

# No. 14-0776

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## *In The Supreme Court of Texas*

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**MICHAEL WILLIAMS, COMMISSIONER OF EDUCATION, IN HIS  
OFFICIAL CAPACITY, ET AL.**

*Appellants/Cross-Appellees*

v.

**THE TEXAS TAXPAYER & STUDENT FAIRNESS COALITION, ET AL.;  
CALHOUN COUNTY ISD, ET AL.; EDGEWOOD ISD, ET AL.; FORT  
BEND ISD, ET AL.; TEXAS CHARTER SCHOOL ASSOCIATION, ET AL.;  
AND JOYCE COLEMAN, ET AL.**

*Appellants/Appellees/Cross-Appellants*

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

NO FEE HAS BEEN PAID OR WILL BE PAID TO HARRISON STECK, P.C. FOR  
PREPARATION OF THIS BRIEF

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**BRIEF OF DR. FORREST E. WATSON AS AMICI  
CURIAE IN SUPPORT OF APPELLANTS TEXANS  
FOR REAL EFFICIENCY AND EQUITY IN  
EDUCATION AND TEXAS ASSOCIATION OF  
BUSINESS, ET AL.**

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## **IDENTITY OF AMICI CURIAE**

Amicus curiae Dr. Forrest E. Watson has served as a school superintendent for over thirty-five years in five different Texas school districts. He has been retained in several instances to come into a struggling school district facing financial difficulties as a ‘turn-around specialist’. He served for thirteen years as the Superintendent of the Hurst-Euless-Bedford Independent School District, which is considered one of the most efficient school districts in the state. During his time as school superintendent, he worked to allocate district resources efficiently and effectively, and gained much ‘real-world’ experience and insight into the financial challenges facing school districts. He has 20 years of experience creating, managing, and working with charter schools, and in the capacity has researched and implement innovative teaching methods that have demonstrated substantial measurable benefits for ‘at-risk’ student. His unique combination of experience with both school districts and charter schools give him a unique and deep perspective on the efficiency issues faced by both institutions.

## **SUMMARY OF ARGUMENT**

Dr. Forrest E. Watson’s extensive personal experience in the administration of Independent School Districts and charter schools has proved to him that the public school system in Texas is inefficient and in order to be efficient, reforms must be implemented to provide relief from blanket state

mandates, to allow for more charter schools, and to allow for the adoption of new technology

## **ARGUMENT**

There is great disparity between the efficiency levels of individual Texas school districts. According to testimony before the Select Committee on Public School Accountability, if every Texas school district were as efficient as the Hurst-Euless-Bedford Independent School District, the state of Texas could either save or reallocate billions each year. [Hearings of Select Committee on Public School Accountability on Senate Bill 1031, Tex. S.B. 1031, 1/16/2008]. This tremendous amount of efficiency-related savings could be used elsewhere to provide a better education for Texas students

The current inefficient allocation of resources by school districts statewide amounts to waste of not only economic resources, but of the human talents of both instructions and students.

### **I. THE NEGATIVE IMPACT OF BLANKET MANDATES**

Numerous state mandates imposed on all district and charter schools actually force inefficient resource allocation by districts statewide. It is very difficult to quantify the billions in statewide waste caused by state mandates but it is evident that waste is enormous. For example:

- A. It is true that smaller class sizes have some benefit in certain instances with certain students of certain academic levels. But the

state's mandate that every single class, no matter the subject matter of academic skill level of the students, must be the same size created gross inefficiencies and drives billions in waste each and every school year;

- B. State mandates in the form of laws regulating labor practices, textbook selection also force school districts to spend state funds in an inefficient and ineffective manner.

School districts could spend state dollars more effectively if they were allowed to utilize those funds in a more precise manner more specifically suited to meet the needs of the particular students whom they serve.

State mandates regarding class sizes have resulted in an explosion of what Dr. Watson's experience indicates are unnecessary facility costs in recent decades. When the student-teacher ratio was reduced to 1:22, school districts were forced to construct hundreds of new classrooms. Once these classrooms were constructed, school districts were forced to assume the massive cost of maintaining the new classrooms which included adding teachers to staff the added classrooms.

To date, Dr. Watson is not aware of any scientifically-valid study providing data establishing the massive amount of funding utilized to comply with the state-mandated decrease in class size was the best or most constitutionally efficient way to allocate the required funding. Small classes

might be appropriate for some students, but considering the major advances in technology today, mandating them is not the most ‘efficient’ state-wide policy.

Based on Dr. Watson’s experience in both school districts and charter schools, a tremendous amount of efficiency could be found if school districts were permitted to operate under the less stringent regulatory standards charter schools already benefit from. If this was permitted, it would:

- i. Allow school district to allocate resources more efficiently and effectively for the needs of their specific students by taking into account the specific composition of each district’s student population;
- ii. Allow Texas’ system of public free schools to better comply with their constitutional mandate to be ‘efficient’;
- iii. Result in school districts becoming more productive state-wide;
- iv. Benefit all Texas students, educators, and taxpayers
- v. Set a new national standard for quality education

## **II. NEGATIVE IMPACT OF CHARTER SCHOOL CAP**

Dr. Watson’s personal experience managing charter schools has provided him sufficient data to establish that the artificial statutory cap on the number of charters allowed in Texas is counter-productive to Texas public schools’ constitutional mandate to be efficient.

Although the legislature increased the cap slightly in 2013, that increase

falls far short of current and future demand. Tex. Educ. Code §12.101(b-1). According to trial testimony in 2012 the charter waiting list included over 100,000 students waiting to get into Texas charter schools. *See* Trial Testimony of David Dunn, Executive Director of TEXAS CHARTER SCHOOLS ASSOCIATION, Reporter's Record, Volume 61, "Trial On The Merits, Phase II", Page 122, lines 8-22. The 2013 legislative increase in the number of charter schools will do little more than offset some of the growth in demand. Even with the increased amount of charter schools allowed, Texas will continue to have tens of thousands of students whose educational needs are not being met by the traditional public free school system comprised of school districts.

By imposing these artificial limits, current law restricts the options for both charter providers and for students seeking to attend a charter school, thereby restricting educational opportunities for Texas children. These restrictions are at odds with the purpose of Article VII of the Texas Constitution, which was to protect the "liberty and rights of the people." Establishment of an efficient system of public free schools was the primary means to that constitutional end –protecting the liberties and rights of the people. As such, restrict the ability of a Texas child to attend a charter school by artificially restricting the number of charter schools is arguably an unconstitutional constraint upon the liberty guaranteed by the Texas Constitution.

### **III. THE EDUCATIONAL TECHNOLOGY GAP**

Due to state mandates driven to a great extent by special interests, education is far behind the curve in the use of technology. Dr. Watson has observed numerous certified teachers leaving the profession in droves due to the mismatch between current dated educational methods and students who have known outside the classroom nothing but technology for their information, education, communication and entertainment. Texas is trying to educate a 21st Century students utilizing outdated based on 19th & 20th century educational research and methods that no longer reaches today's students.

To change this, Texas public schools could utilize a computer-based "core curriculum" instruction system that required a student to meet certain, pre-determined, levels of mastery before the student could move forward with instruction. Students would still be able to ask their classroom teacher for assistance at any they individually encountered difficulty. Doing so would allow teachers time to give one-on-one individual assistance to students in need. This approach would also allow a teacher to effectively work with a significantly larger group of students than the 22 per classroom currently requires. Simultaneously, they student would experience greater success in learning and retaining the information presented in the curriculum.

Since utilizing new technology to educate students would permit larger class sizes, as well as increased educational achievement, the need to design

and build multiple new classrooms would be greatly ameliorated. Reducing the amount of new physical plant construction would save Texas' educational system millions of dollars, and reduce the historic level of bonded indebtedness Texas school districts are incurring.

The delay in Texas public schools adopting new technologically advanced means of instruction is due to, in large part, a system which is very protective of the status-quo, and which is driven by special interest rather than consumer interest. Texas is one of the largest state consumers of printed textbooks, purchasing hundreds of millions dollars of textbooks each year. Textbook publishers are a major obstacle to computer-delivered curriculum. Other hindrances are presented by professional educator associations (known elsewhere as unions) that benefit when there are more professional staff in a school to pay dues and influence local school board elections.

#### **IV. CONCLUSION**

Based on Dr. Watson's extensive experience in leading both a public school district and a charter school, he has determined that Texas students suffer immensely due to inefficiency of the currently structured system. Just as Texas courts found it necessary to intervene to achieve equity for schools, now the court must now intervene to provide *equity for students*. By utilizing the capabilities of new technology to produce and deliver quality core curriculum with build-in mastery and remediation capabilities, class sizes can be

significantly increased while improving education effectiveness for each student simultaneously. Based on research and actual results in practice that Dr. Watson has personally implemented, by implementing new technological learning practices Texas public schools can provide a significantly improved learning and retention educational experience for all students. As a result of adopting these proven, technologically-advanced educational methods, a more efficient and cost effective structure of differential staffing at each campus will occur.

The constitutionally mandated issues of efficiency must be addressed in detail by this Court, or Texas taxpayers will be forced to fund outdated educational strategies, and adversely impact the ability of Texas to build and support the educational system necessary for Texas to meet the challenges, both economically and socially, of the 21st century

Respectfully submitted,

*/s/ Andrew B. Piel*

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**CERTIFICATE OF COMPLIANCE**

Relying on the word count function in the word processing software used to produce this document, Petitioner certifies that this Appellants' Brief (when excluding the sections excluded in Texas Rule of Appellate Procedure 9.4(i) (1)) contains 1,627 words.

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**CERTIFICATE OF SERVICE**

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