584, \$600, \$1127, and \$1678 have been found constitutional).

Contrary to the State’s suggestion, the charter school plaintiffs do not argue that charter funding needs to be exactly equal to district funding. State Cross-Appellees Br. 68. As precedent confirms, the relevant standard is “substantially equal access to revenue.” *WOC II*, 176 S.W.3d at 792. With a \$1,000 gap on

average and a \$13,000 gap at the extreme, charter schools and their students do not have access to substantially equal funding.

D. Charter School Funding Is Unsuitable.

The public school system is unconstitutionally unsuitable because it is not “structured, operated, and funded so that it can accomplish its purpose for all Texas children.” *WOC II*, 176 S.W.3d at 753. Below, the district plaintiffs prevailed on their suitability theory, and as the State concedes, the charter school plaintiffs should prevail to the same extent that the district plaintiffs do. State Cross-Appellees Br. 71.

The charter school plaintiffs have also proven that the system is uniquely unsuitable for charter schools and their students. Rather than efficiently provide for a general diffusion of knowledge, the structure of the State’s funding formulas ensures that charter school students are short-changed. First, charter schools receive \$1,000 less per WADA than school districts do, despite having a student population with greater needs. Second, the formulas rely on inapplicable “average” adjustments to arbitrarily allocate what funding is available. Charter School Plaintiffs Opening Br. 25.

* * *

As the State concedes, this Court should also grant relief to the charter school plaintiffs on their system-wide suitability claim insofar as the district

plaintiffs prevail. State Cross-Appellees Br. 71. Moreover, charter students suffer unique harms. Because the charter school plaintiffs' rights have been uniquely violated by the system's inadequacy, inefficiency, and unsuitability, this Court should reverse the district court's judgment on the charter-specific claims.

III. This Court Should Reverse The District Court's Denial of Attorney's Fees To The Charter School Plaintiffs.

As the State concedes, the district court applied an erroneous standard in rejecting the charter school plaintiffs' request for attorney's fees. State Cross-Appellees Br. 74. Because "an erroneous legal conclusion is an abuse of discretion, even if it may not have been clearly erroneous when made," *In re United Scaffolding, Inc.*, 301 S.W.3d 661, 663 (Tex. 2010), this Court should reverse the district court's ruling on attorney's fees. Remand is necessary to allow the district court to exercise its discretion under the proper legal standard.

Nor could the district court's error have been harmless. The erroneous "public debate" standard undoubtedly influenced the district court's ruling. *See* CR 12 at 588-90, COL 104, 108, 112, 116 (awarding attorney's fees to other parties based on that standard); CR12 at 591, COL 117 (denying attorney's fees to the charter school plaintiffs because their contributions to the public debate "were not so significant"). Had the district court considered more appropriate factors, it almost certainly would have awarded attorney's fees. After all, the charter school plaintiffs' participation in this case ensured that, for the first time, a school finance

case considered charter schools, a crucial part of the current public school system. As a result, the charter school plaintiffs won a significant injunction in their favor.

Of course, this Court should also reverse and remand for reconsideration of attorney's fees in light of the fact that that the charter school plaintiffs should have prevailed on their additional claims.

PRAYER

The Court should reverse the district court insofar as it denied declaratory relief on the charter school plaintiffs' charter-specific and system-wide funding claims. This Court should also reverse the district court's denial of costs, including attorney's fees, and remand for reconsideration.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Tex. R. App. P. 9.4(i)(2)(B) because it contains 4,310 words, excluding the parts of the brief exempted by Tex. R. App. P. 9.4(i)(2).

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I certify that a true and correct copy of the foregoing Reply Brief of Texas Charter Schools Association, *et al.* has been served on August 11, 2015 by electronic copy and/or certified mail, return receipt requested upon:

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