

included in Tier II. *Edgewood IV* at 746-47 cited by *WOC II* at 764. It found the system minimally acceptable. *Edgewood IV* at 738. In doing so it accepted a gap of \$600/WADA at the maximum tax rate based on its determination that the State's duty to provide districts with substantially equal access to revenue applies only to the provision of funding necessary for a general diffusion of knowledge. *Edgewood IV* at 731. Presumably a gap of \$600 dollars would not be acceptable in the funding required for a general diffusion of knowledge, which, as noted above, the Court found required both Tier I and II money. To some extent, this turned subsequent discussion to what is adequate to fund a general diffusion of knowledge.⁵ At the same time the Court announced this standard, it cautioned that local supplementation that destroyed the efficiency of the system would be unconstitutional. *Id.* at 732. Therefore, after the system is adequately funded to allow all children access to a general diffusion of knowledge the question of how much disparity is acceptable still lingers.

In *West Orange Cove II*,⁶ the Court concluded that though the system might be on the brink of being unconstitutional, it was not yet there. Their touchstone was the *Edgewood IV* numbers. They noted that, when implemented, SB7, the legislation under review by the *Edgewood IV* court, would allow a gap of \$584.80 between high and low wealth districts. *WOC II* at 761. In comparison, the Court found that the then current system (the one in place at the time of *WOC II*) had a gap of \$301.04 per student. *Id.*

The standard adopted by the Supreme Court in *Edgewood IV* and reaffirmed in *WOC II* requires substantially equal access to revenue necessary for a general diffusion of knowledge.

⁵ In fn. 10 the majority acknowledged testimony from the State that put the cost of a general diffusion of knowledge at \$3,500 per weighted student (in 1994 dollars). There will be testimony at trial that only considering inflation and not higher standards and a higher economically disadvantaged student population that number would be \$6,630 in today's dollars.

⁶ *Neely v. West Orange Cove C.I.S.D.*, 176 S.W.3d 746 (Tex. 2005).

Edgewood IV at 731, *WOC II* at 783. This means complete equity (no gap) up to whatever is necessary to provide for a general diffusion of knowledge.

Once all districts have revenue necessary to provide a general diffusion of knowledge and only at that point will a gap be tolerated and the largest gap the Supreme Court has recognized to-date is \$600 per WADA at the maximum tax rate as articulated in *Edgewood IV* and *WOC II*.

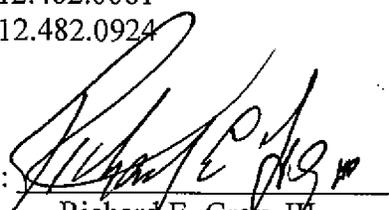
The *WOC II* Court also stated that the system must be looked at as a whole including both M&O and I&S tax rates *WOC II* at 790.

SUITABILITY

In *West Orange Cove II*, the Texas Supreme Court instructs us that the “suitable provision’ requires that the . . . system be structured, operated, and funded so that it can accomplish its purpose for all Texas children.” *Edgewood IV* at 753. Included in this suitability standard, is the responsibility to provide adequate funds for instructional facilities necessary to deliver the required level of education. *Edgewood IV*, 917 S.W.2d 747 n. 37.

Respectfully submitted,

GRAY & BECKER, P.C.
900 West Ave.
Austin, Texas 78701
t 512.482.0061
f 512.482.0924

By: 

Richard E. Gray, III
State Bar No. 08328300
Toni Hunter
State Bar No. 10295900

Randall B. Wood
State Bar No. 21905000
Doug W. Ray
State Bar No. 16599200
RAY & WOOD
2700 Bee Caves Road #200
Austin, Texas 78746
(512) 328-8877 (Telephone)
(512) 328-1156 (Telecopier)

ATTORNEYS FOR PLAINTIFFS

Unofficial copy Travis Co. District Clerk Velda L. Price

CERTIFICATE OF SERVICE

The undersigned certifies that on August 20, 2012, a true and correct copy of the foregoing was served upon the following counsel of record in accordance with the Texas Rules of Civil Procedure and the Texas Local Rules:

Shelley N. Dahlberg
Assistant Attorney General
Texas Attorney General's Office
General Litigation Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711
Attorneys for the State Defendants

David G. Hinojosa
Marisa Bono
MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.
110 Broadway, Suite 300
San Antonio, Texas 78205
Attorneys for the Edgewood ISD Plaintiffs

Mark R. Trachtenberg
HAYNES AND BOONE, LLP
1 Houston Center
1221 McKinney St., Suite 2100
Houston, Texas 77010

J. Christopher Diamond
The Diamond Law Firm, P.C.
17484 Northwest Freeway, Suite 150
Houston, Texas 77040

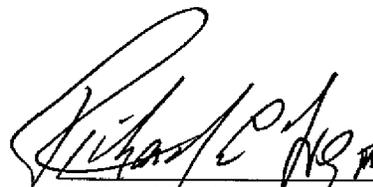
John W. Turner
Lacy M. Lawrence
HAYES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
*Attorneys for Plaintiffs, Calhoun County
ISD, et al.*

Craig T. Enoch
Melissa A. Lorber
Enoch Kever PLLC
600 Congress, Suite 2800
Austin, Texas 78701
Attorneys for Efficiency Intervenors

J. David Thompson, III
Philip Fraissinet
THOMPSON & HORTON, LLP
Phoenix Tower, Suite 2000
3200 Southwest Freeway
Houston, Texas 77027

Robert A. Schulman
Joseph E. Hoffer
Ricardo R. Lopez
Schulman, Lopez & Hoffer, L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508
Attorneys for the Charter School Plaintiffs

Holly G. McIntush
Thompson & Horton LLP
400 West 15th St., Suite 1430
Austin, Texas 78701
Attorneys for Ft. Bend ISD Plaintiffs


Richard E. Gray, III