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IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

NOV 17 2011

INDEPENDENT SCHOOL DISTRICT)
NO. 5 OF TULSA COUNTY, OKLAHOMA,)
a/k/a JENKS PUBIC SCHOOLS,)
et al.,)

Plaintiffs,)

vs.)

RUSSELL SPRY, STEPHANIE SPRY,)
et al.,)

Defendants.)

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

Case No. CV 2011-00890

Judge Dana Lynn Kuehn

**OPENING BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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Plaintiffs,

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The plaintiffs, Independent School District No. 5 of Tulsa County, Oklahoma (the "Jenks School District"), and Independent School District No. 9 of Tulsa County, Oklahoma (the "Union School District"), respectfully submit this brief in support of their motion for summary judgment.

The Plaintiff School Districts brought this action seeking a declaratory judgment that the "Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act," OKLA. STAT. tit. 70, §§ 13-101.1 and 13-101.2 (2011 Supp.) (hereafter, the "Act"), is invalid and unenforceable because it violates the Oklahoma Constitution. The Act was passed by the Oklahoma Legislature on May 26, 2010, and was amended in the 2011 legislative session. *See* 2010 OKLA. SESS. LAWS § 381 and 2011 OKLA. SESS. LAWS § 356. A copy of the current version of the Act, as amended in the 2011 legislative session, is attached to this brief as Exhibit 1.

The Act allows children who attended an Oklahoma public school during the prior school year and had an individualized education program ("IEP") under the federal Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.* (the "IDEA"), to receive a "scholarship" of public funds to be used to pay tuition to attend a private school, including a private religious school.¹ Beginning with the 2011-2012 school year, the Act requires the Oklahoma State Department of Education (the "SDE") to determine the total amount of scholarship payments due to private schools under the Act and withhold that amount from the state aid to be distributed to all public school districts in the state:

The State Department of Education shall calculate the total cost of all scholarships for all eligible students in the state. The State Department of Education shall then reserve or retain from the total amount appropriated to the State Board of Education for State Aid purposes and any other revenue available for allocation for State Aid purposes the total cost for all scholarship payments;

See attached copy of OKLA. STAT. tit. 70, § 13-101.1(J)(1), as amended.

The Defendants are the parents of students with disabilities who reside within the boundaries of the Plaintiff School Districts and have obtained public funding under the Act to finance their children's attendance at private schools, thereby diverting public money from the public schools of this state to private schools, including private religious schools.

Article II of the Oklahoma Constitution sets forth the Constitution's Bill of Rights. Article II, Section 5 of the Bill of Rights precludes the use of public funds, directly or indirectly, for the use, benefit or support of sectarian institutions. The Oklahoma Supreme Court has unequivocally held that a statute requiring public school districts to provide transportation services to students attending private religious schools violated the no-funding

¹ "Scholarship" is the current term of choice used by advocates for what are more commonly known as "vouchers."

clause of the Oklahoma Constitution. *Gurney v. Ferguson*, 1941 OK 397, ¶ 8, 122 P.2d 1002, 1003. In so holding, the Oklahoma Supreme Court expressly held that a religious school is a “sectarian institution” within the meaning of OKLA. CONST. art. II, § 5. *Id.* at ¶ 7, 122 P.2d at 1003. The Oklahoma Supreme Court reaffirmed its decision that the Oklahoma Constitution absolutely prohibits the use of public money to aid religious schools in *Board of Ed. for Independent School District No. 52 v. Antone*, 1963 OK 165, ¶ 10, 384 P.2d 911, 913. These decisions establish beyond question that the Act is unconstitutional under the no-funding clause of the Oklahoma Constitution.

In addition, the Oklahoma Constitution requires the state to establish and maintain a system of public schools. OKLA. CONST. art. I, § 5, and OKLA. CONST. art. XIII, § 1. Because the Oklahoma Constitution authorizes the legislature to fund only “a system of free public schools,” the Act violates the Oklahoma Constitution by diverting public school funds to private schools – whether sectarian or secular.

The Oklahoma Constitution also prohibits making a gift or charitable donation of public funds. OKLA. CONST. art. X, §§ 14 and 15. The Oklahoma Supreme Court has stated that a “gift” under the Oklahoma Constitution “includes all appropriations for which there is no authority or enforceable claim against the State.” *Orthopedic Hosp. of Oklahoma v. Oklahoma State Dept. of Health*, 2005 OK CIV APP 43, 118 P.3d 216. When a parent elects to send his or her child to a private school, the child is no longer a student of the Oklahoma public school system. The state has neither the legal obligation nor the right to expend public funds to educate students enrolled in private schools. By mandating the state to pay public funds to private schools without receiving anything in exchange, the Act makes an unlawful gift of public funds.

Finally, the Act violates the anti-discrimination component of the Oklahoma Constitution's due process clause. OKLA. CONST. art. II, § 7. The Act authorizes students with disabilities who are on an IEP under the IDEA to receive a scholarship, but it does not authorize students with disabilities who are on an accommodation plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, to receive a scholarship. Thus, the Act discriminates on its face between similarly situated students with disabilities.

The Act also allows students who receive a scholarship to continue to receive a scholarship in successive years, regardless of whether they remain in need of or eligible for special education services: "For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of twenty-two (22), whichever occurs first." *See* attached copy of OKLA. STAT. tit. 70, § 13-101.1(B)(2), as amended. Because the Act allows a student who was on an IEP at the time he or she received a scholarship to continue to receive a scholarship regardless of whether that student continues to need or be eligible for special education services, but does not allow a student who was never on an IEP an opportunity to obtain a scholarship, the Act also discriminates on its face between similarly situated students without disabilities.

The Act not only allows a student to continue to receive a scholarship even if such student has progressed to the point that the student would no longer meet IDEA eligibility criteria for an IEP if he or she were enrolled in a public school, the Act also provides that the amount of the scholarship is calculated as if the student still had a disability. *See* attached copy of OKLA. STAT. tit. 70, § 13-101.1(J)(2), as amended: "The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to

the disabilities included in the multidisciplinary evaluation and eligibility group summary for the student at the time the request for a scholarship is made by the parent or legal guardian" (emphasis added). Because students with disabilities have greater weights under the formula by which state aid for public schools is calculated than do students without disabilities, OKLA. STAT. tit. 70, § 18-201.1(B)(2) (2010 Supp.), the Act provides more funding to a private school for a student who no longer meets IDEA eligibility criteria than the same student would generate in state aid if he or she were enrolled in a public school.

The Oklahoma Supreme Court has repeatedly ruled that "a declaratory judgment is an appropriate remedy when a person is adversely affected by an invalid statute and is threatened with its enforcement." *Southwestern Bell Telephone Company v. Oklahoma Corporation Commission*, 1994 OK 142, ¶ 7, 897 P.2d 1116, 1118. In addition, the Oklahoma Supreme Court has emphasized that "the declaratory judgment statutes are to be liberally construed to obtain the objective of expediting and simplifying the ascertainment of uncertain rights." *Barzellone v. Presley*, 2005 OK 86, ¶ 10. 126 P.3d 588, 592, n.16. Because the Defendant parents are utilizing the Act to divert public funds from public schools to private schools, including private religious schools, in contravention of the Oklahoma Constitution, this Court should enter a declaratory judgment declaring the Act unconstitutional.

Moreover, Oklahoma courts have repeatedly held that a continuing violation of a state statute is an irreparable injury to the state and its citizens that may be enjoined. *Independent School District No. 1 of Tulsa County v. Bd. of County Com'rs of Tulsa County*, 1983 OK 123, ¶ 13, 674 P.2d 547, 550. Given that an injunction will lie to restrain a continuing violation of a state statute, there can be no doubt that the continuing violation of the

Oklahoma Constitution likewise constitutes an irreparable injury for which injunctive relief is available. Therefore, the Plaintiff School Districts request that this Court permanently enjoin the Defendant parents from utilizing the Act to divert public funds to private schools in violation of the Oklahoma Constitution.

Because the undisputed facts establish that there is no dispute as to any material fact and the Plaintiff School Districts are entitled to judgment as a matter of law, the Plaintiff School Districts request that they be granted summary judgment and this Court enter its judgment herein granting declaratory and injunctive relief.

The Undisputed Facts

The Plaintiff School Districts submit the following statement of undisputed facts pursuant to OKLA. STAT. tit. 12, § 2056 (2010 Supp.) and Rule 13 of the Rules for District Courts of Oklahoma, OKLA. STAT. tit. 12, Ch. 2, App. (2010 Supp.):

1. The SDE's website currently lists 40 private schools that have been approved by the SDE to receive scholarship payments under the Act. Of the 40 approved schools, all but two – Town & County School and Rose Rock Academy – are religious schools. *See* <http://sde.state.ok.us/Curriculum/SpecEd/Scholarship.html> (last accessed on November 10, 2011). A copy of the SDE's list of approved private schools is attached as Exhibit 2.

2. All Saints Catholic School is on the SDE's list of approved schools. The website for All Saints Catholic School states: "The goals of Catholic education include teaching doctrine" *See* www.allsaintsnorman.org (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 3.

3. Good Shepherd Lutheran School and Child Development Center is on the SDE's list of approved schools. The website for Good Shepherd Lutheran School and Child Development Center states:

A PART OF THE MINISTRY OF GOOD SHEPHERD LUTHERAN CHURCH.

* * *

Good Shepherd Lutheran School exists as a vital component of Good Shepherd Lutheran Church's mission and ministry and, through Christian education, strives to equip its students to be disciples of Christ, applying Law and Gospel to all aspects of life and learning in order to be witnesses for him.

* * *

Good Shepherd Lutheran School is owned and operated under the jurisdiction of Good Shepherd Lutheran Church (a member of the Lutheran Church – Missouri Synod).

See www.goodshepherdlecms.ctsmemberconnect.net (last accessed on November 11, 2011).

A hard copy of the relevant website pages is attached as Exhibit 4.

4. Holy Trinity Catholic School is on the SDE's list of approved schools. The website for Holy Trinity Catholic School states: "The school shall integrate Catholic principles and values in the curriculum and offer opportunities for celebrating liturgy, sacraments, and prayer experiences." *See* www.holytrinityok.org (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 5.

5. Immanuel Lutheran Christian Academy is on the SDE's list of approved schools. The website for Immanuel Lutheran Christian Academy states: "Immanuel Lutheran Christian Academy was formed to further the evangelistic ministry and mission of Immanuel Lutheran Church and Immanuel Ministry and Education Corporation in Broken

Arrow, OK.” See www.ilcanews.org (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 6.

6. Marquette Catholic School is on the SDE’s list of approved schools. The website for Marquette Catholic School states: “Catholic values permeate our school’s programs, services and culture,” and, “As a service to the Parish of Christ the King, Marquette Catholic School teaches Catholic values” See www.marquetteshool.org (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 7.

7. Messiah Lutheran School is on the SDE’s list of approved school. The website for Messiah Lutheran School states: “Messiah Lutheran School is a mission of Messiah Lutheran Church.” See www.messiahokc.org (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 8.

8. Summit Christian Academy is on the SDE’s list of approved schools. The website for Summit Christian Academy states:

Summit Christian Academy is an inseparable and integral part of the ministries of The Assembly at Broken Arrow, Broken Arrow, Oklahoma, and, as such, subscribes to the same tenets of faith as its parent organization. The official church board of The Assembly at Broken Arrow governs SCA.

See www.sca-eagles.com (last accessed on November 11, 2011). A hard copy of the relevant website pages is attached as Exhibit 9.²

9. The Defendants, Russell and Stephanie Spry, are the parents of G.S., a minor student with disabilities who previously attended the Jenks School District. Russell and

² Space limitations preclude the Plaintiff School Districts from providing additional examples from the websites of other private religious schools approved to receive public funding under the Act.

Stephanie Spry live within the Jenks School District, and they applied for and obtained a scholarship under the Act to enable G.S. to attend Town & Country School, a private school. First Amended Complaint, *Kimery, et al. v. Broken Arrow Public Schools, et al.*, Case No. 11-CV-0249-CVE-PJC [Dkt. No. 45], ¶¶ 22 and 24. A copy of the First Amended Complaint filed in *Kimery* is attached as Exhibit 10.

10. The Defendants, Tim and Kimberly Tylicki, are the parents of M.T., a minor student with disabilities who previously attended the Jenks School District. Tim and Kimberly Tylicki live within the Jenks School District, and they applied for and obtained a scholarship under the Act to enable M.T. to attend Town & Country School, a private school. First Amended Complaint, ¶¶ 25 and 27.

11. The Defendants, Tim and Kristin Fisher, are the parents of K.F., a minor student with disabilities who previously attended the Jenks School District. Tim and Kristin Fisher live within the Jenks School District, and they applied for and obtained a scholarship under the Act to enable K.F. to attend Metro Christian Academy, a private religious school. First Amended Complaint, ¶¶ 9 and 11.

12. The Defendants, Stefan and Stephanie Hipskind, are the parents of L.H. and A.J.H, minor students with disabilities who previously attended the Union School District. Stefan and Stephanie Hipskind live within the Union School District, and they applied for and obtained scholarships under the Act to enable L.H. and A.J.H. to attend Immanuel Lutheran Christian Academy, a private religious school. First Amended Complaint, ¶¶ 12 and 14.

13. The Defendants, Jerry and Shanna Sneed, are the parents of B.S., a minor student with disabilities who previously attended the Union School District. Jerry and

Shanna Sneed live within the Union School District, and they applied for and obtained a scholarship under the Act to enable B.S. to attend Town & Country School, a private school. First Amended Complaint, ¶¶ 19 and 21.

14. The *Tulsa World* recently reported that during the 2011-2012 school year, \$483,804.45 will be paid to private schools in Tulsa County rather than distributed to the state's public school districts (see Special-Needs Scholarships Top \$700,000, http://www.tulsaworld.com/news/article.aspx?subjectid=19&articleid=20111017_19_A1_Atl_eas931722, published in the *Tulsa World* on October 17, 2011). A copy is attached as Exhibit 11.³

Argument and Authorities

Proposition I

The Act Violates the Oklahoma Constitution's Prohibition on Funding Sectarian Institutions

The Oklahoma Constitution expressly prohibits the use of public funds, directly or indirectly, for the use, benefit or support of sectarian institutions:

No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

OKLA. CONST. art. II, § 5.⁴

³ The articles states that the statewide figure for 2011-2012 is \$700,000, and it could rise.

⁴ Article II, Section 5 is often referred to as the "no funding to religion provision" or the "no aid to religion provision." In this litigation, the Plaintiff School Districts will simply refer to it as the "no-funding provision."

In *Gurney v. Ferguson*, 1941 OK 397, 122 P.2d 1002, the Oklahoma Supreme Court held unconstitutional a state statute that provided far less aid to religious schools than the Act does. *Gurney* involved a statute that required public school districts that provided transportation services to their students also to provide transportation services to students of any parochial or private school located along or near the school bus route. *Id.* at ¶¶ 1 and 2, 122 P.3d at 1003. The Oklahoma Supreme Court ruled that the term “sectarian institution,” as used in the Oklahoma Constitution, “includes a school or institution of learning which is owned and controlled by a church and which is avowedly maintained and conducted so that the children of parents of that particular faith would be taught the religious tenets of that church.” *Id.* at ¶ 7; 122 P.3d at 1003. The court concluded that there is “no doubt” that Article II, § 5 “prohibits the use of public money or property for the sectarian or parochial schools.” *Id.* at ¶ 8, 122 P.2d at 1003 (emphasis added).

Supporters of the statute in *Gurney* argued that the public funds did not benefit the religious school but rather the children attending the religious school. The court characterized this argument as “not impressive,” pointing out that “practically every proper expenditure for school purposes aids the child.” *Id.* at ¶ 9, 122 P.2d at 1003-04. The court stated that the appropriation and use of public funds to transport public school children is to directly aid public schools, and it concluded that the purported extension of this aid to private religious schools is “a clear violation” of the Oklahoma Constitution. *Id.* at ¶ 12, 122 P.2d at 1004.

The court emphasized that its decision was required by the language of the Oklahoma Constitution, which the court was bound to follow: “[The Oklahoma Constitution] embraces the fundamental and basic law of the state, and courts and judges, like everybody else, are

bound to follow it. 'It is not the province of the courts to circumvent it because of private notions of justice or because of personal inclinations'" *Id.* at ¶ 12, 122 P.2d at 1003 (citation omitted).

In its conclusion, the court clearly and eloquently explained why the no-funding provision was placed in the Oklahoma Constitution's Bill of Rights, as its purpose is to guarantee the people's right to religious liberty:

[W]e must not overlook the fact that if the Legislature may directly or indirectly aid or support sectarian or denominational schools with public funds, then it would be a short step forward at another session to increase such aid, and only another short step to some regulation and at least partial control of such school by successive legislative enactment. From partial control to an effort at complete control might well be the expected development. The first step in any such direction should be promptly halted, and is effectively halted, and is permanently barred by our Constitution.

Id. at ¶ 16, 122 P.2d at 1004-05 (emphasis added).

The Oklahoma Supreme Court reached the same conclusion in the subsequent case of *Board of Ed. for Independent School District No. 52 v. Antone*, 1963 OK 165, 384 P.2d 911. In that action, a patron of the Midwest City School District sued the school district to enjoin its practice of providing transportation services to students of a private parochial school. The school district argued that *Gurney* was no longer controlling following the United States Supreme Court's decision in *Everson v. Board of Education*, 330 U.S. 1 (1947). In that case, the Supreme Court held that a New Jersey school district did not violate the United States Constitution by reimbursing the parents of children attending public and private schools for the cost of transporting their children to and from school on public carriers. *Antone*, at ¶¶ 3-5, 384 P.2d at 912.

The Oklahoma Supreme Court flatly rejected this contention, holding that *Everson* established only that providing transportation for students attending religious schools is not a violation of federal law. *Id.* at ¶¶ 6-8, 384 P.2d at 912-13. The court succinctly stated that the decision in *Everson* “does not change the effect of state constitutional provisions.” *Id.* at ¶ 6, 384 P.2d at 913. The court again unequivocally held that providing aid to a private, religious school violates the Oklahoma Constitution: “Any such aid or benefit [to a private religious school], either directly or indirectly, is expressly prohibited by the above quoted provision of the Constitution of Oklahoma. It must be upheld and enforced by all Courts.” *Id.* at ¶ 12, 384 P.2d at 914.

The Oklahoma Attorney General has likewise recognized that the Oklahoma Constitution expressly forbids the use of public funds to aid religious schools. *See* 1980 OK AG 196 (concluding that the State Board of Vocational and Technical Education cannot contract with a private sectarian educational institution to offer nurse training because it would “result in the appropriation and use of public money, directly or indirectly for the use, benefit, or support of the contracting sectarian institution”); 1979 OK AG 132 (concluding that the Oklahoma State Department of Energy cannot spend federal funds received through a grant for “assisting private parochial schools in the implementation of energy conservation modifications to their facilities”), and 1970 OK AG 128 (concluding that legislation authorizing public funds to be used for “the State’s public and private colleges and universities” is unconstitutional under both Article II, § 5 and Article X, § 15⁵). In 1979 OK AG 132, the Attorney General stated:

⁵ *See* pp. 17-19, *infra*.

It is difficult to imagine how the framers of our constitution could more completely and expressly state that public money shall not be directly or indirectly used for any sectarian purpose. The provision of the Constitution [Article II, § 5] has been interpreted by the Supreme Court of the State of Oklahoma on numerous occasions and in every instance given a strict interpretation so as to preclude the use of public funds for sectarian purposes in any manner.

Id. at ¶ 3.

Moreover, legal scholars agree that the no-funding provision of the Oklahoma Constitution is one of the strictest such provisions in the nation. Professor Frank R. Kemmerer has stated that other than the Michigan Constitution, which expressly prohibits vouchers, “the most restrictive state constitutional provisions prohibit both direct and indirect aid to sectarian private schools. States in this category include Florida, Georgia, Montana, New York, and Oklahoma.” Frank R. Kemmerer, *State Constitutions and School Vouchers*, 120 ED. L. RPTR. 1, 5 (1997). *See, also*, Mark Edward DeForrest, *An Overview and Evaluation of State Blaine Amendments: Origins, Scope, and First Amendment Concerns*, 26 HARV. J. L. & PUB. POL’Y 551, 587, 588 (2003) (including Oklahoma among the states that place “the broadest restrictions on government aid to religious schools and organizations”).

Courts of other states have held that “scholarship” programs comparable to the Act violate the corresponding no-funding provisions of their state constitutions. *Cain v. Horne*, 202 P.3d 1178 (Ariz. 2009), and *Bush v. Holmes*, 886 So.2d 340 (Fla. Dist. Ct. App. 2004).

The undisputed facts establish that the Act allows public funds to directly benefit sectarian institutions in violation of the Oklahoma Constitution. The statements on the websites for the seven (7) private religious schools set forth at Undisputed Material Facts 2-8 leave no doubt that these schools are sectarian institutions under the definition approved by the Oklahoma Supreme Court in *Gurney* at ¶ 7, 122 P.2d at 1003. Indeed, one of the central

purposes of religious schools is to instruct the children in the tenets of a specific religious faith. A 2006 article in a national periodical dealing with Catholic education made this point when it stated:

It is made abundantly clear in an unbroken list of statements, from the documents of the Second Vatican Council to Pope John Paul II's 1999 exhortation *The Church in America (Ecclesia America)* that Catholic schools play a vital role in the evangelizing mission of the Church.

Renewing Our Commitment to Catholic Elementary and Secondary Schools in the Third Millennium, CATHOLIC EDUCATION: A JOURNAL OF INQUIRY AND PRACTICE, Vol. 9, No. 3, March 2006, at p. 268 (emphasis added) (this article may be accessed online at <http://ejournals.bc.edu/ojs/index.php/catholic/article/view/699/686>).

The Act violates the Oklahoma Constitution because it authorizes state funding to private religious schools. Such funding directly benefits these sectarian institutions in their "evangelizing missions." This Court should therefore enter a declaratory judgment declaring the Act unconstitutional under Article II, Section 5 of the Constitution and enjoining the Defendant parents from using public funds to benefit such sectarian institutions.

Proposition II

The Act Violates the Oklahoma Constitution's Requirement that the Legislature Maintain a System of Free Public Schools

The Oklahoma Constitution requires the state to establish and maintain a system of public schools:

Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control; and said schools shall always be conducted in English: Provided, that nothing herein shall preclude the teaching of other languages in said public schools.

OKLA. CONST. art. I, § 5.

The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.

OKLA. CONST. art. XIII, § 1.

The Oklahoma Supreme Court has recognized that the Oklahoma Constitution mandates the establishment of a system of public schools. “Public education is a function of the State. Art. XIII, § 1, Oklahoma Constitution. The Legislature is vested with plenary power to create, abolish, or change school districts ... in the exercise of this governmental function.” *Tyron Dependent School District No. 125 of Lincoln County v. Carrier*, 1970 OK 153, ¶ 4, 474 P.2d 131, 133. “Under the provisions of section 1, article 13, and section 5, article 1 of the Constitution, the Legislature is required to establish and maintain a system of free public schools, wherein all the children of the state may be educated, and which shall be open to all the children of the state.” *Board of Com’rs of Carter County v. Woodford Consol. School Dist. No. 36*, 1933 OK 138, ¶ 11, 25 P.2d 1057, 1059 (emphasis added).

In *Board of Ed. for Independent School District No. 52 v. Antone*, *supra*, the court emphasized that parents who choose to forego a public education by sending their children to private schools must accept the financial responsibility for that choice:

The law leaves to every man the right to entertain such religious views as appeal to his individual conscience and to provide for the religious instruction and training of his own children to the extent and in the manner he deems essential or desirable. When he chooses to seek for them educational facilities which combine secular and religious instruction, he is faced with the necessity of assuming the financial burden which that choice entails.

Antone, at ¶ 11, 384 P.2d at 914 (emphasis added).

In *Bush v. Holmes*, 919 So.2d 392 (Fla. 2006), the Florida Supreme Court ruled that Florida’s Opportunity Scholarship Program (“OSP”) violated the Florida Constitution’s requirement that the legislature make adequate provision for a free public education for all

children of the state. The court held that the OSP violated the Florida Constitution because it “diverts public dollars into separate private systems parallel to and in competition with the free public schools that are the sole means set out in the Constitution for the state to provide for the education of Florida’s children.” *Id.* at 398.

The Act does the same in Oklahoma. The Act diverts public funds away from public education and into a parallel system of private education. The Oklahoma Constitution does not authorize the legislature to fund private education. To the contrary, the Oklahoma Constitution expressly requires the legislature to “maintain a system of free public schools wherein all the children of the State may be educated.” As the court stated in *Tyron Dependent School District No. 125, supra*, “Public education is a function of the State” (emphasis added).

This Court should enter judgment declaring the Act unconstitutional under Article I, Section 5 and Article XIII, Section 1 of the Oklahoma Constitution and enjoining the Defendant parents from diverting public funds to private schools.

Proposition III

The Act Violates the Oklahoma Constitution’s Prohibition on Making a Gift of Public Funds

The Oklahoma Constitution prohibits making a gift or charitable donation of public funds.

Except as otherwise provided by this section, taxes shall be levied and collected ... for public purposes only

OKLA. CONST. art. X, § 14.

Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become

an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

OKLA. CONST. art. X, § 15.

Article X, § 15 of the Oklahoma Constitution prohibits the state from making “a gift of state funds, and the Legislature may not create a gift by naming it something else.” *State ex rel. Wright v. Oklahoma Corp. Com’n*, 2007 OK 73, ¶ 23, 170 P.3d 1024, 1033, n.14. “A ‘gift’ includes all appropriations for which there is no authority or enforceable claim against the State.” *Orthopedic Hosp. of Oklahoma v. Oklahoma State Dept. of Health*, 2005 OK CIV APP 43, ¶ 10, 118 P.3d 216, 222; *see Childrens Home & Welfare Ass’n v. Childers*, 1946 OK 180, 171 P.2d 613 (gifts are gratuitous transfers of state property without consideration).

In order for a transfer of funds or property to avoid being an unconstitutional gift, the state must receive property or service in exchange for such payment. The state receives no service in exchange for paying students’ private school tuition expenses under the Act. Once a student enrolls in a private school, that student is no longer a student of the public school district in which he or she resides, and the state has neither the obligation nor the right to expend public funds to educate that student. Because the state has no obligation to educate that student, the state is not paying the private school to provide services the state is required to provide. As the Oklahoma Supreme Court made clear in *Board of Ed. for Independent School District No. 52 v. Antone, supra*, when parents choose to forego the public education provided by the state and exercise their right to send their children to private school, the parents are “faced with the necessity of assuming the financial burden which that choice entails.” *Antone*, at ¶ 11, 384 P.2d at 914 (emphasis added). By providing funding to enable

parents to send their children to private schools, the Act makes an unconstitutional gift of public funds.

The Plaintiff School Districts request that the Court enter judgment declaring the Act unconstitutional under Article X, Sections 14 and 15 of the Oklahoma Constitution and enjoining the Defendant parents from utilizing the Act to make a gift of public funds to private schools.

Proposition IV

The Act Violates the Equal Protection Component of the Oklahoma Constitution's Due Process Clause

Article II, Section 7 of the Oklahoma Constitution guarantees due process of law:

No person shall be deprived of life, liberty, or property, without due process of law.

OKLA. CONST., Art II, § 7.

The Oklahoma Supreme Court has stated that the anti-discrimination component of Article II, Section 7 is the “functional equivalent” of the equal protection clause found in the federal constitution. *Gladstone v. Bartlesville Independent School District No. 30*, 2003 OK 30, ¶ 6, 66 P.3d 442, 446, n.15. The Oklahoma Constitution protects citizens against unreasonable classifications that serve no important governmental interest. *Barnes v. Barnes*, 2005 OK 1, ¶ 4, 107 P.3d 560, 563. Classifications that result in arbitrary discrimination, which is defined as “a failure to treat all persons equally where no reasonable distinction can be found between those favored and those unfavored,” are prohibited. *Terry v. Gassett*, 1987 OK 60, ¶ 7, 740 P.2d 141, 144.

The Act discriminates between similarly situated students. The Act authorizes “students with disabilities” who are on an IEP under the IDEA to receive a scholarship, but it

does not authorize “students with disabilities” who are on accommodation plans under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, to receive a scholarship. There is no rational basis for discriminating between such similarly situated students.

Moreover, there is no mechanism in the Act for discontinuing the scholarship of a student who was on an IEP at the time he or she first received a scholarship, but is subsequently determined to no longer be in need of special education services under the IDEA. Students who were placed on an IEP after being identified as developmentally delayed, learning disabled, other health impaired, or emotionally disturbed can and do progress to the extent that they no longer require an IEP.⁶ The same can be true for students identified with certain other disabilities. By allowing students who were previously on an IEP but who are no longer in need of an IEP to continue to receive a scholarship, the Act discriminates against students who have never been identified as in need of an IEP.

Because the Act discriminates between similarly situated students, it violates the anti-discrimination component of Article II, Section 7 of the Oklahoma Constitution. This Court should therefore enter a declaratory judgment declaring the Act unconstitutional under Article II, Section 7 and enjoining the Defendant parents from benefitting from an unconstitutional statute.

Conclusion

Based on the arguments and authorities set forth in this brief, the Plaintiff School Districts respectfully request that they be granted summary judgment and granted the declaratory and injunctive relief they seek.

⁶ At least three (3) of the students of the Defendant parents could progress to the point that the students no longer require special education services.

Respectfully submitted,

ROSENSTEIN, FIST & RINGOLD

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**ATTORNEYS FOR PLAINTIFFS JENKS
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DISTRICT**

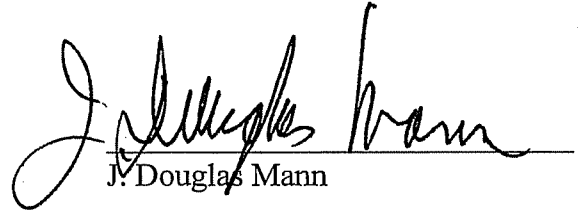
CERTIFICATE OF MAILING

I hereby certify that on the 17th day of November, 2011, I caused a true and correct copy of the above and foregoing instrument to be mailed, via certified mail, return receipt requested, with sufficient postage prepaid thereon, to:

Eric Christopher Rassbach
Eric Kniffin
The Becket Fund for Religious Liberty
300 K Street NW, Suite 220
Washington, D.C. 20007

Bobby L. Latham, Jr.
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Oklahoma Office of the Attorney General
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Oklahoma City, OK 73105



J. Douglas Mann

70 Okl.St. Ann. § 13-101.1

C

Oklahoma Statutes Annotated Currentness

Title 70. Schools (Refs & Annos)

Division I. School Code of 1971

Chapter 1. School Code of 1971

Article XIII. Special Services for Children with Disabilities (Refs & Annos)

→ § 13-101.1. Short title

This act shall be known and may be cited as the "Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act".

CREDIT(S)

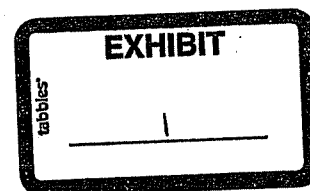
Laws 2010, c. 381, § 1.

70 Okl. St. Ann. § 13-101.1, OK ST T. 70 § 13-101.1

Current through Chapter 385 (End) of the First Regular Session of the 53rd Legislature (2011)

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70 Okl.St. Ann. § 13-101.2



Oklahoma Statutes Annotated Currentness

Title 70. Schools (Refs & Annos)

Division I. School Code of 1971

Chapter 1. School Code of 1971

Article XIII. Special Services for Children with Disabilities (Refs & Annos)

→ § 13-101.2. Purpose of act--Scholarship factors--Eligibility

A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) has been developed at any time prior to notifying the State Department of Education of the intent to participate in the Program and the IEP is in effect at the time the request for a scholarship is received by the State Department of Education. Scholarships shall be awarded beginning with the 2010-2011 school year.

B. The parent or legal guardian of a public school student with a disability may exercise their parental option and request to have a Lindsey Nicole Henry Scholarship awarded for the child to enroll in and attend a private school in accordance with this section and the scholarship shall be awarded if:

1. The student has spent the prior school year in attendance at a public school in this state. For purposes of this section, "prior school year in attendance" means that the student was enrolled in and reported by a school district for funding purposes during the preceding school year regardless of whether or not the student had an IEP at the time the student was counted for funding purposes. A student who is a child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a permanent change of station orders of the parent shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section; and
2. The parent or legal guardian has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection H of this section and has notified the State Department of Education of the request for a scholarship no later than December 1 of the school year during which the scholarship is requested. The request shall be through a communication directly to the Department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department shall notify the school district upon receipt of the request. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school, graduates from high school or reaches the age of twenty-two (22), whichever occurs first. At any time, the parent or legal guardian of the student may remove the student from the private school and place the student in another private school that is eligible for the program as provided in subsection H of this section or place the student in a public school.

C. A student shall be eligible for a scholarship if the parent or legal guardian of the student made a request for a scholarship for the 2010-2011 school year and the student transferred to an eligible private school but was subsequently denied a scholarship because the student did not have an IEP in effect on October 1, 2009, but did meet all other eligibility requirements as set forth in the Lindsey Nicole Henry Scholarships for Students with Disabilities

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Program Act.

D. A student shall not be eligible for a Lindsey Nicole Henry Scholarship if the student is not having regular and direct contact with the private school teachers at the physical location of the private school.

E. School districts shall notify the parent or legal guardian of a public school student with a disability of all options available pursuant to this section and inform the parent or legal guardian of the availability of information about the program from the State Department of Education through the toll-free telephone number or website. The notification shall be provided with or included in the copy of the "Parents Rights in Special Education: Notice of Procedural Safeguards" document given to parents at least annually or as otherwise required by law.

F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental refusal to consent to service pursuant to 20 U.S.C. , Section 614(a)(1) of the IDEA.

2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the parent or legal guardian shall assume full financial responsibility for the education of the student, including but not limited to transportation to and from the private school.

G. If the parent or legal guardian requests a Lindsey Nicole Henry Scholarship and the student is accepted by the private school pending the availability of a space for the student, the parent or legal guardian of the student shall notify the State Department of Education before entering the private school and before December 1 in order to be eligible for the scholarship during the school year when a space becomes available for the student in the private school. If notification is made after December 1, payment of the scholarship shall not begin until the next school year.

H. To be eligible to participate in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the scholarship program upon determination that the private school:

1. Meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education;
2. Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department;
3. Complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d;
4. Meets state and local health and safety laws and codes;
5. Will be academically accountable to the parent or legal guardian for meeting the educational needs of the student;
6. Employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to

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provide instruction in subjects taught;

7. Complies with all state laws relating to general regulation of private schools; and

8. Adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

I. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:

- a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection H of this section and apply for the admission of the child,
- b. the parent or legal guardian shall request the scholarship no later than December 1 of the school year during which the scholarship is requested,
- c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,
- d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and
- e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. A parent or legal guardian who fails to comply with this subparagraph shall forfeit the scholarship.

2. A participant who fails to comply with this subsection forfeits the scholarship.

J. Provisions governing payment of a Lindsey Nicole Henry Scholarship shall be as follows:

1. The State Department of Education shall calculate the total cost of all scholarships for all eligible students in the state. The State Department of Education shall then reserve or retain from the total amount appropriated to the State Board of Education for State Aid purposes and any other revenue available for allocation for State Aid purposes the total cost for all scholarship payments;

2. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary for the student at the time the request for a scholarship is made by the parent or legal guardian. The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the scholarship program;

3. The amount of the scholarship shall be the amount calculated in paragraph 2 of this subsection or the amount of tuition and fees for the private school, whichever is less, minus up to two and one-half percent (2 1/2%) of the scholarship amount which may be retained by the State Department of Education as a fee for administrative services rendered. The amount of any assessment fee required by the private school and the amount associated with providing services and therapies to address the disabilities of the student may be paid from the total amount of the scholarship.

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ship;

4. The State Department of Education shall notify the private school of the amount of the scholarship within ten (10) days after receiving the request for a scholarship. The initial payment shall be made after the Department verifies admission acceptance and enrollment. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school. Payment shall be made by the Department with an individual warrant made payable to the parent or legal guardian of the student and mailed by the Department to the private school that the parent or legal guardian chooses. The parent or legal guardian shall restrictively endorse the warrant to the private school for deposit into the account of the private school;

5. The State Department of Education shall not be responsible for any additional costs associated with special education and related services incurred by the private school for the student including the cost of teachers, equipment, material, and special costs associated with the special education class;

6. The State Department of Education shall establish a toll-free telephone number or website that provides parents or legal guardians and private schools with information about the program;

7. The State Department of Education shall require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain all records received from a participating private school; and

8. The State Department of Education shall cross-check the list of participating scholarship students with the public school enrollments prior to each scholarship payment to avoid duplication.

K. 1. The State Superintendent of Public Instruction shall deny, suspend, or revoke the participation of a private school in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the Superintendent may issue a notice of noncompliance which shall provide the private school with a time frame within which to provide evidence of compliance prior to taking action to suspend or revoke participation in the scholarship program.

2. If the Superintendent intends to deny, suspend, or revoke the participation of a private school in the scholarship program, the Department shall notify the private school of the proposed action in writing by certified mail and regular mail to the private school's address of record with the Department. The Department shall also notify any parents or legal guardians of scholarship students attending the private school. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this subsection.

3. The private school that is adversely affected by the proposed action shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department a request for an administrative hearing proceeding pursuant to the Administrative Procedures Act.

4. Upon receipt of a request for a hearing, the State Board of Education shall commence a hearing within sixty (60) days after the receipt of the formal written request and enter an order within thirty (30) days after the hearing.

5. The Board may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is an imminent threat to the health, safety, or welfare of the students or fraudulent activity on the part of the private school.

L. No liability shall arise on the part of the state, the State Board of Education, the State Department of Education or a school district based on the award or use of any scholarship provided through the Lindsey Nicole Henry Scholar-

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ships for Students with Disabilities Program.

M. The inclusion of private schools within options available to public school students in Oklahoma shall not expand the regulatory authority of the state or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements expressly set forth in this section.

N. If the State Department of Education determines that a school district prior to the effective date of this act has failed to comply with the provisions of the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act and has failed to make full or partial scholarship payments for eligible students, the Department shall have authority to reduce the amount of State Aid allocated to the school district or require the school district to make repayment to the Department of State Aid allocations in an amount equal to the amount of scholarship payments the school district failed to make. The Department shall make payment to the parent or legal guardian in the amount the school district failed to make in the manner as provided for in subsection J of this section.

CREDIT(S)

Laws 2010, c. 381, § 2; Laws 2011, c. 356, § 1.

HISTORICAL AND STATUTORY NOTES

2011 Electronic Pocket Part Update.

Laws 2011, c. 356, § 1, rewrote the section, which read:

"A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) has been developed. Scholarships shall be awarded beginning with the 2010-2011 school year.

"B. The parent or legal guardian of a public school student with a disability may exercise their parental option and request to have a Lindsey Nicole Henry Scholarship awarded for the child to enroll in and attend a private school in accordance with this section and the scholarship shall be awarded if:

"1. The student has spent the prior school year in attendance at a public school in this state. For purposes of this section, 'prior school year in attendance' means that the student was enrolled in and reported by a school district for funding purposes during the preceding school year; and

"2. The parent or legal guardian has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection D of this section and has notified, in writing, the school district of the request for a scholarship at least sixty (60) days prior to the date of the first scholarship payment. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. If the residence of the student changes, the district of residence shall assume responsibility for the scholarship. At any time, the parent or legal guardian of the student may remove the student from the private school and place the student in another private school that is eligible for the program as provided in subsection D of this section.

"C. If the parent or legal guardian requests a Lindsey Nicole Henry Scholarship and the student is accepted by the private school pending the availability of a space for the student, the parent or legal guardian of the student shall

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notify the school district sixty (60) days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

"D. To be eligible to participate in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the scholarship program upon determination that the private school:

"1. Meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education;

"2. Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department;

"3. Complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d;

"4. Meets state and local health and safety laws and codes;

"5. Will be academically accountable to the parent or legal guardian for meeting the educational needs of the student;

"6. Employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

"7. Complies with all state laws relating to general regulation of private schools; and

"8. Adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

"E. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:

"a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection D of this section and apply for the admission of the child,

"b. the parent or legal guardian shall request the scholarship at least sixty (60) days prior to the date of the first scholarship payment,

"c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,

"d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and

"e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restric-

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tively endorse the warrant to the private school for deposit into the account of the private school.

"2. A participant who fails to comply with this subsection forfeits the scholarship.

"F. Provisions governing payment of a Lindsey Nicole Henry Scholarship shall be as follows:

"1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the local and county revenue for the school district which is chargeable in the State Aid formula, state-dedicated revenue, and state-appropriated funds per weighted average daily membership generated by that student for the applicable school year. The weighted average daily membership shall be determined using the grade and disability weights only. The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the scholarship program;

"2. The amount of the scholarship shall be the amount calculated in paragraph 1 of this subsection or the amount of tuition and fees for the private school, whichever is less, minus up to five percent (5%) of the scholarship amount which may be retained by the school district as a fee for administrative services rendered;

"3. The school district shall annually report for child-count and funding purposes all students who are attending a private school under the Lindsey Nicole Henry Scholarships for Students with Disabilities Program to the State Department of Education;

"4. The initial payment shall be made after the school district verifies admission acceptance and enrollment. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school. Payment shall be made by the school district with an individual warrant made payable to the parent or legal guardian of the student and mailed by the school district to the private school that the parent or legal guardian chooses. The parent or legal guardian shall restrictively endorse the warrant to the private school for deposit into the account of the private school; and

"5. A school district shall not be responsible for any additional costs associated with special education and related services incurred by the private school for the student including the cost of teachers, equipment, material, and special costs associated with the special education class.


"G. No liability shall arise on the part of the state or a school district based on the award or use of any scholarship provided through the Lindsey Nicole Henry Scholarships for Students with Disabilities Program."

70 Okl. St. Ann. § 13-101.2, OK ST T. 70 § 13-101.2

Current through Chapter 385 (End) of the First Regular Session of the 53rd Legislature (2011)

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OKLAHOMA STATE DEPARTMENT OF EDUCATION
Janet Barresi, State Superintendent of Public Instruction

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Special Education Services



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NOTE: All documents on this page are listed in pdf format.

Lindsey Nicole Henry (LNH) Scholarship for Students with Disabilities Program

HB 1744 is a law (70 S.D. § 13-102.2) that amended the LNH Scholarship Act beginning August 26, 2011. Section A of the Act allows the parent/guardian of a public school student with a disability to exercise their parental option and request to have an LNH Scholarship awarded for their child to enroll in and attend a private school, if the child is on an Individualized Education Program (IEP) prior to the request and has spent the previous school year in attendance at a public school in the state by being reported by a school district for funding purposes during that year.

You must formally withdraw your child from the public school district where he or she is enrolled upon receipt of approval for the LNH Scholarship. Failure to withdraw your child from the district may affect your eligibility status to receive the scholarship.

Application Procedure

The LNH Scholarship Application must be submitted by the parent/guardian to the Oklahoma State Department of Education (OSDE) by mail or fax, with the required documentation, by December 1 of the year that parent/guardian is seeking the scholarship. All applications received after December 1, beginning with the 2010-2011 school year, will be processed for the following school year.

The application process must be completed with the OSDE each year that the parent/guardian chooses to participate in LNH Scholarship.

To request the LNH Scholarship for your child with a disability, please submit a completed copy of the LNH Scholarship Application (available below) with all required documentation to the OSDE. You may also call (405) 521-4865 to receive an application packet by mail.

Please mail the completed scholarship application and required documentation to:
Oklahoma State Department of Education
Special Education Services
Attention: Anita Eccard
2500 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

For assistance with scholarship applications or other questions related to the Oklahoma State Department of Education (LNH) Scholarship for Students with Disabilities, please contact [Anita Eccard](#) at (405) 521-4865.

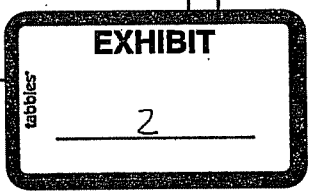
Applications & Forms	Parent Information	Resources for Private Schools
The Lindsey Nicole Henry (LNH) Scholarship Annual Application	Application Procedures for the Lindsey Nicole Henry (LNH) Scholarship	Making the Transition from HB 3393 to HB 1744
Vendor/Payee Form	Frequently Asked Questions about the Lindsey Nicole Henry (LNH) Scholarship for Students with Disabilities	Participating Private Schools
	Lindsey Nicole Henry (LNH) Scholarship for Students with Disabilities Act	Private School Annual Affidavit
	Parent Rights in Special Education: Notice of Procedural Safeguards	
	Scholarship Acceptance Form	

Reimbursement Application & Information

Application Procedures for the 2010-11 Reimbursement	The Lindsey Nicole Henry (LNH) Scholarship Application for Reimbursement
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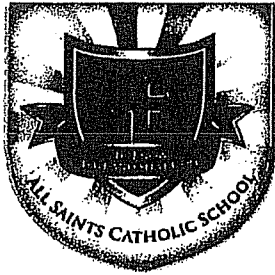
Participating Private Schools for the LNH Scholarship for Students with Disabilities

All Saints Catholic School Leslie Schmitt 4001 36th Avenue, Northwest Norman, Oklahoma 73072 (405) 447-4600	Bishop John Carroll School Connie Diotte 1100 Northwest 32nd Street Oklahoma City, Oklahoma 73118 (405) 525-0956
Bishop McGuinness Catholic High School David L. Morton 801 Northwest 50th Street	The Catholic School of St. Eugene Suzette Williams 2400 West Hefner Road



Oklahoma City, Oklahoma 73118 (405) 842-6638	Oklahoma City, Oklahoma 73156 (405) 751-0067
<u>Destiny Christian School</u> Dianna Howard 3801 Southeast 29th Oklahoma City, Oklahoma 73115 (405) 677-6000	<u>Emmanuel Christian School</u> Cathy L. Epps 2502 West Garriott Road Enid, Oklahoma 73703 Phone: (580) 237-0032 Fax: (580) 237-0662
<u>Good Shepherd Catholic School at Mercy</u> Dr. Donna Kearns 13404 North Meridian Oklahoma City, Oklahoma 73120 (405) 752-2264	<u>Good Shepherd Lutheran School and Child Development Center</u> Gary Kuschnerreit 700 North Air Depot Boulevard Midwest City, Oklahoma 73110 (405) 732-0070
<u>Happy Hands Education Center</u> Janine Pride 8801 South Garnett Road Broken Arrow, OK 74012 (918) 893-4800	<u>Holy Family Cathedral School</u> Jay Luetkemeyer 820 South Boulder Tulsa, Oklahoma 74119 (918) 582-0422
<u>Holy Trinity Catholic School</u> Tammy Jacobs Post Office Box 485, North 2nd & Missouri Okarche, Oklahoma 73762 (405) 263-4422	<u>Immanuel Lutheran Christian Academy</u> Katherine McGrew 400 North Aspen Broken Arrow, Oklahoma 74012 (918) 251-5422
<u>Ketchum Adventist Academy</u> Wes McWilliams Post Office Box 429 Langley, Oklahoma 74350 (918) 782-2986	<u>Lakewood Christian School</u> Bruce Buffington 840 South George Nigh Expressway McAlester, Oklahoma 74501 (918) 426-2000
<u>Life Christian Academy</u> Rodney Burchett 6801 South Anderson Road Oklahoma City, OK 73150 (405) 737-4902	<u>Marquette Catholic School</u> Peter G. Theban 1519 South Quincy Tulsa, Oklahoma 73762 (918) 584-4631
<u>Messiah Lutheran School</u> Sharla Lindley 3600 Northwest Expressway Oklahoma City, Oklahoma 73112 (405) 946-0462	<u>Metro Christian Academy</u> Nancy L. Stubblefield 6363 South Trenton Avenue Tulsa, Oklahoma 74136-0722 (918) 745-9868
<u>Monte Cassino Catholic School</u> Matthew Vereecke 2206 South Lewis Avenue Tulsa, Oklahoma 74114-3109 (918) 742-3364	<u>Mount Saint Mary Catholic High School</u> Talita DeNegri 2801 South Shartel Avenue Oklahoma City, Oklahoma 73109 (405) 631-8865
<u>Oak Hall Episcopal School</u> Laura Gallagher 2815 Mount Washington Road Ardmore, Oklahoma 73401-9333 (580) 226-2341	<u>Rosary School</u> Karen Lynn 1910 Northwest 19th Street Oklahoma City, Oklahoma 73106-1698 (405) 525-9272
<u>Rose Rock Academy</u> Paul A. Boer 3301 North Martin Luther King Boulevard Oklahoma City, Oklahoma 73111 (405) 548-1280	<u>Sacred Heart Catholic School</u> Shannon Statton 210 South Evans Street El Reno, Oklahoma 73036 (405) 262-2284
<u>Saint Catherine Catholic School</u> Vicky Adams 2515 West 46th Street Tulsa, Oklahoma 74107-6629 (918) 446-9756	<u>Saint Paul's Lutheran Church and School</u> Lisa Brainard 1626 East Broadway Enid, Oklahoma 73701-4539 (580) 234-6646
<u>Saints Peter and Paul Catholic School</u> Patrick Martin 1428 North 67th East Avenue Tulsa, Oklahoma 74115 (918) 836-2165	<u>St. Charles Borromeo Catholic School</u> Todd Gungoll 5000 North Grove Oklahoma City, Oklahoma 73122 (405) 789-3583
<u>St. James the Greater Catholic Church and School</u> Anne Coddling 1224 Southwest 41st Oklahoma City, Oklahoma 73109 (405) 636-6810	<u>St. Joseph Catholic School</u> Wade A. Laffey 10 North Madison Street Enid, Oklahoma 73701 (580) 242-4449
<u>St. Joseph Catholic School</u> Sandra J. Brewer 323 North Virginia Muskogee, Oklahoma 74403 (918) 683-1291	<u>St. Mary's Catholic School</u> Paolo Dulcamara 611 Southwest A Avenue Lawton, Oklahoma 73505 (580) 355-5288
<u>St. Pius X Catholic School</u> Lisa Beardshear 1717 South 75th East Avenue Tulsa, Oklahoma 74112 (918) 627-5367	<u>Summit Christian Academy</u> Jolinda Moss 200 East Broadway Broken Arrow, Oklahoma 74012 (918) 251-1997

<u>Town and Country School</u> Mary Lawrence 5150 East 101st Street Tulsa, Oklahoma 74137 (918) 296-3113	<u>Trinity School</u> Jennifer Vaught 321 Northwest 36th Oklahoma City, Oklahoma 73118 (405) 525-5600
<u>Victory Christian School</u> Dr. Dennis Demuth 7700 South Lewis Tulsa, Oklahoma 74136-7700 (918) 491-7720	<u>Villa Teresa School</u> Sister Veronica Higgins 1216 Classen Drive Oklahoma City, Oklahoma 73103-2411 (405) 232-4286
<u>Wesleyan Christian School</u> Pastor Mark W. Listen 1780 Silver Lake Road Bartlesville, Oklahoma 74006 (918) 333-8631	<u>Western Oklahoma Christian School</u> Joanie Quiring 2901 Beverly Lane, 22381 East 1070 Road Clinton, Oklahoma 73601-9402 (580) 323-9150



About Us

Welcome to All Saints

Catholic Identity

Why Choose Catholic Schools?

Sacramental Preparation

Blue Ribbon School



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About Us

School Philosophy

All Saints Catholic School seeks to develop God-given talents in students. The school offers an atmosphere that is respectful and stimulating. Educational lessons, religious experiences, service to community, athletic endeavors, and social interactions are hallmarks of the school. We wish to form happy, well-educated individuals. In learning by example the sacrifices parents and teachers make for them, students come to realize their potential, intellectually and spiritually. Our goals are to integrate a student's academic experiences with the teaching of Christian values so graduates will enjoy faith-filled, meaningful lives.

The spiritual, intellectual, personal, social and physical development of the whole person is the focus of Catholic education. Staff members, as partners with parents, play significant roles in the educational process as they daily witness the meaning of mature faith and academic pursuits. The goals of Catholic education include teaching doctrine, building community and serving others. In such an environment, it is possible to create a vision and promote interaction where teachers and students experience together what it means to live a hopeful Christian life in our dynamic and developing society.

Mission Statement

All Saints Catholic School exists to teach children to know, love and serve God through academic pursuits and service to others.

School Identity

Motto: "Christ's light shines through children."

Mascot: The Eagle

Flower: The Sunflower

Colors: Navy, Red, Ivory and Gold

Patron Saints: St. Joseph, St. Mark the Evangelist, St. Andrew and St. Thomas More

School History

All Saints Catholic School was established in 1996 by Archbishop Eusebius J. Beltran as an Archdiocesan school. The school is supported by the four Catholic parish communities of St. Joseph, St. Mark the Evangelist, St. Andrew, and St. Thomas More. The current facility opened for the 1998-1999 school year. In 2007, All Saints became the first school in the Oklahoma City Archdiocese to receive the National No Child Left Behind - Blue Ribbon Schools Award from the U.S. Department of Education.

Accreditations and Affiliations

All Saints Catholic School is accredited by the Oklahoma Conference for Catholic Schools Accrediting Association and through reciprocal agreement by the Oklahoma State Department of Education. All Pre-K through Grade 8 teachers are fully certified.

Dress Code

The Catholic community of All Saints Catholic School is committed to the spiritual, educational, and developmental needs of children in an atmosphere of prayer, patience and understanding. A school dress code complements the teaching of order and discipline, promotes learning in a less distracting environment, and encourages an atmosphere of "team." Students must, without exception, be in regulation uniform each day. If, for some reason, a student cannot be in uniform, he/she must bring a note from the parent to the office for approval. The school employee reserves the right to judge whether a student is in compliance with the dress code. In the event a parent feels that an exception is warranted for any reason, they are asked to speak with a school administrator.

The school uniform is available from Parker School Uniforms in Oklahoma City or through the Parker online store (School ID Code: OK724075). The ASCS PTO sponsors a uniform exchange during the summer months.

School Profile

For the 2010-2011 school year, our school population ethnicity was:

	Catholic	Non-Catholic	Total
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tabbles	EXHIBIT
	3

Native American	18	6	24
Asian	29	12	41
Black	6	4	10
Hispanic	35	5	40
Native Hawaiian/Pacific Island	3	0	3
White	256	62	318
Multi-Racial	3	1	4
Total	350	90	440

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4001 36th Avenue, N.W., Norman, Oklahoma 73072

Phone: 405.447.4800

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MISSION STATEMENT:

Our mission is to lead people into becoming –
believers in,
followers of, and
witnesses to Jesus Christ.

"Bring 'em in, build 'em up, send 'em out."

Jesus answered them, "This is the work of God, that you believe in him whom he has sent." – John 6:29

"And whoever does not take his cross and follow me is not worthy of me." – Matthew 10:38

"But you will receive power when the Holy Spirit has come upon you, and you will be my witnesses in Jerusalem and in all Judea and Samaria, and to the end of the earth." – Acts 1:8

CORE VALUES:

Passionate outreach
Equipped and empowered discipleship
Developed and devoted leadership
Genuine community
Accountable ministry
Quality worship



VISION STATEMENT

In the beginning love was the grounds for a relationship between God and man. To his downfall man stopped loving God and placed his faith in everyone and everything else, including himself. Yet out of God's grace, Jesus Christ expended much sweat, great tears, and His blood to bring the kingdom of God to people again.

Through the event and experience of worship God now gives people the righteousness and glories of His Son, brings them into His kingdom, and keeps them there. In this divine service, known as worship, God does three things to people: He cleans, clothes, and feeds them.

In every worship service at *Good Shepherd Lutheran Church* we envision people coming into God's presence smelling of the opinions and outlook, wearing the language, and soiled by the deeds of the world. But that odor is blown away, that

EXHIBIT

4

ragged clothing stripped off, and that dirt *washed* away as people feel sorrow for their condition and hear and believe in His forgiveness.

Having been cleaned, yet still naked, we envision God *clothing* people with gifts of faith, hope, and love – and with further gifts of His Holy Spirit. In other words, we see Him giving people His opinion, sharing His outlook, proclaiming His deeds, and speaking to people the language of love in His Son – all in His Word.

At last – although standing clean and refreshed in His presence, having been warmed and feeling comfortable with His words of grace, and being protected from the bitter cold and blistering heat of the world's opinions and dealings with the clothing He provides in His Word – we see people also needing some *nourishment*. We envision their hunger and thirst for righteousness being fed and quenched; their need for assurance of forgiveness being satisfied; and their faith being strengthened – by the food and drink given in His Supper.

Reinvigorated, clothed, and filled by means of God's divine service – at *Good Shepherd* we envision people readied and enabled to go out into the world and live the abundant life Jesus Christ earned for them – to His glory and for the good of others.

To help in their weekly living the abundant life, people will encounter at *Good Shepherd* the following:

We envision our church as having a passion for outreach, because *evangelism* is simply a sharing of the Good News of God in Jesus Christ; where people's faith is exercised and grows strong by admitting fault and accepting forgiveness, hearing faults and offering forgiveness; where a public and private display of that behavior by our disciples is authentic Christianity and a witness of it genuinely evangelizes thousands of our unchurched friends in Oklahoma County. In all matters and decisions in all areas of church life, a passion for the unchurched is overriding.

We envision becoming a church of *fellowship* – an expression of the heart of Christianity – a holy communion where genuine community is experienced: a refuge where we love and are loved, accept one another and are accepted, encourage and are encouraged, forgive and are forgiven, and serve and are served.

We envision everyone in our church becoming a minister for *ministry*, because we have been saved to serve. God has given each one of us a unique combination of spiritual gifts, *heart* desire, *natural* ability, *personality*, and *experience* – that is to say a *shape*, so that all can fit into a unique role of responsible service in the body of Christ.

We envision equipped and empowered *discipleship* happening; where our people are followers of Jesus Christ – committed to His teachings and Christ-like living, even to the point of self-sacrifice. Equipping takes place through small groups, classes, workshops, seminars, and retreats – to empower Christ-like living in the personal, marital, family, church, and community aspects of the abundant life in Christ.

We envision a church where *leadership* is continually identified, recruited, and developed; where leaders at all levels serve Jesus Christ in the midst of our congregation instead of serving the congregation – who communicate openly and honestly; who have integrity and respect people; who are visionary; who are always about the work of ongoing improvement of our mission and ministry and take responsibility for it; who encourage one another and cooperate with the organization; who regularly challenge the status quo, assumptions, programs, and the way we do things; who take well-managed risks that unleash creativity; who are humble enough to learn from others and past experiences; who support and encourage leadership growth; who support and appreciate efforts and success; and who have an evangelistic zeal for the unchurched, think and feel like cross-cultural witnesses, and apply that passion to all planning and decision-making.

We envision our life as springing out of an encounter with God in His divine service to us, or *worship*. Gathered around His word and gifts people experience quality and culturally-relevant worship – which takes advantage of technology and variety of instrumentation that help our people worship Him and help others to want what He freely offers to all.

We want to grow as God blesses us and uses us to reach people who are far from Him. We envision recruiting, equipping, and sending our people as missionaries, church planters, teachers, and church workers all over the world. We also see our people involved in servant events and short-term mission service. We envision planting churches in Oklahoma County and the greater Oklahoma City metropolitan area – partnering with area congregations in coordinated efforts to that end, and in coordinated efforts in other regional ministry interests like Lutheran schools. We envision a location and facility that accommodates our growth and is available to our locality – a facility that meets our needs and complements regional coordinated ministry like Lutheran schools.

This vision is not about reality or what is. This vision is all about our dreams and aspirations or what could be. The writer of Proverbs wrote, "*Where there is no vision, the people perish*" (29:18). A vision is something that is caught rather than taught. It has been described as a mental picture of the future which finds its realization in the hands of the one who owns the vision. It is our prayer at *Good Shepherd* that this vision becomes your vision; something you "own" and take great joy in seeing fulfilled. At its heart, our vision is not something that you can see, but something you must be.

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School Handbook

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Good Shepherd (LCMS) School Handbook

"Led and Fed by the Good Shepherd, Jesus Christ"

700 North Air Depot
Midwest City, OK 73110
Phone (405)732-0070
Fax (405)732-3977

A PART OF THE MINISTRY OF GOOD SHEPHERD LUTHERAN CHURCH

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MISSION STATEMENT OF GOOD SHEPHERD LUTHERAN CHURCH, SCHOOL AND CHILD DEVELOPMENT CENTER

The Mission of Good Shepherd is to share the love of God in Christ Jesus, the caring Shepherd, through the power of the Holy Spirit.

Our Ministry to accomplish this Mission is:

1. Celebrating Christ as God's gift for our salvation, proclaiming Him as Savior, and growing through the means of grace.
2. Equipping, developing, and utilizing God's people for ministry.
3. Ministering with the Gospel to each other, our community and the world.

OBJECTIVES OF GOOD SHEPHERD LUTHERAN SCHOOL AND CHILD DEVELOPMENT CENTER

God teaches that parents are to provide Christian training for their children and promises blessings from it. Consider the following words of God:

"Teaching them to observe all things, whatsoever I have commanded you."
Matthew 28:20

"You fathers, bring up your children in the nurture and instruction of the Lord."
Ephesians 6:4

"These words which I commanded you this day shall be in your heart and you
you shall teach them diligently to your children."
Deuteronomy 6:6-7

"Train up a child in the way he should go and when
he is old he will not depart from it."
Proverbs 22:6

"All of your sons shall be taught by the Lord, and
great shall be the prosperity of your sons."
Isaiah 54:13

Good Shepherd Lutheran School and Child Development Center exists to provide a program of education, care, and development which is in harmony with God's will as revealed in the Bible. All of life, including knowledge and service, finds its source, meaning and purpose in the Lord Jesus Christ. Good Shepherd operates its School and Child Development Center as a part of God's mission to all people, and makes this route available to those families of the congregation and the community desiring this kind of Christian Education program. Even though the School and Child Development Center are important agencies in the training of children, the other agencies of the church such as Sunday School, weekly worship services, and youth activities are integral parts of the spiritual training of the total child. All parents and students of Good Shepherd are encouraged to participate regularly in these agencies.

Our aim and purpose is to provide a total educational program in a definite caring Christian atmosphere. Not only are there daily religion classes, in which the crucified and risen Christ is exalted, but the other subjects are also taught in the light of Christ and Scripture. It is our purpose not only to assist parents in educating their children to become good citizens of this country but also to help them to become and remain citizens of the kingdom of heaven. This is done by the daily use of God's word, prayer, and Christian example through the power and working of the Holy Spirit. We also wish to assist parents by providing a loving caring atmosphere in the Child Development Center, where children learn to share, to care, and to love one another.

"PHILOSOPHY"

We believe that the Bible clearly teaches that man was created perfect and holy with a free will by our loving God (Genesis 1:27,31; 2:16-17). But this was all lost when sin entered the world through Adam's and Eve's disobedience and spread to all through the inheritance of a sinful nature (Romans 5:8). Because of his boundless love for us, Jesus rescued us from the punishment we and all people earned by our sins (Romans 5:8), and it is by the acceptance of the Lord Jesus Christ as our personal Savior that we receive the forgiveness of sins as a free gift from God (Romans 10:9). It is the Holy Spirit working ourselves to Him (Romans 8:8-9). As we seek the total leadership of Jesus in every part of our lives, the "growing in grace" occurs (2 Peter 3:18), which we trust the Lord not only to receive, but also to share this Good News of salvation with the world, beginning where we are (Matthew 28:19-20).

We believe that Christian education is a vital aspect of God's mission, commanded by Him to the Church through the Great Commission. It is the whole education of the people of God, regardless of age, carried out under the influence of the Gospel.

We believe that effective education is carried on through quality and experiential learning programs that relate the Christian faith to every aspect of life.

We believe that Christian education is unique because:

1. Christian education views the pupil as one redeemed by Christ.
2. Christian education carries out God's command for educating man.
3. Christian education is powered by the Holy Spirit for accomplishing its purposes.

In all matters, the guiding principles of Good Shepherd Lutheran School and Child Development Center are found in Scripture, the inspired Word of God and the only norm and source for all we believe and teach, as set forth in the Lutheran Confessions

Our Christian responsibility compels us to pursue academic quality as the proper response to Christ's redemptive work. Good Shepherd Lutheran School and Child Development Center strives to make itself an effective educational agency for equipping children and their families for participating in the following five functional areas of Christian living; i.e. education, worship, evangelism, fellowship, and service.

EDUCATION: Christian education nurtures children's faith for a lifetime of service to God and their fellowman. All teaching, especially exposure to God's word is empowered by the Holy Spirit for accomplishing God's purposes. Students are prepared to become responsible stewards of the gifts God has bestowed upon them. II Timothy 3:16 says, "All scripture is God-breathed and is useful for teaching, rebuking, correcting and training in righteousness."

WORSHIP: Students are helped to grow in their spiritual lives through all the effective aspects of worship: prayer, praise, and thanksgiving. Teachers provide Christian models and leadership in building the worship life of pupils. Matthew 4:10 states: "...Worship the Lord your God, and serve Him only."

EVANGELISM: Students and teachers learn to bear witness to their faith by witnessing to each other and their community.

Children hear the Good News of Jesus' love and share it with their families and friends. Colossians 3:16 says, "Let the word of Christ dwell in you richly, as you teach and admonish one another in all wisdom, and as you sing psalms and hymns and spiritual songs with thankfulness in your hearts to God."

FELLOWSHIP: Students and faculty accept one another as fellow members of the Body of Christ. They work and play together, support and encourage each other, and learn to value, accept, and respect one another. The understanding of Law and Gospel pervades relationships so that each person knows he or she is a redeemed sinner and a beloved child of God. Teachers and students work together to maintain an atmosphere of love and joy. Romans 12:5 declares: "So in Christ we who are many form one body, and each member belongs to all the others."

SERVICE: Students and teachers help each other and the community to emulate Christ-like compassion and love for all people. John 13:35 says, "By this all men will know that you are my disciples, if you love one another."

We believe that each child is a special gift from God, a unique creation, possessing his own personality, learning style and maturation pace. Mindful of this, our programs are designed to encompass the total child, and promote spiritual, physical, cognitive, emotional, aesthetic, and social development of each individual.

WHAT IS EDUCATION IN A CHRISTIAN SCHOOL?

In education we are focused with the development of knowledge, skill, ability, attitude and character by means of teaching, training, study and experience. Christian education has precisely the same general aims, but it is based on the Bible and has three specific goals:

1. To lead the individual to faith in Christ and to keep him in that faith.
2. To help the individual to develop into an even better and more perfect Christian in all of life's relationships both secular and religious.
3. To keep before the individual the goal of every child of God - eternal life in heaven.

The Lutheran school is the best agency for such Christian education because it provides for the total growth and development of the child. The Bible describes such a complete education in Luke 2:52 ...

"And Jesus increased in wisdom and stature and in favor with God and man."

Four types of growth are included in our educational program: mental, physical, spiritual and social development. All four types receive daily attention at Good Shepherd Lutheran School and Child Development Center. In this total program, the Word of God influences everything the child learns and serves as a unifying and organizing force in the school program.

Introduction

Philosophy

We believe that all who have been brought to faith are commissioned by Him to preserve and extend the Kingdom of God. (Matthew 28:19-20) Good Shepherd Lutheran School exists as a vital component of Good Shepherd Lutheran Church's mission and ministry and, through Christian education, strives to equip its students to be disciples of Christ, applying Law and Gospel to all aspects of life and learning in order to be witnesses for Him.

Objectives

The objectives of Good Shepherd Lutheran School are to provide an environment:

1. Where children learn God's Word and will and are nurtured in the Christian faith.
1. Where children experience God's love, express their love for God through service to their neighbor, and accept themselves and each other as forgiven and forgiving sinners.
1. Where children learn and develop their skills and talents as good stewards of God's gifts.
1. Where the whole child grows and matures as a child of God - spiritually, intellectually, physically, socially, aesthetically, and emotionally.
1. Where children are led to help others not only in the home and the school but also in the community and the world.

Administration

Good Shepherd Lutheran School is owned and operated under the jurisdiction of Good Shepherd Lutheran Church (a member of the Lutheran Church - Missouri Synod). It is supervised by the Ministry of Christian Education, under the authority given by the Voters Assembly of the congregation.

Accreditation

Good Shepherd Lutheran School is accredited by National Lutheran School Accreditation (NLSA). NLSA is a recognized and voting member of Oklahoma Private Schools Accreditation Commission (OPSAC), which has been recognized by the Oklahoma State Legislature. NLSA also has cooperative agreements with North Central Accreditation, the regional accrediting agency for Oklahoma Public Schools.

Lutheran Doctrine

The Lutheran Church-Missouri Synod adheres to the doctrines outlined in the Small Catechism. Doctor Martin Luther based the Small Catechism on his study of the Bible and he organized the teachings of Scripture into six chief parts. These six chief parts of Christian doctrine are as follows: The Ten commandments, The Apostles' Creed, The Lord's Prayer, The Sacrament of Holy Baptism, The Office of the Keys and Confession, and Holy Communion.

Most memory work assignments are taken from the Bible or Luther's catechism. We have copies of the catechism available in the school office for parents to review.

Worship

Worship begins with God, who speaks to us in the Word about Christ. "You are My people. You are forgiven." In our worship together, God speaks that Word to us in the Scripture readings. His Word dwells in us through faith. It flows out of us to one another - in responsive readings, in hymns and spiritual songs - and we remind one another of God's great deeds, strengthening and building up one another in our faith and life. Finally, our worship moves upward - in adoration of God, in thanks to Him for His mercy.

Worship becomes real as we see its 3 dimensions. The Word from God is shared with one another, and then returns to God in a response of praise and thanksgiving.

"Worship involves the whole life of a Christian and every opportunity available for communion with God should be gratefully used. Respect for worship is taught and expected at Good Shepherd Lutheran. Students are involved in daily prayers, Bible study and worship. Weekly chapel services are an opportunity for all students to gather together for worship; parents and friends are invited to attend. Chapel offerings are designated by the faculty.

Regular family attendance at church services and Sunday School or Bible classes is an integral part of Christian education, and is a commandment of our Lord. Families that are not active

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Holy Trinity Catholic School

Our Mission Statement

Holy Trinity Catholic School, a parish elementary school, aspires to the continuous formation of the whole Christian person by addressing the spiritual, intellectual, social, moral, cultural and physical development of the person. This is accomplished by offering an excellent academic program integrated with religious truths and values.

Accreditation

Holy Trinity Catholic School is fully accredited by the Oklahoma Conference of Catholic Schools Accrediting Association, which is recognized by the State of Oklahoma Department of Education. The administration and teachers are certified and hold valid Oklahoma teaching certificates. The Archdiocesan Office of Religious Education further certifies teachers of religion. In addition, the school meets the standards and policies of the Archdiocese of Oklahoma City Office of Catholic Education and the local School Advisory Council.

Our Philosophy & Goals

Holy Trinity Catholic School exists primarily to respond to the mandate of Jesus Christ to teach all nations. Holy Trinity is committed to teaching the message of Jesus, building community with all school clientele, serving those in need, and worshiping God through prayer and sacraments.

The school recognizes that the parents are the primary educators of their children and will support and assist parents in the education and faith formation of their children. The school shall integrate Catholic principals and values in the curriculum and offer opportunities for celebrating liturgy, sacraments, and prayer experiences.

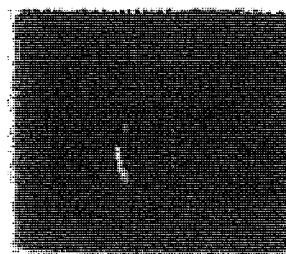
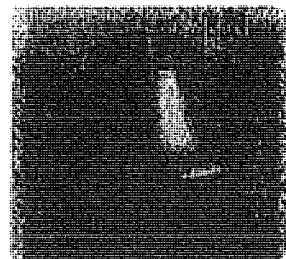
Learn More

Learn more about our school by calling for a free brochure or scheduling an onsite visit at 263-4422.

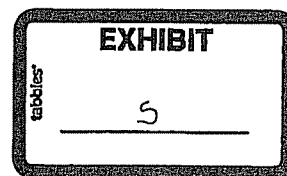
[Staff Appreciation Video](#)

[What's going on at school?](#)

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211 W. Missouri
Box 185
Okarche, OK 73762
Phone: (405) 263-7930 Fax (405) 263-7721
A Parish of The Roman Catholic Archdiocese of Oklahoma City, OK





Immanuel Lutheran Christian Academy 400 N. Aspen Ave.
Broken Arrow, Okla. 74012

918.251.5422



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School Updates

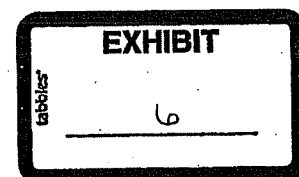
Remember the Fall Festival is Monday, October 31st from 6pm-8:30pm!!

[November Lunch Menu](#)

[Thanksgiving feast 2011](#)

[Crusader Chronicle 10-27](#)

- [Preschool](#)
 - [Tiny Tots](#)
 - [Explorers Class](#)
 - [Teddy Bear 2's](#)
 - [Incredible 3's and Super 3's](#)
 - [Stars and Fantastic 4's](#)



- Elementary School
 - Kindergarten
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-
- School Programs
 - Parent-Teacher League
 - Sports
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 - Academic Teams
 - Scouting Programs
 - News & Updates

School Mission

Our mission is to promote the total development of children: spiritual, emotional, physical, social and intellectual. We are dedicated to excellence in an environment that is informal and personal for all that take part. Every child is valued as a child of God, and we seek to introduce everyone to the joys of knowing His love in Jesus Christ.

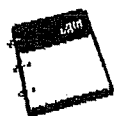
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SYNC IT UP
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Upcoming Events

November 7, 2011

Fall Concert

November 7, 2011

Book Fair

November 17, 2011

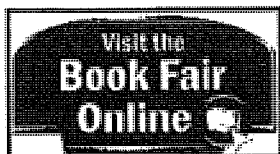
Thanksgiving Feast

December 3, 2011

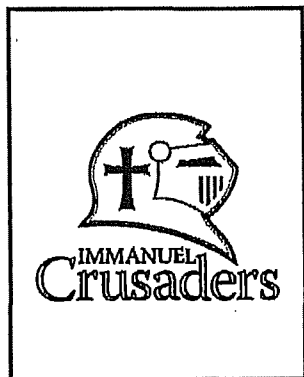
Christmas Parade

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Online Book Fair

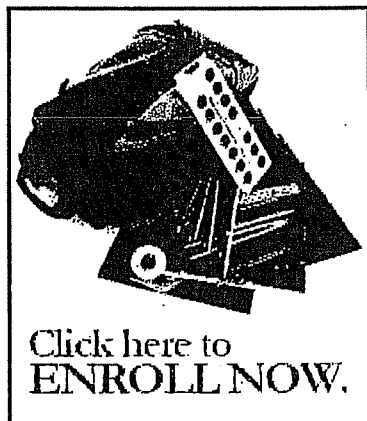


Crusader Athletics



Immanuel Lutheran Church

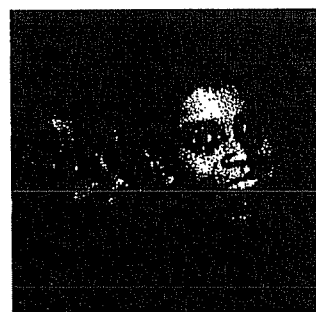




Preschool

Within our center's daily schedule, each child has the opportunity to be creative, explore the environment, and learn problem solving and personal interaction skills. The staff serve as positive, Christian role models and provide care that is supportive, nurturing, warm, and responsive to each child.

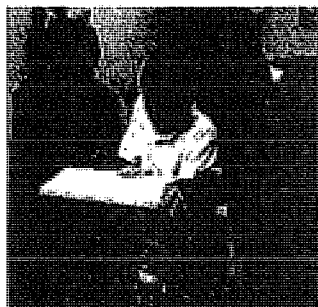
[Click here to read more about our preschool.](#)



Elementary School

With our smaller classes and talented teachers, ILCA Elementary is a cut above the rest. Children start learning computer and technology skills as young as five, and continue to learn and grow in our core curriculum of math, reading, science, social studies, and religion.

[Click here to see more from our elementary school.](#)



High School

We're adding 11th grade in fall 2011, and we couldn't be more excited! It won't be long before we have our first graduating class.

[Click here to see more from our high school.](#)

Stuff to Help You



The Headmaster Blog

Hello everyone! I'm Katherine McGrew, the headmaster for ILCA.

[Click to read more »](#)



October 28th Updates

Remember the Fall Festival is Monday, October 31st from 6pm-8:30pm!! November Lunch Menu
Thanksgiving feast 2011 Crusader Chronicle 10-27

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400 N. Aspen Ave. Broken Arrow, Okla. 74012 918.251.5422 | info@ilcanews.org

[Tulsa website design by Aqua Vita Creative](#)

The History of Immanuel Lutheran Christian Academy

Immanuel Lutheran Christian Academy was formed to further the evangelistic ministry and mission of Immanuel Lutheran Church and Immanuel Ministry and Education Corporation in Broken Arrow, Oklahoma. Its mission is to provide quality Christian and academic education to train young people for leadership roles in their community and society.

Immanuel Lutheran Church conducted a feasibility study in 1999 which showed an interest from over 500 families within a five-mile radius in sending their children to a Christian School. With the results of this study, the church determined to include a Lutheran day school in its planning. Land was purchased in 2000 for the construction of a new church and educational facilities, and the church entered into a financial campaign in September 2001 to finance the construction of the educational facility and sanctuary. A headmaster was hired in May 2001 to plan and implement the school programs. Loans from the Lutheran Church Extension Fund were secured in September 2001, and construction began on the education facility. Immanuel Christian Academy opened in August 2002, with fifty kindergarten through eighth grade students. Since that time, the school population has grown to 127 students.

The church preschool was moved to the new facilities from the older church site in 2006, necessitating the need for more space. In that year, the preschool was expanded to include day care for infants. All classes and programs were housed in the education wing of the new facilities until 2007, when the Arthur J. Spomer Education Annex was purchased and renovated for extra classroom space. All middle school classes, art classes, and vocal music classes were moved into the annex.

In 2008, parents from the school requested to form a high school task force to explore the feasibility of opening a high school. Committees of parents, staff, and congregation members met for six months to research and made recommendations to the Board of Trustees to open a high school in August of 2008. A donation drive for start-up funds was also implemented, which raised approximately \$215,000 for opening the high school. In November 2009, the task force findings and recommendations, along with donation drive results, were presented to the Immanuel Lutheran congregation, which approved the recommendation of the school Board of Trustees to proceed with opening the high school.

At that same time, the name of the school was changed from Immanuel Christian Academy to Immanuel Lutheran Christian Academy, and the high school opened in August 2009 with a freshman class. The high school now includes grades 9-11.

A marketing/promotions position was added in 2010 to get the name out in the community and to facilitate enrollment growth. During 2011, the National Lutheran Schools Accreditation awarded Immanuel Lutheran Christian Academy Exemplary School Status after demonstrating compliance with accreditation criteria and exceeding expectations related to the educational and ministry standards that are required for accredited schools.

Due to increased enrollment, more space is now needed to accommodate the growth of preschool, elementary, middle, and high school. Expansion plans are underway for the 2011-2012 school year to add additional classrooms for preschool, while freeing up space within the school building for additional classrooms for high school. In 2011, a Finance position was added to accommodate all of the financial accounting and budgeting for the expanding school.

The school is known in the community after nine years of existence as being a place of quality education, having a safe and nurturing environment, and as a small school implementing many programs found only in

much larger schools. Currently, ILCA offers football, basketball, volleyball, track and field, golf, band, Broadcasting, Yearbook, Digital Reproduction classes, computer education, Drama class, Leadership class, College preparatory classes, AR, Pre AP, and AP classes, and excellence in reading instruction and achievement.




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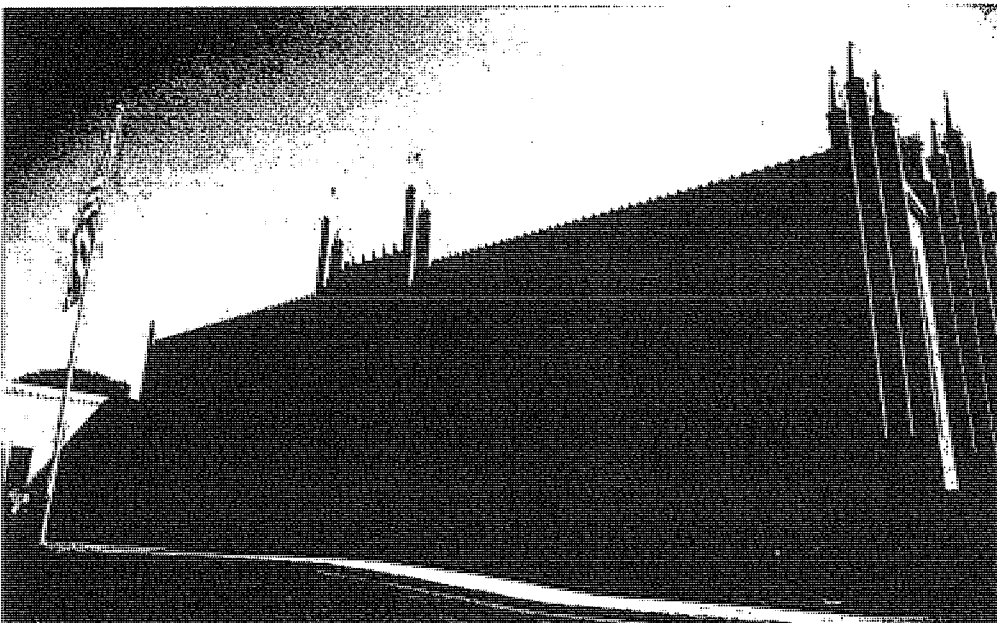


MARQUETTE

CATHOLIC SCHOOL




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Marquette Catholic School offers your child much more than the fundamentals of education. Catholic values permeate our school's programs, services and culture.

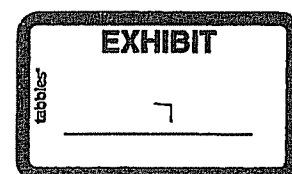
If Marquette is right for you and your child, call us to schedule a visit.

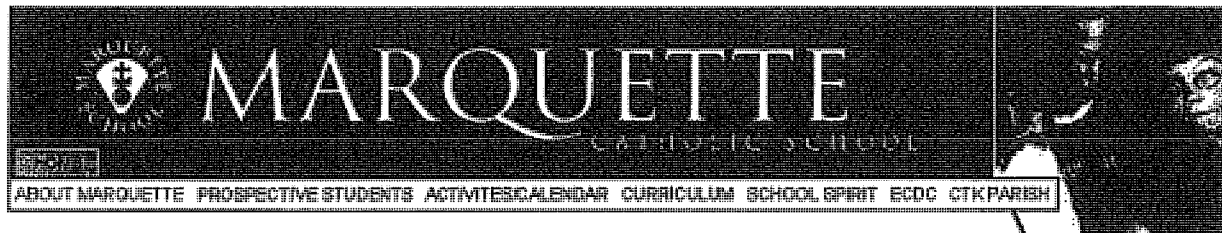


Marquette School
1619 South Quincy
Tulsa, OK 74120

T (918) 684.4631 F (918) 684.4847

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About Marquette

Mission Statement

As a service to the Parish of Christ the King, Marquette Catholic School teaches Catholic values and offers a comprehensive curriculum to preschool, elementary, and middle school students in an atmosphere that promotes the growth of each child's mind, body, and spirit.



Marquette School furthers the Christian Faith Community of the Parish by communicating and living the Gospel message. Students are encouraged to use the talents God has given them, thus enabling them to grow into healthy, productive members of the parish community and society. Our school enhances the solid foundation that parents are building for each child. Below, Will and Brady are providing community service by clearing weeds (hey, those are flowers!)

History

Marquette School began as Sacred Heart School in 1918, under the direction of the Ursuline Sisters. It opened with eighty pupils in grades one through six. In 1920, Benedictine sisters from St. Joseph's Convent in Guthrie, Oklahoma, began operating the school.

In the spring of 1925, a new church was completed to replace Sacred Heart Parish, and it was named "Christ the King." A ninth-grade class was added to the school in 1928 and, in the fall of that year, the Parent-Teacher Association suggested a change in the name of the school to avoid disrespect in the use of the name in association with athletics.

The name "Marquette" was adopted, in honor of Father Jacques Marquette, a 17th-century French missionary and explorer of the Mississippi River.

Over the years, the school expanded to accommodate the growing parish, and by 1932 the twelfth grade had been added. May 1933 marked the first graduating class of Marquette High School, with 22 graduates. Marquette High School closed with the opening of Bishop Kelley High School in 1960.

Marquette School was operated by Benedictine nuns until 1972. In 1976, the Dominican Sisters of St. Insnawa, Wisconsin, began staffing the school. This relationship lasted until 1983. Today, Marquette School remains directed by lay administrators working under the supervision of the pastor and administration of the Parish of Christ the King.

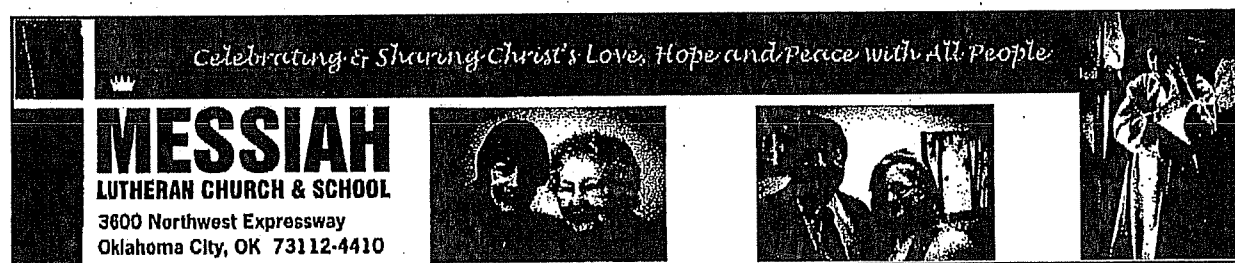
Marquette School offers your child much more than the fundamentals of education. Catholic values permeate our school's programs, services, and culture.

To determine if Marquette School is right for you and your child, please call 584-4631 to schedule a visit.



Marquette School
1819 South Quincy
Tulsa, OK 74120

T (918) 584.4631 F (918) 584.4847



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Why We Exist

What is this church, Messiah, Lutheran all about?

In a word, it's all about Jesus; **THE Messiah.**

Our Mission

Our mission is to celebrate and share Christ's love, hope and peace with all people.

How do we do that?

Our Discipleship Strategy—Connect, Grow, Serve, Share

Connecting . . . with God in worship and prayer

I am living a lifestyle of worship in my personal life by enjoying time with God in prayer and daily devotions. I join with other believers to worship God with heart, soul, strength, and mind every weekend at Messiah.

Growing . . . with others around God's Word

I am living a lifestyle of growth as I learn to love God and his Word more with the people He has placed in my life. I am enjoying this journey of growing in my marriage, family, and friendships. In addition I join with members of my small group regularly around God's Word.

Serving . . . others by using my gifts

I am living a lifestyle of service in my personal life by constantly watching for opportunities to use my gifts to serve others. I have discovered the spiritual gifts and passion that God has imparted to me, and am doing what I do best. I am regularly serving in ministry at Messiah, whether that is inside the walls of our building or outside in the community.

Contact Us

Address: 3600 Northwest Expressway - Oklahoma City, OK

Phone: 405-946-0681
 Fax: 405-946-0682
 School: 405-946-0462
 Mother's Day Out: 405-946-0605

We are located on the SE corner of NW Expressway and North Portland Avenue.

[Map & Directions](#)

EXHIBIT

8

Sharing . . .with the world to bring people to know, love and follow Jesus

I am living a lifestyle of "go" as I enter my world with the desire to bring to Jesus those who have not discovered the joy of a relationship with Him. I can even go into other places and countries as I support missions or take a mission trip myself.

When individual disciples are growing in their lives as followers of Jesus in this way, our vision becomes even clearer. We begin to see the future happen, in the present.

Community Twitter Feed

Check out the latest tweets from some of our favorite community service organizations. For more information, simply click on the name of the ministry organization.

NOVO Ministries **OKC**

- Pre-#NovoBibleClub coloring party. Teachers have all the fun.
<http://t.co/EndnR3TG>
2 days ago
- And @novoministries loves being worked at by you!
RT @jlyn_hunter I love working at @novoministries! :)
1 week ago

OKC Regional Food **Bank**

- Going to the OU game tomorrow? When u enter the stadium donate to Josh Heupel's 14 Foundation to provide holiday meals.
<http://t.co/JobyGmOL>
4 hours ago
- Tonight #RocknBox will be having live music. Come out from 6 - 9 p.m. to volunteer packing food boxes for the hungry
@rfbo. 1 day ago

Serve OKC

- Did you participate in ShareFest last weekend? Tell us about it!
[6 months ago](#)
- Thank you to everyone who participated in ShareFest yesterday. You made a difference! [6 months ago](#)

The Spero Project

- Great 2 be at 8,046
Conference in Tulsa!
Inspired by the faith
community here, The
Church is rising up 2 care 4
children in foster care.
1 week ago
- Some really exciting news
coming soon. Stay tuned!
You are going to want to
get in on this. 2 weeks ago

Join Us For Worship

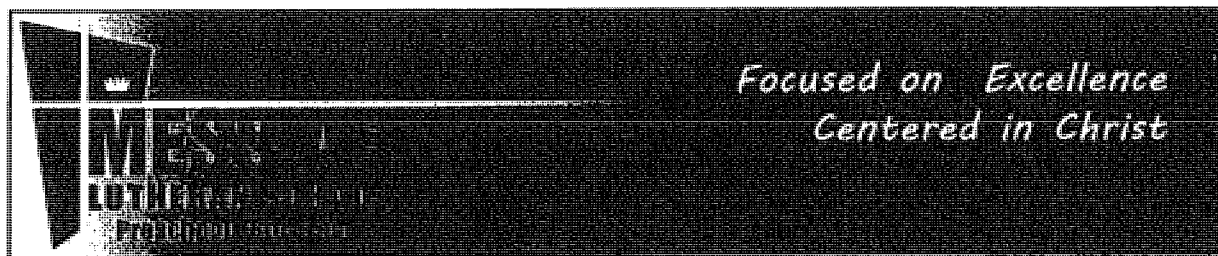
Sunday 8:00 a.m. Worship
9:30 a.m. Sunday School and Adult Bible Studies
9:30 a.m. Contemporary Worship
10:45 a.m. Worship

5pm - 7pm T.E.A.M. 1st-12th Grade Our weekly sharing, learning and serving nights
Wednesday LENT and ADVENT Worship
12:15pm and 7:15pm.

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About Us

History

Messiah Lutheran School originally began with a Mother's Day Out program in 1986. A preschool program was added in 1989. Messiah's excellent reputation for these programs led to the development of our elementary school, beginning with Kindergarten in 1977. Gradually, other grades were added, culminating in the addition of 7th and 8th grades in the 2009-2010 school year. In 2006 Messiah Lutheran School was accredited through the NLSA and OPSAC, accrediting agencies recognized by the state of Oklahoma.

Messiah Lutheran School is a mission of Messiah Lutheran Church. The church congregation makes a significant financial contribution to our school every year. Because of this, we are able to provide a quality Christian and academic education at a more affordable price than other private schools in the metro area.

School Hours

Preschool 3 students attend three days per week, Tuesday-Thursday. Our morning session is from 9:30-12:00, and afternoon session is 12:00-2:30.

Half-day Pre Kindergarten students attend five mornings per week, from 8:20 a.m.-11:30 p.m.

Full-day Pre Kindergarten through 8th grade students attend regular school hours 8:20 a.m.-3:30 p.m.

Contact Us

Address:
3600 Northwest Expressway,
Oklahoma City, Oklahoma 73112,
United States

Phone: 405-946-0462
Fax: 405-946-0682

What Lutherans Believe

Our Statements of Faith

The Essentials We Believe: (Please read through these and if you have questions or concerns with any of these teachings, please talk with pastor Muenchow)

1. **About God** God is the Creator and Ruler of the universe. He has eternally existed in three personalities: the Father, the Son, and the Holy Spirit. These three are co-equal and are one God.

Genesis 1:1,26,27, 3:22; Psalm 90:2; Matthew 28:19; 1 Peter 1:2; 2 Corinthians 13:14

2. **About CHRIST** Jesus Christ is the Son of God. He is co-equal with the Father. Jesus lived a sinless human life and offered Himself as the perfect sacrifice for the sins of all people by dying on a cross. He arose from the dead after three days to demonstrate His power over sin and death. He ascended to Heaven's glory and will return again someday to earth to reign as King of Kings, and Lord of Lords.

Matthew 1:22, 23; Isaiah 9:6; John 1:1-5; 14:10-30; Hebrews 4:14,15; 1 Corinthians 15:3,4; Romans 1:3,4; Acts 1:9-11; 1 Timothy 6:14,15; Titus 2:13

3. **About the Holy Spirit** The Holy Spirit is co-equal with the Father and the Son of God. He is present in the world to make men aware of their need for Jesus Christ. He also lives in every Christian from the moment of salvation. He provides the Christian with power for living, understanding of spiritual truth, and guidance in doing what is right. He give every believer a spiritual gift when they are saved. As Christians, we seek to live under His control daily.

2 Corinthians 3:17; John 16:7-13, 14:16,17; Acts 1:8; 1 Corinthians 2:12, 3:16; Ephesians 1:13; Galatians 5:25; Ephesians 5:18

4. **About the Bible** The Bible is God's Word to us. It was written by human authors, under the supernatural guidance of the Holy Spirit. It is the supreme source of truth for Christian beliefs and living. Because it is inspired by God, it is the truth without any mixture of error.

2 Timothy 3:16; 2 Peter 1:20,21; 2 Timothy 1:13; Psalm 119:105,160, 12:6; Proverbs 30:5

5. **About Human Beings** People are made in the spiritual image of God, to be like Him in character. People are the supreme object of God's creation. Although every person has tremendous potential for good, all of us are marred by an attitude of disobedience toward God called "sin". This attitude separates people from God and causes many problems in life.

Genesis 1:27; Psalm 8:3-6; Isaiah 53:6a; Romans 3:23; Isaiah 59:1, 2

6. **About Salvation** Salvation is God's free gift to us even as the faith by which we accept it. We can never make up for our sin by self-improvement or good works. Only by trusting in Jesus Christ as God's offer of forgiveness can anyone be saved from sin's penalty. By the Spirit's power we turn from our self-ruled life and turn to Jesus in faith saved. Eternal life begins the moment one is brought to receive Jesus Christ into his life by faith.

Romans 6:23; Ephesians 2:8,9; John 14:6, 1:12; Titus 3:5; Galatians 3:26; Romans 5:1

7. **About Eternal Life** Because God gives us eternal life through Jesus Christ, salvation is maintained by the grace and power of God. It is grace and keeping power of God that gives us this security.

John 10:29; 2 Timothy 1:12; Hebrews 7:25, 10:10,14; 1 Peter 1:3-5

8. **About Eternity** People were created to exist forever. We will either exist eternally separated from God by sin, or eternally with God through forgiveness and salvation. To be eternally separated from God is Hell. To be eternally in union with Him is eternal life. Heaven and Hell are real places of eternal existence.

John 3:16; John 14:17; Romans 6:23; Romans 8:17-18; Revelation 20:15; 1 Cor. 2:7-9

9. **Our lifestyle statements** What We Practice

Beliefs are not worth much unless they are translated into actions. Based on what the Bible teaches, we feel very strongly about the following seven practices:

Bible As Our Sole Authority

"The whole Bible was given to us by inspiration from God and is useful to teach us what is true and make us realize what is wrong in our lives; it straightens us out and helps us to do what is right." 2 Tim. 3:15

Since God's Word is the only completely reliable and truthful authority, we accept the Bible as our manual for living. Our first question when faced with a decision is "What does the Bible say?" We practice daily Bible reading, Bible study, and Bible memorization. The Bible is the basis for all we believe.

Autonomy of Each Local Church

"Christ is the head of His Body, the church. He is the source of the Body's life..." Col. 1:18 (GN)

Christ is the recognized head of our church, not any person, group, or religious organization. While recognizing the value of associating and cooperating with other groups of Christians, we believe every local church should be self-governing and independent from any denominational control. In relating to our "daughter churches" that we sponsor, we encourage each congregation to determine its own strategy, structure, and style.

Priesthood of Every Believer

"Christ loves us, and by His death He has freed us from our sins and made us a kingdom of priests to serve God..." Rev. 1:6 (GN) "You are...the King's priests...God's own people, chosen to proclaim the wonderful acts of God." 1 Pet. 2:9 (GN)

The Bible teaches that every Christian is called to "full time" Christian service, regardless of his or her vocation. We practice the truth that every believer is a minister by encouraging every member to find a place of service and ministry. Every believer has direct access to God through prayer Bible reading.

Tithing

"A tithe of everything you produce belongs to the Lord; it is holy to the Lord." Lev. 26:30

At Messiah we encourage our members to practice tithing for the support of Christ's body, the church, as God commands. We recognize that giving 10% of our income is the Biblical standard of giving.

If you wait until you are "perfect", you'll never feel "good enough"!

The Lord's Supper

Jesus never asked His disciples to remember His birth. But He did instruct them to remember His death and resurrection. He gave the church two visible symbols (called "sacraments") as reminders of His death. These two sacraments are: Baptism and The Lord's Supper.

What Is The Lord's Supper? (1 Cor. 11:23-26) Jesus gives his true body with the bread and his true blood with the wine for the forgiveness of our sins and the strengthening of our faith in Him.

"The Lord Jesus, on the night He was betrayed, took bread..." (vs. 23) "...and when He had given thanks, He broke it and said, 'This is my body, which is for you; eat it in remembrance of me.'" (vs. 24)

"In the same way, He took the cup, saying, 'This cup is the new covenant in my blood; drink it to remember me.'" (vs. 25) "For whenever you eat the bread and drink the cup, you proclaim the Lord's death until He comes back." (vs. 26)

Who Should Take The Lord's Supper?

Only those who are already believers in Christ as their Savior and who believe His promise to give His body and blood in this sacrament for the forgiveness of their sins.

"For anyone who eats and drinks without recognizing the body of the Lord eats and drinks judgment upon himself." 1 Cor. 11:29

Therefore whoever eats the bread or drinks the cup of the Lord in an unworthy manner will be guilty of sinning "against the body and blood of the Lord. A person ought to examine himself before he eats of the bread and drinks of the cup." 1 Cor. 11:27-28

Baptism

"For when you were baptized, you were buried with Christ, and in baptism you were also raised with Christ..." Col. 2:12 (GN)

We practice baptism by sprinkling, but any form of application, including immersion under water — the way Jesus was baptized, and the Word is acceptable.

Spirit-led Living

(Jesus said), "I am the Vine, you are the branches. If you abide in me and I in you, you will bear much fruit; but apart from me you can do nothing." John 15:5

We believe the only way possible to live the Christian life is by God's power within us. So we seek to practice a daily dependence on God's Spirit to enable us to do what is right. (Phil. 2:13, Eph. 5:18)

Telling Others About Christ

"Always be prepared to give an answer to everyone who asks you to give the reason for the hope that you have." 1 Peter 3:15

It is the responsibility of every Christian to share the Good News with those with whom God brings us into contact. We practice personal sharing about Christ and inviting friends to church.

Office Hours

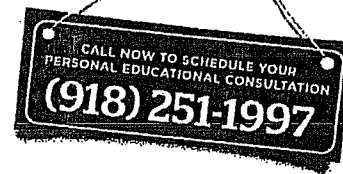
Monday - Friday 8:00am - 4:00pm

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VISION AND VALUES



VISION STATEMENT

Building great people through biblical application, academic excellence, and service-centered discipleship.

MISSION STATEMENT

The purpose of Summit Christian Academy is to assist parents in training their children to become great people who have a godly influence on society.

CORE VALUES

Our desire is that students will be equipped to:

- Experience a dynamic, vibrant, and alive spiritual life.
- Cultivate deep, lasting, and meaningful relationships.
- Pursue God's destiny and tap into their personal potential.
- Develop personal growth and maturity in each stage and season of life.
- Live a life of contribution and significance.

OUR PHILOSOPHY

The essence of Summit Christian Academy's educational philosophy is found in our motto, "All Truth is God's Truth." All areas of genuine learning exist because God has allowed man to discover principles, formulas, and truths that are in harmony with the laws that govern His universe.

Therefore, at Summit Christian Academy, we foster an educational experience for each student that presents the Truth, Jesus Christ, at the very center of all we do. We seek to relate every fact and principle to His Truth and His character in such a way that we promote the development of academic knowledge, physical skills, spiritual maturity, and social growth in each child.

To carry out such a high calling demands three essential elements of education:

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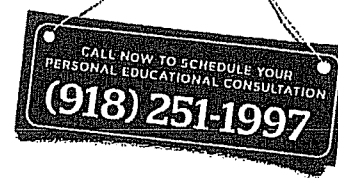
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EXHIBIT

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The Material,
The Method, and
The Mentor.

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WHO WE ARE



SCHOOL OVERVIEW

Summit Christian Academy was established as a direct ministry of The Assembly at Broken Arrow in 1987. Originally named New Adventures Elementary School, the school started with just a handful of elementary students. The school continued to grow and expand and currently has nearly 500 students in kindergarten through 12th grades.

SCA is a non-profit, co-educational, private day school with an academic year comprised of two semesters extending from August to December and January to May. Summit Christian Academy is an inseparable and integral part of the ministries of The Assembly at Broken Arrow, Broken Arrow, Oklahoma, and, as such, subscribes to the same tenets of faith as its parent organization.

ORGANIZATION

The official church board of The Assembly at Broken Arrow governs SCA. The Board is elected by the voting members of The Assembly in accordance with the church constitution and bylaws. As lead pastor of The Assembly, Pastor Ron Woods serves as the chairman of the board and Chancellor of Summit Christian Academy.

Summit Christian Academy is fully accredited, with no deficiencies, with the North Central Association, ICAA International Christian Accrediting Association, and the Association of Christian Teachers and Schools (ACTS). SCA is also recognized by the Oklahoma State Department of Education.

ENROLLMENT AND FACULTY

Enrollment is approaching 500 students. The school benefits from an exceptional faculty and staff and because SCA keeps a low student to teacher ratio, the students enjoy a great classroom learning experience. Prior to admittance, a prospective student must complete a satisfactory interview and agree to abide by the guidelines provided in the student handbook. Academic standing, conduct, disciplinary record, attendance and personal references are all carefully studied in this decision.

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STUDENT BODY DEMOGRAPHICS

The students at Summit Christian Academy represents a cross-section of the surrounding community. Dozens of local churches are represented in both the faculty and the student body. A number of SCA graduates pursue higher education.

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

(1) DONALD KIMERY; (2) NANCY
KIMERY; (3) T.K., by and through Donald
and Nancy Kimery; (4) TIM FISHER; (5)
KRISTIN FISHER; (6) K.F., by and through
Tim and Kristin Fisher; (7) STEFAN
HIPSKIND; (8) STEPHANIE HIPSKIND; (9)
L.H., by and through Stefan and Stephanie
Hipskind; (10) A.J.H., by and through Stefan
and Stephanie Hipskind; (11) MIKE
HOWARD; (12) AMY HOWARD; (13) B.L.R.,
by and through Mike and Amy Howard; (14)
CURTIS JOHNSON; (15) JANE JOHNSON;
(16) W.J., by and through Curtis and Jane
Johnson; (17) JERRY SNEED; (18) SHANNA
SNEED; (19) B.S., by and through Jerry and
Shanna Sneed; (20) RUSSELL SPRY; (21)
STEPHANIE SPRY; (22) G.S., by and through
Russell and Stephanie Spry; (23) TIM
TYLICKI; (24) KIMBERLY TYLICKI; (25)
M.T., by and through Tim and Kimberly
Tylicki,

Plaintiffs,

v.

(1) BROKEN ARROW PUBLIC SCHOOLS;
(2) the BOARD OF EDUCATION OF
BROKEN ARROW PUBLIC SCHOOLS; (3)
JENKS PUBLIC SCHOOLS; (4) the BOARD
OF EDUCATION OF JENKS PUBLIC
SCHOOLS; (5) TULSA PUBLIC SCHOOLS;
(6) the BOARD OF EDUCATION OF TULSA
PUBLIC SCHOOLS; (7) UNION PUBLIC
SCHOOLS; (8) the BOARD OF EDUCATION
OF UNION PUBLIC SCHOOLS,

Defendants

FIRST AMENDED COMPLAINT

JURY TRIAL DEMANDED

Case No. 11-CV-0249-CVE-PJC

EXHIBIT

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FIRST AMENDED COMPLAINT

Above-named Plaintiffs, by and through their attorneys, state as follows:

NATURE OF ACTION

1. Plaintiffs are students with special needs and the parents of such students who reside within Defendant school districts. Under a recently enacted state law—the Lindsey Nicole Henry Scholarship for Students with Disabilities Program Act, OKLA. STAT. 70, § 13-101.1, *et seq.*,^{deleted} (hereinafter “the Act”)—Plaintiffs should receive state scholarships from Defendants that they can use to attend (or send their children to) a nonpublic school.

2. However, Defendants have refused, and have adopted a policy of continuing to refuse, to comply with the Act based on their belief that the Act violates the Oklahoma Constitution. In particular, they claim that some of the nonpublic schools that might be attended by special needs children are “sectarian,” and that the Act therefore violates the Oklahoma “Blaine Amendment.”

3. Defendants have thus deprived Plaintiffs of the scholarships to which they are entitled under the Act. Plaintiffs seek damages, injunctive relief, and declaratory relief on the ground that Defendants’ policy has violated and continues to violate their rights under the United States Constitution, federal civil rights laws, and Oklahoma state law.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the federal claims in this action pursuant to 28 U.S.C. §§ 1331 and 1343(a). This Court has jurisdiction over claims arising under the laws of the State of Oklahoma pursuant to 28 U.S.C. § 1367.

5. Venue lies in this District pursuant to 28 U.S.C. § 1391(b). All Plaintiffs reside in this District. Defendants' principal places of business are located in this District. The events giving rise to this action occurred within this District.

PARTIES

A. Plaintiffs

6. Plaintiff Donald Kimery and Plaintiff Nancy Kimery are the parents of Plaintiff T.K., a minor. For many years, they have actively sought help from Defendant Broken Arrow Public Schools for T.K.'s special needs.

7. Plaintiff Donald Kimery and Plaintiff Nancy Kimery have another child who is currently a student in the Broken Arrow Public Schools school system.

8. Plaintiff T.K. spent all of the 2009-10 school year as a student in Defendant Broken Arrow Public Schools' school district. He currently lives within the geographic boundaries of Defendant Broken Arrow Public Schools' school district. He suffers from Asperger's syndrome, an anxiety disorder, a speech disorder, a sensory processing disorder, and other developmental issues. He has received an Individualized Education Program (IEP) from Defendant Broken Arrow Public Schools. He now attends Town & Country, a nonpublic school.

9. Plaintiff Tim Fisher and Plaintiff Kristin Fisher are the parents of Plaintiff K.F., a minor. For many years, they have actively sought help from Defendant Jenks Public Schools for K.F.'s special needs.

10. Plaintiff Tim Fisher and Plaintiff Kristin Fisher have two other children who are currently students in the Jenks Public Schools school system.

11. Plaintiff K.F. spent all of the 2009-10 school year as a student in Defendant Jenks Public Schools' school district. She currently lives within the geographic boundaries of Defendant Jenks

Public Schools' school district. She suffers from Asperger's syndrome, for which she has received an IEP from Jenks Public Schools. She now attends Metro Christian Academy, a nonpublic non-denominational Christian school.

12. Plaintiff Stefan Hipskind and Plaintiff Stephanie Hipskind are the parents of Plaintiff L.H., a minor, and of Plaintiff A.J.H., a minor. For many years, they have actively sought help from Defendant Union Public Schools for L.H.'s special needs and for A.J.H.'s special needs.

13. Plaintiff Stefan Hipskind and Plaintiff Stephanie Hipskind have two other children who are currently students in the Union Public Schools school system.

14. Plaintiff L.H. spent all of the 2009-10 school year as a student in Defendant Union Public Schools' school district. He currently lives within the geographic boundaries of Defendant Union Public Schools' school district. He suffers from a learning disability, for which he has received an IEP from Defendant Union Public Schools. He now attends Immanuel Christian Academy, a nonpublic religious school affiliated with Immanuel Lutheran Church.

15. Plaintiff A.J.H. spent all of the 2009-10 school year as a student in Defendant Union Public Schools' school district. He currently lives within the geographic boundaries of Defendant Union Public Schools' school district. He suffers from a learning disability, for which he has received an IEP from Defendant Union Public Schools. He now attends Immanuel Christian Academy, a nonpublic religious school affiliated with Immanuel Lutheran Church.

16. Plaintiff Amy Howard is the mother of Plaintiff B.L.R., a minor. Plaintiff Mike Howard is the husband of Amy Howard and legal guardian of Plaintiff B.L.R. For many years, they have actively sought help from Defendant Broken Arrow Public Schools for B.L.R.'s special needs.

17. Plaintiff Amy Howard and Plaintiff Mike Howard have another child who is currently a student in the Broken Arrow Public Schools school system. They have an additional child who is a graduate of Broken Arrow Public Schools.

18. Plaintiff B.L.R. spent all of the 2009-10 school year as a student in Defendant Broken Arrow Public Schools' school district. He currently lives within the geographic boundaries of Defendant Broken Public Schools' school district. He suffers from Asperger's syndrome, Attention-Deficit/Hyperactivity Disorder, and anxiety and mood disorders, for which he has received an IEP from Defendant Broken Arrow Public Schools. He now attends Town & Country, a nonpublic school.

19. Plaintiff Jerry Sneed and Plaintiff Shanna Sneed are the parents of Plaintiff B.S., a minor. For many years, they have actively sought help from Defendant Union Public Schools for B.S.'s special needs.

20. Plaintiff Jerry Sneed and Plaintiff Shanna Sneed have another child who is currently a student in the Union Public Schools school system.

21. Plaintiff B.S. spent all of the 2009-10 school year as a student in Defendant Union Public Schools' school district. He currently lives within the geographic boundaries of Defendant Union Public Schools' school district. He suffers from a learning disability, sensory integration disorder, a speech disorder, and possibly other diagnosed disorders, for which he has received an IEP from Defendant Union Public Schools. He now attends Town & Country, a nonpublic school.

22. Plaintiff Russell Spry and Plaintiff Stephanie Spry are the parents of Plaintiff G.S., a minor. For many years, they have actively sought help from Defendant Jenks Public Schools for G.S.'s special needs.

23. Plaintiff Russell Spry and Plaintiff Stephanie Spry have another child who is currently a student in the Jenks Public Schools school system.

24. Plaintiff G.S. spent all of last school year as a student in Defendant Jenks Public Schools' school district. He currently lives within the geographic boundaries of Defendant Jenks Public Schools' school district. He suffers from Asperger's syndrome, Attention-Deficit/Hyperactivity Disorder, and a mood disorder, for which he has received an IEP from Defendant Jenks Public Schools. He now attends Town & Country, a nonpublic school.

25. Plaintiff Tim Tylicki and Plaintiff Kimberly Tylicki are the parents of Plaintiff M.T., a minor. For many years, they have actively sought help from Defendant Jenks Public Schools for M.T.'s special needs.

26. Plaintiff Tim Tylicki and Plaintiff Kimberly Tylicki are parents of two other children who are currently students in the Jenks Public Schools school system.

27. Plaintiff M.T. spent all of the 2009-10 school year as a student in Defendant Jenks Public Schools' school district. He currently lives within the geographic boundaries of Defendant Jenks Public Schools' school district. He suffers from autism, for which he has received an IEP from Defendant Jenks Public Schools. He now attends Town & Country, a nonpublic school.

28. Plaintiff Curtis Johnson and Plaintiff Jane Johnson are the parents of Plaintiff W.J., a minor. For many years, they have actively sought help from Defendant Tulsa Public Schools for W.J.'s special needs.

29. Plaintiff W.J. spent all of the 2009-10 school year and most of the 2010-11 school year as a student in Defendant Tulsa Public Schools' school district. He currently lives within the geographic boundaries of Defendant Tulsa Public Schools' school district. He suffers from a hearing impairment and partial deafness, a speech disorder, a muscular disorder, and anxiety, for

which he has received an IEP from Defendant Tulsa Public Schools. He now attends St. Pius X Catholic School, a Catholic school affiliated with St. Pius X Catholic Church.

30. Plaintiff Curtis Johnson and Plaintiff Jane Johnson intended to apply in October, 2010, for a scholarship to which they are entitled under the Act. They attended Defendant Tulsa Public Schools' school board meeting in October 2010, in which Tulsa Public Schools announced its intent not to accept any new scholarship applications under the Act.

31. Plaintiff Curtis Johnson and Plaintiff Jane Johnson refrained from applying for a scholarship due to fear of retaliation by Defendant Tulsa Public Schools.

32. Plaintiff Curtis Johnson, Plaintiff Jane Johnson, and Plaintiff W.J. would like for W.J. to attend a private Christian school that can properly address W.J.'s special needs and also provide him with a Christian and moral education.

33. Plaintiff Curtis Johnson and Plaintiff Jane Johnson submitted a scholarship application on or about March 11, 2011 and learned on or about March 26, 2011 that their scholarship application had been approved. They have yet to receive a scholarship check from Defendant Tulsa Public Schools pursuant to the terms of the Act.

B. Defendants

34. Defendant Broken Arrow Public Schools is an independent school district established pursuant to the laws of Oklahoma. Its official name is Independent School District Number 3 of Tulsa County, Oklahoma.

35. Defendant Board of Education of Broken Arrow Public Schools controls Broken Arrow Public Schools' compliance with the terms of the Act. Defendant Board of Education of Broken Arrow Public Schools can sue and be sued pursuant to Oklahoma law.

36. Jarod Mendenhall is the Superintendent of Defendant Broken Arrow Public Schools. He is the chief officer of the District and is responsible for administering Board policies.

37. Mendenhall has final decision-making authority within his school district.

38. Upon information and belief, Mendenhall has taken affirmative steps to prevent Plaintiffs from receiving the full amount due to them by law or has otherwise attempted to frustrate their efforts.

39. Upon information and belief, Mendenhall and/or other decision-makers within Defendant Broken Arrow Public Schools received legal advice or analysis prior to engaging in some of the illegal acts alleged in this Complaint. They were advised not to engage in those acts.

40. Upon information and belief, Mendenhall and/or other decision-makers within Defendant Broken Arrow Public Schools were informed by legal counsel, prior to engaging in some of the illegal acts alleged in this Complaint, that the districts' attorneys' advice regarding the constitutionality of the Act is not supported in the law.

41. Defendant Jenks Public Schools is an independent school district established pursuant to the laws of Oklahoma. Its official name is Independent School District Number 5 of Tulsa County, Oklahoma.

42. Defendant Board of Education of Jenks Public Schools controls Jenks Public Schools' compliance with the terms of the Act. Defendant Board of Education of Jenks Public Schools can sue and be sued pursuant to Oklahoma law

43. Kirby Lehman is the Superintendent of Defendant Jenks Public Schools. He is the chief officer of the District and is responsible for administering Board policies.

44. Lehman has final decision-making authority within his school district.

45. Upon information and belief, Lehman has taken affirmative steps to prevent Plaintiffs from receiving the full amount due to them by law or has otherwise attempted to frustrate their efforts.

46. Upon information and belief, Lehman and/or other decision-makers within Defendant Jenks Public Schools received legal advice or analysis prior to engaging in some of the illegal acts alleged in this Complaint. They were advised not to engage in those acts.

Upon information and belief, Lehman and/or other decision-makers within Defendant Jenks Public Schools were informed by legal counsel, prior to engaging in some of the illegal acts alleged in this Complaint, that the districts' attorneys' advice regarding the constitutionality of the Act is not supported in the law.

47. Defendant Tulsa Public Schools is an independent school district established pursuant to the laws of Oklahoma. Its official name is Independent School District Number 1 of Tulsa County, Oklahoma.

48. Defendant Board of Education of Tulsa Public Schools controls Tulsa Public Schools' compliance with the terms of the Act. Defendant Board of Education of Tulsa Public Schools can sue and be sued pursuant to Oklahoma law

49. Keith Ballard is the Superintendent of Defendant Tulsa Public Schools. He is the chief officer of the District and is responsible for administering Board policies.

50. Ballard has final decision-making authority within his school district.

51. Upon information and belief, Ballard has taken affirmative steps to prevent Plaintiffs from receiving the full amount due to them by law or has otherwise attempted to frustrate their efforts.

52. Upon information and belief, Ballard and/or other decision-makers within Defendant Tulsa Public Schools received legal advice or analysis prior to engaging in some of the illegal acts alleged in this Complaint. They were advised not to engage in those acts.

Upon information and belief, Ballard and/or other decision-makers within Defendant Tulsa Public Schools were informed by legal counsel, prior to engaging in some of the illegal acts alleged in this Complaint, that the districts' attorneys' advice regarding the constitutionality of the Act is not supported in the law.

53. Defendant Union Public Schools is an independent school district established pursuant to the laws of Oklahoma. Its official name is Independent School District Number 9 of Tulsa County, Oklahoma.

54. Defendant Board of Education of Defendant Union Public Schools controls Union Public Schools' compliance with the terms of the Act. Defendant Board of Education of Union Public Schools can sue and be sued pursuant to Oklahoma law.

55. Kirt Hartzler is the Associate Superintendent of Defendant Union Public Schools and reports directly to Cathy Burden.

56. Hartzler has considerable decision-making authority within his school district.

57. Cathy Burden is the Superintendent of Defendant Union Public Schools. She is the chief officer of the District and is responsible for administering Board policies.

58. Burden has final decision-making authority within her school district.

59. Upon information and belief, Burden and/or Hartzler have taken affirmative steps to prevent Plaintiffs from receiving the full amount due to them by law or have otherwise attempted to frustrate their efforts.

60. Upon information and belief, Burden, Hartzler, and/or other decision-makers within Defendant Union Public Schools received legal advice or analysis prior to engaging in some of the illegal acts alleged in this Complaint. They were advised not to engage in those acts.

61. Upon information and belief, Burden, Hartzler, and/or other decision-makers within Defendant Union Public Schools were informed by legal counsel, prior to engaging in some of the illegal acts alleged in this Complaint, that the districts' attorneys' advice regarding the constitutionality of the Act is not supported in the law.

STATEMENT OF FACTS

A. The Act

62. The Lindsey Nicole Henry Scholarship for Students with Disabilities Program Act, OKLA. STAT. 70, § 13-101.1, *et seq.*, (hereinafter "the Act") gives certain students with disabilities the right to receive a scholarship from the State of Oklahoma to facilitate their attendance in a participating nonpublic school.

63. The Act entered into force on August 27, 2010 and was amended on May 26, 2010.

64. The Act does not place discretion in the hands of the school districts. It gives parents who meet specified parameters the right to apply for a scholarship and mandates school districts to comply with its terms.

65. To be eligible, students must have (1) spent the school year prior to their application in attendance at a public school, (2) received an Individualized Education Program (IEP) for their disability, (3) gained (through their parents) acceptance in a participating nonpublic school and (4) applied (through their parents) for a scholarship not later than December 1 of the school year in which they desire a scholarship.

66. Once eligible for a scholarship, a student continues to be eligible for a scholarship until he (1) returns to public school, (2) graduates from high school, or (3) reaches the age of twenty-two.

67. The Act expressly provides for continued eligibility for the purpose "of continuity of educational choice." Upon information and belief, the drafters wanted to ensure that students, once eligible for a scholarship, would not be forced back into their former public school systems on the theory that doing so would disrupt their educational and emotional development.

68. The Act imposes upon nonpublic schools a series of detailed requirements and qualifications as a condition for eligibility. Specifically, to be eligible, a nonpublic school must (1) apply for eligibility, (2) specify the grade levels and services that it has available for students with special needs, (3) demonstrate that it meets certain accreditation requirements, (4) demonstrate fiscal stability, (5) demonstrate compliance with the antidiscrimination provisions of Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, (6) demonstrate compliance with certain health and safety codes, (7) be academically accountable to the parent or guardian of participating children, (8) employ teachers with specified minimum credentials, (9) demonstrate compliance with state laws regulating nonpublic schools, and (10) demonstrate compliance with its published disciplinary procedures.

69. The Act also subjects nonpublic schools to a series of governmental controls and safeguards. Specifically, under the Act, the government has authority to (1) review the applications of nonpublic schools and reject them largely at its discretion, (2) review the fiscal soundness of an applicant nonpublic school, (3) ensure that nonpublic schools are in compliance with various safety laws and codes, (4) require that nonpublic schools satisfy the accreditation requirements of the Oklahoma State Department of Education (OSDOE) or another accrediting

association approved by the OSDOE, (5) review the qualifications of the teachers at a participating nonpublic school, (6) review a nonpublic school's compliance with its own disciplinary procedures relating to the expulsion of a student, and (7) require that participating parents agree to comply with their nonpublic school's parental involvement requirements.

70. The Act thus imposes significant costs on nonpublic schools in addition to the general costs of educating a child.

71. In order to reimburse these schools for those significant costs, the Act supplies Child Plaintiffs with a scholarship that they can use to offset a portion of the costs of their education, thus ensuring their ability to pay full tuition or an amount close to full tuition.

72. The Act requires participating students to maintain attendance throughout the school year unless excused for good cause and to comply with the school's code of conduct.

73. The Act similarly requires parents of participating students to timely request a scholarship and comply with their school's parental involvement requirements.

74. Prior to the May 2011 amendments, the Act required school districts to (1) annually report to the State the names of the students who participate in the scholarship program, (2) verify acceptance and enrollment in a participating nonpublic school on a quarterly basis, and (3) provide the scholarship funding as described in the next four paragraphs.

75. Prior to the May 2011 amendments, the Act required school districts to issue scholarships pursuant to the terms of Act to the parent(s) or guardian(s) of eligible children. The named parent(s) or guardian(s) were required to endorse their checks to their child's participating nonpublic school.

76. Accordingly, no money flowed from the school district directly to the nonpublic school; all money first goes to the parents and is directed by them to the school of their true private choice.

77. Prior to the May 2011 amendments, the Act specified that scholarships were to be equivalent to the sum of state funds allocable to the student-applicant. Namely, the scholarship is calculated by adding (1) "the local and county revenue for the school district which is chargeable in the State Aid formula," (2) "state-dedicated revenue," and (3) "state-appropriated funds per weighted average daily membership generated by that student for the applicable school year." However, the scholarship amount was not to be greater than the tuition and fees of the participating student's nonpublic school.

78. The Act further indicated that the weighted average daily membership was to be calculated using a grade multiplier (that is, a numerical factor assigned to each grade level) and a disability multiplier (that is, a numerical factor assigned to each disability), both of which are supplied by the school district to the OSDOE.

79. As amended, the Act places responsibility over issuing scholarship checks with the OSDOE. It is to issue checks to the parent(s) or guardian(s) of eligible children. Parents are required to endorse their checks to their child's participating nonpublic school.

80. Accordingly, no money flows from the school district directly to the nonpublic school; all money first goes to the parents and is directed by them to the school of their true private choice.

81. The formula prescribed by the Act merely takes state funds allocable to the education of the eligible child and enables those funds to follow the child to an eligible nonpublic school.

82. As amended, the Act continues to rely on grade and disability multipliers (numerical factors assigned to each grade level and disability, respectively).

83. Upon information and belief, the OSDOE remains dependent upon the cooperation of the school districts to provide it with accurate information so that it can properly perform the scholarship calculation as mandated by the Act.

84. The formula does not adjust Defendant School Districts' per-pupil state funding.

85. Prior to the May 2011 amendments, a school district had permission to retain as much as 5% of the scholarship amount as an administrative fee.

86. Upon information and belief, the Defendant School Districts retained the full 5% fee for each of their applicants.

87. Upon information and belief, the 5% administrative fee is greater than the actual costs of administering the program. Accordingly, the Act supplied school districts with additional funds.

88. As amended, the Act permits the new administrator of the program, the OSDOE, to retain an administrative fee of up to 2.5% of the scholarship amount.

89. The Act does not impose new liabilities on the State.

90. The Act expressly exempts school districts from having to shoulder additional costs, including for equipment and materials. It also exempts school districts from liability pursuant to their issuance of a scholarship under the Act.

91. The Act expressly exempts school districts from shouldering the costs of transportation to and from the nonpublic schools of scholarship recipients.

92. The Oklahoma State Department of Education (OSDOE) issued regulations under the Act prior to the May 2011 amendments.

93. The regulations specified that school districts are to make payments in arrears on a quarterly basis.

94. The regulations also specified that within ten business days of receiving an application for a scholarship, a school district is obligated to request that the OSDOE calculate the student's maximum scholarship and notify the parents "of the maximum amount of the scholarship in writing in a timely manner, not to exceed thirty business days from the [original application]."

95. The Act, as amended, grants the OSDOE the authority to enforce its provisions.

96. The Act, as amended, grants the OSDOE the right to make retrospective findings relating to prior violations of the Act, and to deprive school districts of funds that should have gone to parents pursuant to the terms of the Act. The relevant section of the Act reads as follows:

If the State Department of Education determines that a school district prior to the effective date of this act has failed to comply with the provisions of the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act and has failed to make full or partial scholarship payments for eligible students, the Department shall have authority to reduce the amount of State Aid allocated to the school district or require the school district to make repayment to the Department of State Aid allocations in an amount equal to the amount of scholarship payments the school district failed to make. The Department shall make payment to the parent or legal guardian in the amount the school district failed to make in the manner as provided for in subsection J of this section.

B. The Act's Legislative History

97. Supporters of the Act introduced the bill (H.B. 3393) as a measure specifically designed to assist students with special needs.

98. Some of the Representatives who opposed the bill spoke about potential state constitutional infirmities. For example, Representative Jordan from the Jenks district noted that a similar scholarship program was previously stuck down by the Arizona Supreme Court on state constitutional grounds. He noted that "[a]fter a long and expensive legal battle, they declared that the scholarship program . . . violated the state's constitution Blaine Amendment, which is the exact same thing we have in Oklahoma under Art. II, § 5" and then commented that the Arizona decision "ought to cause some concern" for Oklahoma lawmakers.

99. Representative Jordan also noted that Defendant Jenks Public Schools has 1954 students on an IEP, indicating that this bill threatens to take a lot of money out of Defendant Jenks' budget.

100. Members in the House argued over whether the Act would result in a net savings to the school districts or a net loss.

101. Many Members argued that because the school districts (by their own admission) actually pay more than they receive for special needs children, the bill actually saves the districts money.

102. Additionally, the Act will result in smaller class sizes and reduced administrative expenses for the school districts.

103. And the Act will remove some students with special needs from the classroom. The students, by virtue of various behavioral and other disorders, might serve as a distraction in the classroom. Their absence may improve the educational opportunities of the other students remaining in the classroom.

104. Speaker *Pro Tempore* Steele, a former public school teacher, said: "I am a proponent of public education. I think most of you know my dad is currently a superintendant at Jones schools. . . . I am a proponent of public education but I am not for protecting the status quo." He later added: "School districts tell me that they lose money with special needs children because they don't receive enough in state aid to actually meet the needs that are adequate for these students. I believe that by capping the amount of this scholarship, we can actually help school districts save money."

105. Representative Nelson noted that the legal staff in the OSDOE reviewed and approved of the bill, as did Governor Henry's office. Nelson further noted that Governor Henry is a committed supporter of public education and nevertheless supported the Act.

106. Senators debating the measure were similarly divided on whether H.B. 3393 would be good or bad for public education.

107. The Senate sponsor, Senator Anderson, noted that he is "a product of public education" who sends his children to public schools. He said that the measure had been reviewed by Sandy Garrett, then-State Superintendent of Public Instruction, a Democrat, and that the version of the bill that ultimately passed incorporated her comments.

108. On May 21, 2010, the Oklahoma House approved H.B. 3393 by a vote of 54 to 46. The Senate approved it on May 26 by a vote of 25 to 22.

109. The Defendant School Districts failed to comply with the Act following its passage, as described below.

110. As a result, Representative Nelson and others introduced a series of amendments in a bill known as HB 1744.

111. The Oklahoma House approved those amendments on May 18, 2011 by a vote of 76 to 19. The Senate approved them on May 19, 2011, by a vote of 36 to 9. They were signed into law by Governor Mary Fallin on May 26, 2011.

112. Explaining the need for the amendments, Representative Nelson, the primary House sponsor of both the original bill and the 2011 amendments, commented: "Last year, several school districts failed to provide scholarships to eligible special needs students, flagrantly violating the law." He added that these amendments "will provide consistency and certainty for students and parents who choose to participate in the program."

113. Representative Nelson additionally said about the 2011 amendments: "I've been stunned by the contempt some school districts have shown toward the law and these children. . . . I'm told by parents that some local districts, in addition to ignoring the new law, are attempting to ignore existing transfer laws in order to deny scholarship to eligible students and have resorted to telling parents that the scholarships are taxable, hoping that will keep them from participating in the program. House Bill 1744 will ensure *rogue officials* don't continue to cause problems for these students and their parents." (emphasis added).

114. Upon information and belief, Representative Nelson's references to "rogue officials" and to several school districts are directed at those with final decision-making authority for the Defendants in this litigation.

115. Upon information and belief, Defendants' illegal actions inspired the May 2011 amendments, which passed overwhelmingly in both chambers of the state legislature.

C. Defendant School Districts' Policy of Noncompliance

116. The Act was signed into law on May 28, 2010.

117. Each of the Parent Plaintiffs applied for scholarships under the Act.

118. Each of the Child Plaintiffs had applications for scholarships made in his or her name.

119. Some of the Parent Plaintiffs applied for scholarships as early as June.

120. For many months following, the Defendants did nothing to suggest that they would not comply with the Act. Indeed, nearly all of the Parent Plaintiffs believed at the time they applied for a scholarship that they would receive one.

121. Plaintiffs Stefan Hipskind and Stephanie Hipskind had email correspondence with Defendant Union Public Schools as late as August 18, 2010. That correspondence clearly

indicated an intent to comply with the Act ("Once all procedures are established, we will be in touch with you *and abide by those procedures.*" (emphasis added)).

122. Plaintiff Amy Howard received email correspondence with Defendant Broken Arrow Public Schools as late as September 30, 2010, which suggested that Defendant Broken Arrow Public Schools still intended to comply with the Act.

123. According to the OSDOE's regulations promulgated pursuant to the original 2010 enactment of the Act, Parent Plaintiffs were entitled to review their "maximum scholarship" calculations in writing no less than thirty business days from the date of their application.

124. None of the Parent Plaintiffs received a written "maximum scholarship" calculation within thirty business days of their application.

125. On or about the last week of October 2010, Defendant Jenks Public Schools sent a mailing to all of its scholarship applicants stating that it believed that the Act is unconstitutional and expressing its policy of noncompliance.

126. Jenks enclosed a "Position Statement" in the mailing.

127. The Jenks Position Statement is materially identical to a letter written by Attorney Doug Mann to the Oklahoma Bar Association in response to a grievance filed against him.

128. In that letter, Mann indicates that he advised seven Tulsa County school districts on the constitutionality of the Act.

129. Upon information and belief, those seven school districts, including Defendant School Districts, did not seek a second opinion from outside attorneys with expertise in constitutional law before announcing their intentions not to comply with the Act.

130. Upon information or belief, the seven school districts, including Defendant School Districts, decided not to comply with the Act by relying exclusively or primarily on the advice of Mann.

131. Among the seven school districts named in Mann's letter are Defendants Broken Arrow, Jenks, Tulsa, and Union Public Schools.

132. In his letter, Mann argues that the Act (1) violates one of Oklahoma's Blaine Amendments (OKLA. CONST. art. II, § 5); (2) the Act interferes with the state's obligation to establish and maintain a free public school system as mandated by Oklahoma's other Blaine Amendment (OKLA. CONST. art. I, § 5) and OKLA. CONST. art. XIII, § 1; (3) the Act mandates school districts to give their parents a "gift" in violation of OKLA. CONST. art. X, § 15; and (4) the Act distinguishes between different classes of students that he deems "identically situated."

133. Defendant Broken Arrow Public Schools issued a press release on January 24, 2011, repeating many of Mann's arguments.

134. The January 24 press release also cites several policy justifications for noncompliance.

135. The January 24 release states, as a justification for noncompliance, that "private schools are able to be selective in their enrollment process."

136. The January 24 press release states, as a justification for noncompliance, that "the eight scholarship requests currently on record with the Broken Arrow school district will cost \$40,000."

137. In the 2008-09 school year, Defendant Broken Arrow Public Schools had a student enrollment of approximately 16,200.

138. The January 24 press release states that Defendant Broken Arrow Public Schools is prepared to spend "\$1.56 per student over the course of" their legal battles against the Act.

139. \$1.56 spent on each of 16,200 students would result in a total amount of \$25,272.

140. Upon information and belief, Defendant Broken Arrow Public Schools will spend much more than \$25,272 in attorney's fees, expenses, employee time, and official time litigating against and otherwise objecting to the Act.

141. Upon information and belief, Defendant Broken Arrow Public Schools has already spent more than \$25,272 in attorney's fees, expenses, employee time, and official time litigating against and otherwise objecting to the Act.

142. In a January 24, 2011 public statement, Mendenhall, Superintendent of Broken Arrow Public Schools, offered a legal opinion about the Act's constitutionality on behalf of Broken Arrow Public Schools.

143. In his January 24 public statement, Mendenhall stated that "[the Act] is in direct violation of the Oklahoma State Constitution."

144. Mendenhall also stated that "[the Act] strikes a blow to both the Oklahoma Constitution and to public school districts across the state."

145. In a January 24, 2011 public statement, Lehman, Superintendent of Jenks Public Schools, offered a legal opinion about the Act's constitutionality on behalf of Jenks Public Schools.

146. In his January 24 public statement, Lehman stated that "[the Act] is unconstitutional."

147. In his January 24 public statement, Lehman also declared that the Act's "primary flaw is that the payment of taxpayer funds . . . to private sectarian school [sic] violates Article II,

section 5 of the Oklahoma Constitution [sic] which precludes the use of public taxpayer funds, directly or indirectly, for the use, benefit, or support of sectarian institutions.”

148. In his January 24 public statement, Lehman also stated that noncompliance with a duly enacted but unconstitutional law is unactionable. Lehman cited a 1940 Oklahoma state court decision as the basis for his legal opinion.

149. The 1940 decision cited by Lehman indicates that disobedience against a law that has been judicially declared unconstitutional cannot be punished.

150. The 1940 decision does not sanction or give license to any government officials who dislike a particular law to declare it “unconstitutional” and act as they choose.

151. In a January 24, 2011 public statement, Burden, Superintendent of Union Public Schools, offered a legal opinion about the Act’s constitutionality on behalf of Union Public Schools.

152. In her January 24 public statement, Burden declared conclusively that “[t]he constitutions of this nation and this state demand a clear separation between church and state and numerous articles in the Oklahoma State Constitution make it abundantly clear that tax dollars cannot be diverted to fund private school systems or those associated with a religious institution.”

153. In her January 24 public statement, Burden also stated that the Act is “about selfish motives that benefit only one child.” Burden also claimed that the Act will “siphon off financial resource[s], parent support, and specific student talent[]” from public school systems.

154. Defendant Board of Education of Jenks Public Schools resolved not to comply with the Act on October 4, 2010.

155. Upon information and belief, the primary purpose of Defendant Jenks Public Schools' policy of noncompliance with the Act is obtaining the greatest possible amount of federal and state taxpayer funds.

156. Lehman's annual salary, which is funded by Defendant Jenks Public Schools, could fund the scholarship for all of his district's applicants under the Act for more than two years.

157. When enacting its policy, Defendant Jenks Public Schools displayed a lack of concern for the education and wellbeing of the Child Plaintiffs.

158. When enacting its policy, Defendant Jenks Public Schools did not take into consideration the academic regression that Child Plaintiffs experienced while students in its school system.

159. Defendant Jenks Public Schools did not attempt to evaluate what would be in the best interests of Plaintiffs G.S., K.F., and M.T. in deciding to not to comply with the Act.

160. Defendant Jenks Public Schools did not anticipate the academic acceleration that the Child Plaintiffs would experience upon enrolling in nonpublic school.

161. Defendant Board of Education of Broken Arrow Public Schools resolved not to comply with the Act on October 4, 2010.

162. Upon information and belief, the primary purpose of Defendant Broken Arrow Public Schools' policy of noncompliance with the Act is obtaining the greatest possible amount of federal and state taxpayer funds.

163. Mendenhall's annual salary, which is funded by Defendant Broken Arrow Public Schools, could fund the scholarship for all of his district's applicants under the Act for more than two years.

164. When enacting its policy, Defendant Broken Arrow Public Schools displayed a lack of concern for the education and wellbeing of the Child Plaintiffs.

165. When enacting its policy, Defendant Broken Arrow Public Schools did not take into consideration the academic regression that Child Plaintiffs experienced while students in its school system.

166. Defendant Broken Arrow Public Schools did not attempt to evaluate what would be in the best interests of Plaintiffs G.B., B.L.R., and T.K. in deciding to not to comply with the Act.

167. Defendant Broken Arrow Public Schools did not anticipate the academic acceleration that the Child Plaintiffs would experience upon enrolling in nonpublic school.

168. Defendant Board of Education Union Public Schools resolved not to comply with the Act on October 11, 2010.

169. Upon information and belief, the primary purpose of Defendant Union Public Schools' policy of noncompliance with the Act is obtaining the greatest possible amount of federal and state taxpayer funds.

170. Burden's annual salary, which is funded by Defendant Union Public Schools, could fund the scholarship for all of her district's applicants under the Act for more than two years.

171. When enacting its policy, Defendant Union Public Schools displayed a lack of concern for the education and wellbeing of the Child Plaintiffs.

172. When enacting its policy, Defendant Union Public Schools did not take into consideration the academic regression that Child Plaintiffs experienced while students in its school system.

173. Defendant Union Public Schools did not attempt to evaluate what would be in the best interests of Plaintiffs L.H., A.J.H., and B.S. in deciding to not to comply with the Act.

174. Defendant Union Public Schools did not anticipate the academic acceleration that the Child Plaintiffs would experience upon enrolling in nonpublic school.

175. The Board of Education of Bixby Public Schools resolved not to comply with the Act on October 11, 2010.

176. On October 12, Owasso Public Schools became the fifth Tulsa-area school district to adopt a policy of noncompliance with the Act.

177. Upon information and belief, Liberty Public Schools also adopted a policy of noncompliance.

178. Defendant Board of Education Tulsa Public Schools resolved not to comply with the Act on October 18, 2010 with respect to those applications not yet received.

179. Upon information and belief, the primary purpose of Defendant Tulsa Public Schools' policy of noncompliance with the Act is obtaining the greatest possible amount of federal and state taxpayer funds.

180. Ballard's annual salary, which is funded by Defendant Tulsa Public Schools, could fund the scholarship for all of his district's applicants under the Act for more than two years.

181. When enacting its policy, Defendant Tulsa Public Schools displayed a lack of concern for the education and wellbeing of the Child Plaintiffs.

182. When enacting its policy, Defendant Tulsa Public Schools did not take into consideration the academic regression that Child Plaintiffs experienced while students in its school system.

183. Defendant Tulsa Public Schools did not attempt to evaluate what would be in the best interests of Plaintiff W.J. in deciding to not to comply with the Act.

184. Defendant Tulsa Public Schools did not anticipate the academic acceleration that the Child Plaintiffs would experience upon enrolling in nonpublic school.

185. On or about June 1, 2011, Defendant Broken Arrow Public Schools explained its decision not to comply with the Act, a law duly enacted by the state legislature. It said that it has "philosophical issue[s]" with the Act.

186. Upon information and belief, Broken Arrow Public School's philosophical issues govern its actions with regard to the Act more than does reason, law, or the best interests of its students.

187. Upon information and belief, attorney Doug Mann is counsel to each of the Defendant School Districts, as well as to Bixby Public Schools, Liberty Public Schools, and Owasso Public schools.

188. Mann's direct involvement in this matter has been reported by Oklahoma media outlets.

189. Mann's actions have harmed the public image of attorneys in the State of Oklahoma.

190. Upon information and belief, the grievance filed against Mann referred to in paragraph 127 was filed in response to the harm that Mann, through his professional actions, is inflicting upon the legal profession in Oklahoma.

191. In their Motion to Dismiss (Dkt. No. 37) and brief in support of that motion (Dkt. No. 38), Defendants confirm that they believe that the Act is unconstitutional and attempt to excuse their noncompliance with it on the grounds that it is facially invalid.

D. Oklahoma's Blaine Amendments

192. As noted, Defendants rely heavily on, as a justification for their noncompliance with the Act, Oklahoma's Blaine Amendments, OKLA. CONST. art. I § 5, and art. II, § 5.

193. The Blaine Amendments prohibit the use of state property in the support of "sectarian" institutions and certain other "sectarian" purposes.

194. When they were enacted, the word "sectarian," and the general thrust of the 'Blaine' provisions, was understood as an impediment on a particular religious minority: Roman Catholics.

195. The use of the word "sectarian" to mean "Catholic" was documented in Oklahoma at around the time of the state's founding. *See, e.g., Indian Schools*, INDIAN ADVOCATE 62, 63 (Feb. 1904).

196. The Blaine Amendments were part of a broad trend, which long pre-dated Oklahoma's statehood, to use law to marginalize the growing Catholic community in the United States.

197. These provisions came to be known by the name "Blaine Amendments" because of their relationship to the 1875 Speaker of the United States House of Representatives, James G. Blaine.

198. Speaker Blaine proposed an amendment to the Federal Constitution that would have imposed a bar to funding to certain "sectarian" organizations.

199. The debates of the floor on the United States Senate, in which Senators were discussing the merits of Blaine's proposed amendment, repeatedly referred to the Roman Catholic Church.

200. Senators who supported the amendment used rhetoric such as the following:

[T]here is a large and growing class of people in this country who are utterly opposed to our present system of common schools The liberty of conscience, while it is universal in every church but one, is not a liberty of conscience to stand in the way of [the development of public highways and common schools] The supposed infallibility of the Holy Father would be a sufficient refutation of the suggestion [that the Catholic Church advances religious liberty], for it is the greatest maxim of the executive affairs in that hierarchy, *semper eadem*—it never changes [T]hese dogmas [of intolerance] . . . are at this moment the earnest, effective, active dogmas of the most powerful religious sect that the world has ever known, or probably ever will know—a church that is universal, ubiquitous, aggressive, restless, and untiring.

4 CONG. REC. 5585, 87, 88 (1876).

201. Although the Federal Blaine Amendment did not become law, it was followed by similar proposals in many states. Blaine's supporters turned to the state legislatures to enact similar provisions in their state constitutions. Their ideological predecessors (dating back to the 1840s) and heirs (dating up to the early twentieth century) managed to get forty-one states to adopt a state version of the Blaine Amendment.

202. Virtually all of the Blaine Amendments, including Oklahoma's, were enacted during a period in the late eighteenth century and early nineteenth century of severe nativism, xenophobia, and religious strife in which much legal action was motivated by hostility towards Catholics.

203. The Supreme Court in *Mitchell v. Helms*, 530 U.S. 793, 828-29 (2000), condemned the ideological doctrines embodied by the Blaine Amendments in strong terms, stating that they have a "shameful pedigree," were "born of bigotry," and "should be buried now."

204. Anti-Catholicism in Oklahoma's early history is manifested not just in its Blaine Amendments but in other legal arenas as well.

205. For example, Oklahoma's prohibition of alcohol during the early twentieth century was motivated primarily by anti-Catholicism.

206. As one scholar recently explained, prohibition “was part of a pattern of anti-Catholic sentiment that flourished in early twentieth-century Oklahoma. Groups, such as the Guardians of Liberty and the Knights of Luther, formed to foil alleged Catholic plots to overthrow the federal and state governments.” James Edward Klein, *GRAPPLING WITH DEMON RUM: THE CULTURAL STRUGGLE OVER LIQUOR IN EARLY OKLAHOMA* 87 (2008).

207. Early public schools in the United States were dominated by nondenominational Protestant theology and values.

208. Horace Mann, referred to by many as the “father of public education,” advocated for public schools that advanced a “vague and inclusive Protestantism” and required daily Bible reading.

209. The Bible commonly used in the public schools of the early twentieth century was not any Bible of a students’ (or his parents’) choosing, but the King James Bible. Jewish and Catholic public school students, who largely objected to the use of the King James Bible, were often nevertheless required to join their class as they read from a Protestant version of the Bible.

210. Oklahoma’s early public schools were no less religious than those of the rest of the country.

211. Oklahoma’s early public schools used the McGuffey Readers.

212. The McGuffey Readers seek to indoctrinate students with Protestant morality and religious thought.

213. Religious Protestants maintained a strong influence over the school system throughout Oklahoma’s early decades.

214. That heavy Protestant influence in Oklahoma’s early public schools was influential in the 1923 decision to ban the teaching of evolution in Oklahoma’s public schools.

215. The banner of anti-Catholicism in Oklahoma's public schools was carried prominently by the Ku Klux Klan in the 1920s.

216. One of Oklahoma's Blaine Amendments was mandated by Congress. The Enabling Act of the State of Oklahoma of 1906, Pub. L. No. 59-234, ch. 3335, § 510, 34 STAT. 267, 270-71 (1906), required, as a condition on statehood, Oklahoma to adopt in its original constitution a provision requiring "the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control"

217. The Enabling Act Congress had the same nefarious anti-Catholic motives as the Congress that attempted to pass the Federal Blaine Amendment.

218. The Enabling Act Congress sought to defund Catholic education.

219. Congress had a history of disenfranchising Catholics in the Indian and Oklahoma Territories (which would later become the State of Oklahoma).

220. Congress originally funded missionary churches in Indian Territory in its patronizing attempts to Christianize Native American communities. W. DAVID BAIRD AND DANNEY GOBLE, OKLAHOMA: A HISTORY 138 (2008). However, once it became evident in 1896 that most of those government funds were going to Catholic mission schools, Congress revoked funding of "sectarian" schools. *No Sectarian Support*, N.Y. TIMES, Feb. 25, 1896.

221. The word "sectarian" in the Enabling Act provision was, as the Supreme Court has said, widely recognized as "code for 'Catholic.'" *Mitchell v. Helms*, 530 U.S. 793 (2000).

222. The word "sectarian" in the Enabling Act provision was recognized by the Indian and Oklahoma Territories as code for Catholic.

223. Oklahoma's Blaine Amendments were not bans on religious control of schools or the teaching of religious doctrine. They were instead attempts to marginalize Catholics and make the practice of Catholicism as difficult as possible.

224. OKLA. CONST. art. I, § 5 is the codification of the language in the Enabling Act and reflects the intent of the Enabling Act.

225. OKLA. CONST. art. II, § was enacted with the purpose of anti-Catholicism by prohibiting, on the basis of "sectarian" identity, certain types of direct and indirect aid.

E. Harms Inflicted by Defendant School Districts

226. Many of the Plaintiffs cannot afford to keep their children in nonpublic school, but have resolved that they will find a way to do so anyway, even at great cost and personal sacrifice.

227. Because of Defendants' refusal to carry out the provisions of the Act, and Plaintiffs' financial hardship, some of the nonpublic schools attended by Child Plaintiffs allowed Child Plaintiffs to attend for free or at significantly reduced cost.

228. Child Plaintiffs L.H., B.L.R., B.S., and M.T., struggled academically and performed below their ability as a result of the educational services they received in public school.

229. Child Plaintiffs A.J.H. and T.K. regressed academically as a result of the educational services they received in public school.

230. Without the benefits of the Act, many of the Parent Plaintiffs would have to send their children back to their former public schools.

231. Re-enrollment in public school would be highly detrimental to the Child Plaintiffs.

232. Parent Plaintiffs fear for their children should they have to re-enroll in public school.

233. Upon information and belief, Defendants have not undertaken any evaluation of whether re-enrollment in public schools would be in the best interests of the Child Plaintiffs.

234. Defendants' public schools are, in some cases, unsafe for the Child Plaintiffs.

235. Defendants' public schools do not, in some cases, have adequate resources to meet the needs of the Child Plaintiffs.

236. Defendants' public schools are not, in some cases, properly staffed to meet the needs of the Child Plaintiffs.

237. Staff members at Defendants' public schools are, in some cases, not properly trained to meet the needs of the Child Plaintiffs.

238. Staff members at Defendants' public schools are, in some cases, not sufficiently patient to meet the needs of the Child Plaintiffs.

239. Staff members at Defendants' public schools are not adequately trained to meet the needs of the Child Plaintiffs.

240. Defendants' schools are unwilling to properly accommodate Child Plaintiffs.

241. Defendants' schools are unwilling to meet the needs of Child Plaintiffs.

242. On or about June 13, 2011, after receiving Plaintiff's original Complaint (Dkt. No. 2) and being informed of the Plaintiffs' dissatisfaction with its special education services, Defendant Tulsa Public Schools opted to cut approximately \$4.2 million from its special education budget.

243. These cuts give rise to an inference that Tulsa Public Schools and Tulsa Public Schools decision-makers will be unable or unwilling to meet the needs of special education students.

244. Plaintiff B.L.R., child of Plaintiffs Mike and Amy Howard, was beaten with nunchucks by another student while in his public school during school hours.

245. Plaintiff B.L.R. was shoved by a substitute teacher, an agent or employee of Defendant Broken Arrow Public Schools, while in his public school during school hours.

246. Plaintiff B.L.R. has his head shoved in a toilet while in his public school during school hours.

247. Plaintiff B.L.R. was left outside by himself for an extended period of time during the school day and by an agent or employee of his public school as a means of punishing him for behavior caused by his disabilities.

248. Plaintiff B.L.R. cried daily and stated that he wanted to kill himself due to the manner of his suffering at his public school, which is part of Defendant Broken Arrow Public Schools.

249. Defendant Broken Arrow made no attempt to inform Plaintiffs Mike and Amy Howard of the suffering that B.L.R. went through while under their care.

250. If he is denied the benefits of the Act, Plaintiffs Jerry and Shanna Sneed will probably have to re-enroll their son in public school.

251. Plaintiff B.S., the child of Plaintiffs Jerry and Shanna Sneed, suffered severe emotional, mental, and physical abuse while a child in public school.

252. If re-enrolled in public school, Plaintiff B.S. would suffer continued severe emotional, mental, and physical abuse.

253. Plaintiff G.S., the child of Plaintiffs Russell and Stephanie Spry, was severely bullied because of his special needs while a student in public school.

254. Plaintiff G.S. has not been bullied in his nonpublic school.

255. If re-enrolled in public school, Plaintiff G.S. would suffer from repeated severe bullying.

256. Plaintiff G.S. suffered academically while in public school.

257. The special education coordinator for Defendant Jenks Public Schools recommended to Plaintiffs Russell and Stephanie Spry that Plaintiff G.S. be enrolled in nonpublic school.

258. Plaintiff K.F., the child of Plaintiffs Tim and Kimberly Fisher, was severely bullied while a student in Jenks Public Schools.

259. Jenks Public Schools did not once punish any of Plaintiff K.F.'s bullies. Instead, they punished Plaintiff K.F. by lecturing her and otherwise harassing her as a result of the manner of her reactions to the constant and degrading teasing and other bullying that she was made to suffer while in public school.

260. Defendant Jenks Public Schools knows and has known for years that Plaintiff K.F. is autistic.

261. Defendant Jenks Public Schools knows or should know that an autistic child will generally not respond the same way to constant and degrading teasing and other bullying that would a child who is not autistic.

262. As a result of the constant teasing that Plaintiff K.F. suffered in public school, she needed to be placed on anti-depressant medication.

263. Plaintiff K.F. did not have friends while a student in public school.

264. Upon information and belief, Defendant Jenks Public Schools was either willfully blind to or unconcerned about Plaintiff K.F.'s emotional state while she was a student under its care.

265. When Plaintiffs Tim and Kristin Fisher sought to transfer their daughter to an eligible nonpublic school so that she could receive a better and more effective education and would be eligible for a scholarship pursuant to the Act, Defendant Jenks Public Schools became hostile towards them.

266. Defendant Jenks Public Schools refused to release records to Plaintiffs Tim and Kristin Fisher that the Fishers needed to comply with the terms of the Act.

267. Defendant Jenks Public Schools refused to assist Plaintiffs Tim and Kristin Fisher as the Fishers sought a scholarship for Plaintiff K.F.

268. When Plaintiffs Tim and Kristin Fisher contacted the office within Defendant Jenks Public Schools that is responsible for processing matters relating to the Act, rather than assisting them with the information that they needed, the Fishers were directed to contact a nonpublic school to which their records were already sent.

269. Upon information and belief, that office of Defendant Jenks Public Schools had access to the information that the Fishers sought and withheld it from them in retaliation for seeking a scholarship.

270. Plaintiff Marjorie Boyd-Lyons has experienced great emotional distress based on the uncertainty about whether she would be able to obtain a scholarship for her child.

271. Plaintiff Nancy Kimery, after learning of the Act, and in good faith expectation that Defendant Broken Arrow Public Schools would comply with it, made a promise to her son that he would be able to remain in nonpublic school as long as he needs to be there.

272. Plaintiff Nancy Kimery believes that her son, Plaintiff T.K., loves his new school and is, for the first time in a long time, a happy child.

273. Plaintiff T.K. cried every day due to his suffering in his public school, which is maintained by Defendant Broken Arrow Public Schools.

274. Kimery is grateful in particular that her son no longer must eat lunch in the public school lunch room that she has described as "Hell."

275. On October 31, 2008, Plaintiffs Tim and Kimberly Tylicki received a call from Defendant Jenks Public Schools asking them to come to their son's (Plaintiff M.T.'s) school.

276. Calls such as the one that the Tylickis received on October 31, 2008 occurred frequently because of Defendant Jenks Public Schools' inability to manage Plaintiff M.T.'s condition.

277. After receiving that phone call on October 31, 2008, Plaintiff Tim Tylicki went to his son's school expecting to be asked to take Plaintiff M.T. home. To his surprise, he was asked to attend, without notice or prior warning, a meeting to review M.T.'s IEP.

278. Typically, IEP review meetings are noticed in writing long before they are held.

279. Typically, parents invited to attend an IEP meeting are informed of the subject matter likely to be discussed during the meeting.

280. Plaintiff Tim Tylicki did not have the benefit of prior notice or the ability to review his notes and collect his thoughts on the subject matters discussed at his son's IEP review meeting.

281. At that meeting, agents and/or employees of Jenks Public Schools informed Tylicki that from that day forward they would only be educating Plaintiff M.T. for a half-day (literally halving Plaintiff M.T.'s educational opportunities) and then threatened Tylicki by saying that if Plaintiff M.T. was unable to remain in his class at least 75% of his new reduced schedule, he would be dismissed from school and that the Tylickis would be forced to homeschool.

282. Defendant Jenks Public Schools further informed Tylicki that in the event that they forced the Tylickis to homeschool their child, Defendant Jenks Public Schools would provide the Tylickis with a tutor for just three hours per week.

283. Upon information and belief, Defendant Jenks believed that it could do just as good of a job educating M.T. in three hours at home using a private tutor as it did over the course of an entire week in school.

284. Plaintiff Tim Tylicki rejected Defendant Jenks Public School's ultimatum. Plaintiff M.T. remained in his public school until leaving to take advantage of the benefits provided to him by the Act.

285. Some of the Parent Plaintiffs may be able to afford to keep their children in a nonpublic school to provide them with the special assistance that they believe their children need. But many will have to make significant lifestyle changes in order to do so.

286. For example, the Plaintiffs Russell and Stephanie Spry might have to sell their vehicle or vehicles and purchase cheaper ones.

287. Plaintiffs Tim and Kimberly Tylicki might have to borrow against a life insurance policy.

288. Plaintiffs Tim and Kristin Fisher have already taken out a bank loan to pay the portion of Plaintiff T.K.'s tuition that should be, but has not been, covered by their Henry scholarship.

289. As alleged below, Jenks Public Schools has failed to provide Plaintiff K.F. with the entire scholarship that she is owed. If they had, Plaintiffs Tim and Kristin Fisher would have had no need to take out a bank loan.

290. Plaintiffs Tim and Kristin Fisher previously had to sell their house to help pay for their daughter's medical bills.

291. If Child Plaintiffs re-enrolled in public school, they would suffer from retaliation by their school districts.

292. Plaintiff Nancy Kimery has already been retaliated against by Defendant Broken Arrow Public Schools.

293. Plaintiff Nancy Kimery is a former educator and was offered a part time job by Defendant Broken Arrow at around the same time that she sought a scholarship under the Act for the benefit of her son.

294. Kimery was more than qualified for the job but wanted the work and knew many of the people she would be working with from her prior employment as a teacher.

295. Kimery was told to report to her assigned school one Wednesday morning to fill out the necessary paperwork and commence her employment.

296. Upon information and belief, Defendant Broken Arrow Public Schools learned of Plaintiff Kimery's intent to apply for a scholarship under the Act prior to the commencement of her employment.

297. Within a week of the day that Plaintiff Kimery was instructed to report to her assigned school, Defendant Broken Arrow Public Schools contacted Kimery to inform her that the job for which she had been hired no longer exists.

298. Plaintiff W.J., the minor child of Plaintiffs, Curtis and Jane Johnson, has been beaten by other children while in his former public school, a school controlled by Defendant Tulsa Public Schools.

299. Employees and/or agents of Defendant Tulsa Public Schools were present during at least one episode of physical violence against Plaintiff W.J.

300. Employees and/or agents of Defendant Tulsa Public Schools have discouraged Plaintiff W.J. from reporting episodes of violence against him.

301. Employees and/or agents of Defendant Tulsa Public Schools have punished Plaintiff W.J. as a result of his efforts to report episodes of violence against him.

302. Upon information and belief, employees and/or agents of Defendant Tulsa Public Schools have never punished (whether via detention, suspension, expulsion, or any other means) the student or students for harming Plaintiff W.J. during school hours and on school grounds.

303. Upon information and belief, any action that that Defendant Tulsa Public Schools might have taken against the student or students who harmed Plaintiff W.J. was applied against such student (the bully) and Plaintiff W.J. (the victim) equally or to the primary detriment of Plaintiff W.J.

304. Plaintiff Jane Johnson was previously a successful engineer and is now a stay at home mom.

305. Plaintiff Jane Johnson was compelled to leave her job as an engineer in order to tutor her son after school, due to Defendant Tulsa Public School's failure to protect Plaintiff W.J. from harm while at school, and as a result of Tulsa Public Schools' hostile posture in dealing with Plaintiffs Curtis and Jane Johnson.

306. Plaintiff W.J. was bullied for a period of about three years while in attendance at his school.

307. For approximately three months, Plaintiff Jane Johnson sat in her son's school playground while he was at recess to ensure her son's safety.

308. Employees and/or agents of Defendant Tulsa Public Schools have demanded that Plaintiff W.J. be medicated in a manner inconsistent with the directions of W.J.'s physician.

309. Upon information and belief, some of those employees and/or agents who recommended a particular medical treatment were aware that W.J.'s physician made a contrary recommendation.

310. Upon information and belief, some of those employees and/or agents who recommended a particular medical treatment did not retract (or affirmatively repeated) their recommendation upon learning that W.J.'s physician made a contrary recommendation.

311. Upon information and belief, those employees and/or agents who recommended a particular medical treatment were not themselves physicians.

312. Upon information and belief, those employees and/or agents who recommended a particular medical treatment did not have sufficient medical training to qualify them to opine as they did.

313. Upon information and belief, those employees and/or agents who recommended a particular medical treatment did so without regard for the best interests of W.J.

314. On at least one occasion, W.J. was beaten by another student while one of his teachers watched.

315. As a result of that incident, the school nurse called Plaintiffs Curtis and Jane Johnson to inform them of their son's condition. Curtis and Jane Johnson subsequently took Plaintiff W.J. to a physician to assess Plaintiff W.J.'s injuries.

316. After speaking with the school nurse over the phone and hearing of their son's beating, Plaintiffs Curtis and Jane Johnson came to Plaintiff W.J.'s school. Jane Johnson, still

quite upset, needed to remain in the car until her emotions could settle. Curtis Johnson went to find the nurse and to pick up his son.

317. Plaintiff Curtis Johnson found Plaintiff W.J. bleeding. His back, from his neck to his waist, was bruised and bloody.

318. Meanwhile, Plaintiff Jane Johnson, still in her car, saw the school's principal literally run out of the school building. Plaintiffs Curtis Johnson and W.J. came out of the building shortly thereafter. Curtis called out to the principal to show her W.J.'s injuries.

319. Rather than talking with Plaintiff Curtis Johnson, W.J.'s principal got in her car and drove away.

320. Upon information and belief, W.J.'s principal left the school in an effort to avoid speaking to Plaintiffs Curtis and Jane Johnson.

321. After another episode of severe violence against W.J. by a fellow student on school grounds and during school hours, W.J. reported the incident to his principal requesting permission to call his father.

322. In response, not only did the principal fail to allow W.J. to use the telephone, the principal demanded that W.J. describe the incident in his own pen in a letter to the principal.

323. The principal read W.J.'s written description, stated the principal's disapproval of the description, and demanded that W.J. write it again. When W.J. repeated the same story, his principal sent him out of the office.

324. Plaintiffs Curtis and Jane Johnson have been repeatedly discouraged by agents and/or employees of Defendant Tulsa Public Schools from taking advantage of the Act and enrolling their child in private school.

325. Upon learning that Curtis and Jane Johnson were considering sending W.J. to a nonpublic school pursuant to the Act, Defendant Tulsa Public Schools made two offers to the Johnson family designed to entice them not to apply for benefits under the Act.

326. Those offers both involved considerable expense to Defendant Tulsa Public Schools over a period of many years.

327. Upon information and belief, those offers entailed violations of the District's own rules.

328. Defendant Tulsa Public Schools has attempted to impede Plaintiffs Curtis and Jane Johnson's efforts to take advantage of the Act.

329. For example, Defendant Tulsa Public Schools has made it difficult for Plaintiffs Curtis and Jane Johnson to obtain teacher recommendations, which were necessary for Plaintiff W.J.'s enrollment in a nonpublic school.

330. Similarly, upon information and belief, Defendant Tulsa Public Schools has taken efforts to alter or otherwise affect Plaintiff W.J.'s academic record.

331. Defendant Tulsa Public Schools has no ability to effectively and safely care for Plaintiff W.J.

332. Defendant Tulsa Public Schools has no ability to protect the Johnson family from the retaliation of the district's employees and/or agents.

333. Defendant Tulsa Public Schools and Superintendent Ballard have adopted a policy of retaliating against the Johnsons and others who are similarly situated.

334. Defendants' actions have forced Plaintiffs to disclose or make public previously private information about Child Plaintiffs' special needs that were previously confidential.

335. By forcing Child Plaintiffs to make their special needs public, Defendants display a lack of concern for the best interests of the Child Plaintiffs.

336. Defendant Tulsa Public Schools is not compliant with the requirements of No Child Left Behind, a series of federal laws and regulations.

337. Upon information and belief, Defendant Jenks Public Schools has a history of noncompliance with disability law.

338. Upon information and belief, there is an open complaint with the United States Department of Education regarding Defendant Jenks Public Schools' prior violations of disability law, including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

339. Should the Department of Education act on the complaint, it could lead to sanctions against Defendant Jenks Public Schools.

340. Upon information and belief, Defendant Jenks Public Schools has a history of negligently exposing its students to toxic substances.

341. Upon information and belief, Defendant Jenks Public Schools attempted to conceal the aforementioned exposure to toxic substances, demonstrating its inability to properly deal with vulnerable and trusting students, particularly those with special needs.

342. Upon information and belief, Defendant Jenks Public Schools has a history of acting as though it is exempt from complying with state and federal law.

343. Similarly, Defendant Broken Arrow Public Schools has been the subject of official investigations regarding its improper use of money.

344. The Attorney General of Oklahoma recently suggested in an official report that agents and/or employees of Defendant Broken Arrow might have committed criminal violations.

345. Upon information and belief, Defendant Broken Arrow Public Schools has acted in the past as if it were exempt from complying with state and federal law.

346. Defendant Tulsa Public Schools has demonstrated deficiency in its reading program.

347. Defendant Tulsa Public Schools' mathematics 2008-09 proficiency rate for special education students was 48.68%. The state target was 60.93%.

348. Defendant Tulsa Public Schools' reading 2008-09 proficiency rate for special education students was 46.15%. The state target was 62.13%.

349. In the school year 2008-09, only 47.62% of children in Defendant Tulsa Public Schools' program for preschool special education were performing academically on target with their peers when they turned age six or left the program. The state average was 55.0%.

350. In the school year 2008-09, only 50.00% of children in Defendant Tulsa Public Schools' program for preschool special education were functioning within age expectations regarding their social-emotional skills when they turned age six or left the program. The state average was 54.50%.

351. In the school year 2008-09, only 57.14% of children in Defendant Tulsa Public Schools' program for preschool special education were functioning within age expectations regarding their behavioral skills when they turned age six or left the program. The state average was 67.70%.

352. Defendant Union Public Schools' mathematics 2008-09 proficiency rate for special education students was 59.95%. The state target was 60.93%.

353. Defendant Union Public Schools' reading 2008-09 proficiency rate for special education students was 57.02%. The state target was 62.13%.

354. The OSDOE graded Defendant Broken Arrow Public Schools' special education program as "Needs Assistance" for school years 2005-06 and 2006-07.

355. The OSDOE graded Defendant Tulsa Public Schools' special education program as "Needs Assistance" for school years 2007-08.

356. The OSDOE graded Defendant Union Public Schools' special education program as "Needs Assistance" for school years 2005-06.

F. The Benefits of Nonpublic Schools for Child Plaintiffs

357. Former Governor Brad Henry signed the Act into law the day following its passage by the legislature in 2010.

358. Transferring to nonpublic school has been highly beneficial for all of the Child Plaintiffs.

359. Parent Plaintiffs are all very pleased by the results they have seen from their nonpublic schools.

360. Child Plaintiffs have progressed considerably in the few months that they have been enrolled in nonpublic school.

361. Child Plaintiffs are progressing at a greater rate while in nonpublic school than they did while in public school.

362. Child Plaintiffs are generally happy in nonpublic school.

363. Child Plaintiffs were generally unhappy in public school.

364. If Child Plaintiffs continue to progress as a result of their nonpublic education, they are more likely to become more productive citizens of the State of Oklahoma as a result of their enrollment in their nonpublic schools.

365. The enrollment of Child Plaintiffs in nonpublic school is a significant benefit to themselves, their families, their communities, and to the entire State of Oklahoma.

366. For example, Plaintiffs L.H. and A.J.H., the minor children of Plaintiffs Stefan and Stephanie Hipskind, improved academically shortly after enrolling in nonpublic school.

367. Plaintiff W.J., the minor child of Curtis and Jane Johnson, reports being extremely happy in his new nonpublic school. His parents state: "He is a new child these days. He is happy, meltdowns almost nonexistent now." They further report that his life is much better as a result of withdrawing from public school and enrolling in nonpublic school.

368. Plaintiff W.J. is being challenged academically in nonpublic school in ways that he was not while in public school. The academic challenges granted to him are enabling him to develop as a confident student. His public school did not provide him that opportunity.

369. Plaintiff W.J.'s confidence is greater now that he is enrolled in nonpublic school. He has more friends, is happier, and is a better student.

370. Plaintiff K.F., the minor child of Plaintiffs Tim and Kristin Fisher, feels welcome in her new nonpublic school. Unlike her experience in public school, she is happy, is not bullied, and has developed friendly relationships.

371. Plaintiff K.F. is no longer on the anti-depressant medication that she needed to take as a result of her negative experiences in public school.

372. Plaintiffs Mike and Amy Howard are frightened by the prospect of re-enrolling their child in public school because their son, while a public school student, was bullied severely.

373. The interests of Child Plaintiffs are better served in their nonpublic schools than in Defendants' public schools.

G. Defendant School Districts' Temporary Policy Change

374. Defendant School Districts have all announced that they are temporarily suspending their Policies of non-compliance.

375. On January 18, 2011, Attorney General Scott Pruitt wrote a letter to the Superintendents of Defendants Broken Arrow Public Schools, Jenks Public Schools, and Union Public Schools, and to Liberty Public Schools. The letter warned some Defendant Board Members that they risked significant legal liability for their "willful neglect or disobedience" of their duties under the Act.

376. On January 18, 2011, Defendant Tulsa Public Schools voted to rescind its Policy of noncompliance as it related to the scholarship applications not received prior to October 18, 2010.

377. On information and belief, this vote was not a good faith policy change, but was instead taken to avoid pressure from the Attorney General.

378. On January 24, 2011, Defendants Broken Arrow Public Schools, Jenks Public Schools, and Union Public Schools voted to temporarily stay their Policy of noncompliance while they sought an injunction against the Attorney General in state court.

379. On January 24, 2011, Defendants Broken Arrow Public Schools, Jenks Public Schools, and Union Public Schools also indicated that they would seek a declaratory judgment on the constitutionality of the Act.

380. No such action has been filed and Defendant School Districts have not retracted their January 24 statements. As a result, Parent Plaintiffs are in limbo as they prepare for the coming school year not knowing whether the Defendant School Districts intend to comply with state law in September, 2011.

381. Upon information and belief, Defendant School Districts have deliberately placed Parent Plaintiffs in limbo in order to retaliate against them for accepting a scholarship pursuant to the Act.

382. Defendants Broken Arrow Public Schools, Jenks Public Schools, Tulsa Public Schools, and Union Public Schools have colluded to assist each other violate the Act.

383. Defendants Broken Arrow Public Schools, Jenks Public Schools, Tulsa Public Schools, and Union Public Schools have agreed to partner in fighting the Act in court.

384. Defendants Broken Arrow Public Schools, Jenks Public Schools, Tulsa Public Schools, and Union Public Schools have agreed to share their assets—taxpayer dollars paid by the Parent Plaintiffs and others—to pay the legal fees of each district as they attempt to fight the Act.

385. Upon information and belief, Defendants' efforts to comply with the Act since announcing their temporary suspensions of their policies have not been in good faith.

H. Defendant School Districts' Current Policy

386. As alleged above, Jarod Mendenhall, Kirby Lehman, Keith Ballard, and Cathy Burden have final decision-making authority for Defendants Broken Arrow Public Schools, Jenks Public Schools, Tulsa Public Schools, and Union Public Schools, respectively.

387. Decisions and policies of Jarod Mendenhall constitute an official policy of Defendant Broken Arrow Public Schools.

388. Decisions and policies of Kirby Lehman constitute an official policy of Defendant Jenks Public Schools.

389. Decisions and policies of Keith Ballard constitute an official policy of Defendant Tulsa Public Schools.

390. Decisions and policies of Cathy Burden constitute an official policy of Defendant Union Public Schools.

391. Mendenhall, Lehman, Ballard, and Burden have all adopted, on behalf of their respective school districts, policies of non-compliance with the Act.

392. Mendenhall, Lehman, Ballard, and Burden are indifferent to the statutory and constitutional rights possessed by the Plaintiffs.

393. Defendant School Boards are indifferent to the statutory and constitutional rights possessed by the Plaintiffs.

394. Upon information and belief, Mendenhall and/or other high-ranking officials within Defendant Broken Arrow Public Schools have failed to adequately train their agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

395. Upon information and belief, Lehman and/or other high-ranking officials within Defendant Jenks Public Schools have failed to adequately train their agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

396. Upon information and belief, Ballard and/or other high-ranking officials within Defendant Tulsa Public Schools have failed to adequately train their agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

397. Upon information and belief, Burden and/or other high-ranking officials within Defendant Union Public Schools have failed to adequately train their agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

398. Upon information and belief, Mendenhall and/or other high-ranking officials within Defendant Broken Arrow Public Schools have deliberately withheld proper training to those give the responsibility of carrying out the terms of the Act.

399. Upon information and belief, Lehman and/or other high-ranking officials within Defendant Jenks Public Schools have deliberately withheld proper training to those given the responsibility of carrying out the terms of the Act.

400. Upon information and belief, Ballard and/or other high-ranking officials within Defendant Tulsa Public Schools have deliberately withheld proper training to those given the responsibility of carrying out the terms of the Act.

401. Upon information and belief, Burden and/or other high-ranking officials within Defendant Union Public Schools have deliberately withheld proper training to those given the responsibility of carrying out the terms of the Act.

402. Upon information and belief, Mendenhall and/or other high-ranking officials within Defendant Broken Arrow Public Schools affirmatively instructed their agents and/or employees to take measures, whether legal or not, to minimize the scholarships paid to the Plaintiffs.

403. Upon information and belief, Lehman and/or other high-ranking officials within Defendant Jenks Public Schools affirmatively instructed their agents and/or employees to take measures, whether legal or not, to minimize the scholarships paid to the Plaintiffs.

404. Upon information and belief, Ballard and/or other high-ranking officials within Defendant Tulsa Public Schools affirmatively instructed their agents and/or employees to take measures, whether legal or not, to minimize the scholarships paid to the Plaintiffs.

405. Upon information and belief, Burden and/or other high-ranking officials within Defendant Union Public Schools affirmatively instructed their agents and/or employees to take measures, whether legal or not, to minimize the scholarships paid to the Plaintiffs.

406. Defendant Board of Education of Broken Arrow Public Schools has failed to adequately train its agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

407. Defendant Board of Education of Broken Arrow Public Schools has failed to supervise its agents and/or employees to ensure compliance with statutory and constitutional law.

408. Defendant Board of Education of Jenks Public Schools has failed to adequately train its agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

409. Defendant Board of Education of Jenks Public Schools has failed to supervise its agents and/or employees to ensure compliance with statutory and constitutional law.

410. Defendant Board of Education of Tulsa Public Schools has failed to adequately train its agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

411. Defendant Board of Education of Tulsa Public Schools has failed to supervise its agents and/or employees to ensure compliance with statutory and constitutional law.

412. Defendant Board of Education of Union Public Schools has failed to adequately train its agents and/or employees to enable them to effectively discharge their obligations to the Plaintiffs pursuant to the Act.

413. Defendant Board of Education of Union Public Schools has failed to supervise its agents and/or employees to ensure compliance with statutory and constitutional law.

414. Defendant Broken Arrow Public Schools has adopted a custom of failing to properly classify its students' disabilities.

415. Defendant Broken Arrow Public Schools has adopted a custom of failing to properly report to the OSDOE information regarding its students' disabilities.

416. Defendant Jenks Public Schools has adopted a custom of failing to properly classify its students' disabilities.

417. Defendant Jenks Public Schools has adopted a custom of failing to properly report to the OSDOE information regarding its students' disabilities.

418. Defendant Tulsa Public Schools has adopted a custom of failing to properly classify its students' disabilities.

419. Defendant Tulsa Public Schools has adopted a custom of failing to properly report to the OSDOE information regarding its students' disabilities.

420. Defendant Union Public Schools has adopted a custom of failing to properly classify its students' disabilities.

421. Defendant Union Public Schools has adopted a custom of failing to properly report to the OSDOE information regarding its students' disabilities.

422. Upon information and belief, Kirby Lehman has threatened teachers in his district to coerce them to publicly oppose the Act.

423. Upon information and belief, other high-ranking officials of Defendant Jenks Public Schools have attempted to coerce its teachers and other staff to publicly oppose the Act.

424. Upon information and belief, high-ranking officials of Defendant Broken Arrow Public Schools have attempted to coerce its teachers and other staff to publicly oppose the Act.

425. Upon information and belief, high-ranking officials of Defendant Tulsa Public Schools have attempted to coerce its teachers and other staff to publicly oppose the Act.

426. Upon information and belief, high-ranking officials of Defendant Union Public Schools have attempted to coerce its teachers and other staff to publicly oppose the Act.

427. Defendant Broken Arrow Public Schools has adopted a policy of making it difficult for parents to request or receive scholarships pursuant to the Act.

428. Upon information and belief, Defendant Broken Arrow Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

429. Defendant Broken Arrow Public Schools has adopted a policy of minimizing scholarship payments to the Plaintiffs.

430. Upon information and belief, Defendant Broken Arrow Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

431. Defendant Jenks Public Schools has adopted a policy of making it difficult for parents to request or receive scholarships pursuant to the Act.

432. Upon information and belief, Defendant Jenks Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

433. Defendant Jenks Public Schools has adopted a policy of minimizing scholarship payments to the Plaintiffs.

434. Upon information and belief, Defendant Jenks Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

435. Defendant Tulsa Public Schools has adopted a policy of making it difficult for parents to request or receive scholarships pursuant to the Act.

436. Upon information and belief, Defendant Tulsa Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

437. Defendant Tulsa Public Schools has adopted a policy of minimizing scholarship payments to the Plaintiffs.

438. Upon information and belief, Defendant Tulsa Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

439. Defendant Union Public Schools has adopted a policy of making it difficult for parents to request or receive scholarships pursuant to the Act.

440. Upon information and belief, Defendant Union Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

441. Defendant Union Public Schools has adopted a policy of minimizing scholarship payments to the Plaintiffs.

442. Upon information and belief, Defendant Union Public Schools will continue to exercise this policy, regardless of the 2011 statutory amendments.

443. Parent Plaintiffs have good reason to fear that they may, without sufficient warning, cease to receive the benefits owed to them under the Act.

444. Upon information and belief, Parent Plaintiffs will not be receiving interest on the money owed to them and held unlawfully by the Defendants.

445. To date, Plaintiffs Curtis and Jane Johnson have not received a single scholarship payment despite that Defendant Tulsa Public Schools does not challenge their eligibility under the statute.

446. Plaintiff W.J., the minor child of Plaintiffs Curtis and Jane Johnson, became eligible for the scholarship during the third quarter of the 2010-11 school year. The last day of the third

quarter for Tulsa Public Schools was April 1, 2011. Scholarship payments are due following the completion of the academic quarter, which makes Tulsa Public Schools approximately three months late on the their Third Quarter payment to the Johnsons.

447. Upon information and belief, Defendants Broken Arrow Public Schools, Jenks Public Schools, and Union Public Schools have stated that they anticipate to see the scholarship money that they pay out refunded to them should they defeat Oklahoma's Attorney General in litigation regarding the Act.

448. Upon information and belief, Defendants Broken Arrow Public Schools, Jenks Public Schools, and Union Public Schools intend to seek to force Plaintiffs to repay any scholarship money paid to them under the Act if the dispute with the Attorney General is resolved in Defendants' favor.

449. Defendant School Districts, along with Liberty Public Schools, Bixby Public Schools, and Owasso Public Schools, are the only school districts in the State of Oklahoma to announce refusal to comply with the Act.

450. There are 541 school districts in the State of Oklahoma. Defendant School Districts, Liberty Public Schools, Bixby Public Schools, and Owasso Public Schools (a total of seven districts) comprise just 1.3% of the State's school districts.

451. Defendant School Districts have not timely provided Plaintiffs with all of the money due to them under the Act.

452. Upon information and belief, Defendant Broken Arrow Public Schools has attempted to persuade parents not to accept scholarships pursuant to the Act by telling them or otherwise trying to convince them that the scholarships are taxable income.

453. Upon information and belief, Defendant Broken Arrow Public Schools has, as a condition precedent on receipt of scholarship funds, required at least one scholarship applicant to fill out tax forms.

454. Upon information and belief, Defendant Broken Arrow Public Schools and its high-ranking officials, including Mendenhall, are aware that state law does not require them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

455. Defendant Broken Arrow Public Schools and its high-ranking officials, including Mendenhall, have no reasonable basis upon which to conclude that federal law requires them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

456. Upon information and belief, Defendant Broken Arrow Public Schools intends to report or has already reported to the IRS the scholarships that it has paid pursuant to the Act.

457. Upon information and belief, Defendant Broken Arrow Public Schools intends to report or has already reported the scholarships to the IRS with the hope that the applicants will be penalized for accepting scholarships by paying more state and federal income tax.

458. Upon information and belief, Defendant Jenks Public Schools has attempted to persuade parents not to accept scholarships pursuant to the Act by telling them or otherwise trying to convince them that the scholarships are taxable income.

459. Upon information and belief, Defendant Jenks Public Schools has, as a condition precedent on receipt of scholarship funds, required at least one scholarship applicant to fill out tax forms.

460. Upon information and belief, Defendant Jenks Public Schools and its high-ranking officials, including Lehman, are aware that state law does not require them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

461. Defendant Jenks Public Schools and its high-ranking officials, including Lehman, have no reasonable basis upon which to conclude that federal law requires them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

462. Upon information and belief, Defendant Jenks Public Schools intends to report or has already reported to the IRS the scholarships that it has paid pursuant to the Act.

463. Upon information and belief, Defendant Jenks Public Schools intends to report or has already reported the scholarships to the IRS with the hope that the applicants will be penalized for accepting scholarships by paying more state and federal income tax.

464. Upon information and belief, Defendant Union Public Schools has attempted to persuade parents not to accept scholarships pursuant to the Act by telling them or otherwise trying to convince them that the scholarships are taxable income.

465. Upon information and belief, Defendant Union Public Schools has, as a condition precedent on receipt of scholarship funds, required at least one scholarship applicant to fill out tax forms.

466. Upon information and belief, Defendant Union Public Schools and its high-ranking officials, including Burden, are aware that state law does not require them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

467. Defendant Union Public Schools and its high-ranking officials, including Burden, have no reasonable basis upon which to conclude that federal law requires them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

468. Upon information and belief, Defendant Union Public Schools intends to report or has already reported to the IRS the scholarships that it has paid pursuant to the Act.

469. Upon information and belief, Defendant Union Public Schools intends to report or has already reported the scholarships to the IRS with the hope that the applicants will be penalized for accepting scholarships by paying more state and federal income tax.

470. Defendant Tulsa Public Schools has attempted to persuade parents not to accept scholarships pursuant to the Act by telling them or otherwise trying to convince them that the scholarships are taxable income.

471. Defendant Tulsa Public Schools has, as a condition precedent on receipt of scholarship funds, required at least one scholarship applicant to fill out tax forms.

472. Upon information and belief, Defendant Tulsa Public Schools and its high-ranking officials, including Ballard, are aware that state law does not require them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

473. Defendant Tulsa Public Schools and its high-ranking officials, including Ballard, have no reasonable basis upon which to conclude that federal law requires them to mandate that scholarship applicants fill out tax forms as a condition on the receipt of a scholarship.

474. Upon information and belief, Defendant Tulsa Public Schools intends to report or has already reported to the IRS the scholarships that it has paid pursuant to the Act.

475. Upon information and belief, Defendant Tulsa Public Schools intends to report or has already reported the scholarships to the IRS with the hope that the applicants will be penalized for accepting scholarships by paying more state and federal income tax.

476. Tulsa Public Schools informed Plaintiffs Jane and Curtis Johnson, contrary to law and fact, that their scholarships are taxable income.

477. Defendant Tulsa Public Schools required the Johnsons, as condition on the receipt of scholarship funds, to fill out tax forms.

478. Defendant Tulsa Public Schools received the Form W-9 that it required—contrary to law—the Johnsons to fill out on or about May 10, 2010 via United States Postal Service Certified Mail (tracking number 7010 3090 0003 7498 9796).

479. Defendant Tulsa Public Schools thereafter lost or misfiled the Johnsons' W-9. Based on its claim that the accounting department did not timely receive the W-9, which the department did not need to process the Johnsons' scholarship check, the accounting department illegally withheld the Johnsons' scholarship funds.

480. Upon information and belief, Defendant Tulsa Public Schools was aware that it did not require a Form W-9 to process the Johnson's scholarship payment.

481. Upon information and belief, Defendant Tulsa Public Schools deliberately misplaced or misfiled the W-9 in retaliation against the Johnsons for their decision to accept a scholarship pursuant to the Act.

482. IRS Publication 970, available at http://www.irs.gov/publications/p970/ch01.html#en_US_2010_publink1000177991, which is easily searchable on Google and other internet "search engines," explicitly indicates that scholarships provided pursuant to the Act are not taxable. Specifically, it states that:

- a. Scholarships used by a "candidate for a degree" who use the money to pay for "qualified tuition expenses" are not taxable.
- b. "Candidate for a degree" is defined to include students at primary or secondary schools.

c. "Qualified tuition expenses" is defined to include "tuition and fees required to enroll at or attend an eligible educational institution."

d. An "eligible educational institution" is simply one that "maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where it carries on its educational activities."

483. Plaintiff T.K. suffers from Asperger's syndrome, an anxiety disorder, a speech disorder, a sensory processing disorder, and other developmental issues.

484. The Kimerys, the parents of Plaintiff T.K., learned in February 2011 that their scholarship for T.K. will be just approximately \$4000 per year because Broken Arrow reported Plaintiff T.K. as having only a speech disorder.

485. Upon information and belief, Defendant Broken Arrow Public Schools reduced or caused the reduction of Plaintiff T.K.'s scholarship to retaliate against Plaintiffs Donald and Nancy Kimery for claiming a scholarship pursuant to the Act.

486. The Kimerys learned from OSDOE in February 2011 that if Defendant Broken Arrow had reported T.K.'s Asperger's syndrome, they would have received approximately \$12,000 per year.

487. The Kimerys forwarded to Defendant Broken Arrow Public schools a signed psychologist's report in December 2008 stating that Plaintiff T.K. has "pervasive developmental disorder," a condition on the autism spectrum.

488. By December 2008, Defendant Broken Arrow was either aware of or willfully blind to Plaintiff T.K.'s autism.

489. The Kimerys forwarded to Defendant Broken Arrow Public schools two signed medical reports (one from a psychologist, the other from a psychiatrist) in May 2011. Both of those reports indicate that Plaintiff T.K. has Asperger's Disorder.

490. The Kimerys learned from OSDOE in February 2011 that Defendant Broken Arrow was obligated by federal law to inform them of their right to an IEP re-evaluation in October 2010.

491. On information and belief, the October 2010 IEP re-evaluation that never was would have necessitated that Defendant Broken Arrow add Plaintiff T.K.'s other conditions to his IEP.

492. The Kimerys learned from OSDOE in February 2011 that Defendant Broken Arrow could have, but neglected to include in their report to OSDOE, Plaintiff T.K.'s occupational therapy and certain other services. The Kimerys also learned that if Defendant Broken Arrow had correctly reported the services to which Plaintiff T.K.'s is entitled, the Kimerys would have received a greater scholarship.

493. Upon information and belief, Defendant Broken Arrow Public Schools changed Plaintiff T.K.'s information in OSDOE's system, changed their internal records, or omitted in their report to OSDOE some of the details of T.K.'s condition, resulting in a reduced calculation by OSDOE.

494. On or about April 5, 2011, the Kimerys learned from Defendant Broken Arrow that any future IEP reevaluations will have no affect on future scholarship payments.

495. Defendant Broken Arrow's declaration that it will not increase scholarship payments in the future that result from a revised IEP has no support in the Act or other law.

496. Defendant Broken Arrow's policy of not increasing scholarship payments regardless of the results of future IEP reevaluations applies even when it is at fault for an improper, ineffective, or insufficient initial evaluation.

497. On May 27, 2011, Defendant Broken Arrow Public Schools finally reviewed Plaintiff T.K.'s IEP, approximately seven months too late.

498. During the May 27, 2011 IEP review, Defendant Broken Arrow announced, after reviewing medical reports that were first sent to Defendant Broken Arrow in December 2008, that Plaintiff T.K. has developmental delay with suspected autism and that he will be regarded as having autism upon his ninth birthday.

499. The statutory amendments to the Act were signed into law on May 26, 2011, one day prior to Plaintiff T.K.'s IEP review.

500. Upon information and belief, Defendant Broken Arrow found Plaintiff T.K. to be autistic in response to the aforementioned statutory amendments, which took much authority over the statute away from them and subjected them to potential sanctions by the state.

501. Upon information and belief, Defendant Broken Arrow Public Schools found Plaintiff T.K. to be autistic in the hope of avoiding administrative sanction.

502. Defendant Broken Arrow Public Schools' sudden "compliance" following the passage of the statutory amendments suggests that its prior actions were taken in bad faith.

503. Upon information and belief, Defendants have altered or intend to alter some of the Plaintiffs' records and submit to OSDOE misleading reports in order to reduce the scholarships paid to those Parent Plaintiffs.

504. Plaintiffs Donald and Nancy Kimery received, on or about March 4, 2011, notice that their "maximum scholarship" calculation is approximately \$4357.

505. As noted, this maximum scholarship calculation is inaccurate for it fails to take into account all of Plaintiff T.K.'s conditions.

506. Plaintiffs Tim and Kristen Fisher received notice that their "maximum scholarship" calculation is approximately \$3890.

507. These maximum scholarship calculations are inaccurate for they fail to take into account all of Plaintiff's K.F.'s conditions.

508. Plaintiff K.F.'s IEP expressly indicates that she has autism.

509. Had Jenks Public Schools properly reported Plaintiff K.F.'s autism to the OSDOE, her scholarship would have been much greater and would have covered all or nearly all of her tuition.

510. Plaintiffs Stefan and Stephanie Hipskind received on approximately February 23, 2011 notice that their "maximum scholarship" calculation is approximately \$4000 for their son, Plaintiff A.J.H. and approximately \$7000 for their son, Plaintiff L.H.

511. These maximum scholarship calculations are inaccurate for they fail to take into account all of Plaintiff A.J.H.'s conditions and all of Plaintiff L.H.'s conditions.

512. Upon information and belief, Defendant Union Public Schools has reduced or caused the reduction of Plaintiff A.J.H.'s scholarship and Plaintiff L.H.'s scholarship to retaliate against Plaintiffs Stefan and Stephanie Hipskind for claiming a scholarship pursuant to the Act.

513. Plaintiffs Mike and Amy Howard received on approximately March 6, 2011 notice that their "maximum scholarship" calculation is approximately \$7096.

514. This maximum scholarship calculation is inaccurate for it fails to take into account all of Plaintiff B.L.R.'s conditions.

515. Upon information and belief, Defendant Broken Arrow Public Schools has reduced or caused the reduction of Plaintiff B.L.R.'s scholarship to retaliate against Plaintiffs Mike and Amy Howard for claiming a scholarship pursuant to the Act.

516. Plaintiffs Curtis and Jane Johnson received notice on approximately March 26, 2011 notice that their "maximum scholarship" calculation is approximately \$11,680.

517. Neither Plaintiffs Curtis and Jane Johnson nor St. Pius X Catholic School, their child's nonpublic school, have received a scholarship check on behalf of Plaintiff W.J.

518. Plaintiffs Jerry and Shanna Sneed received on approximately March 1, 2011 notice that their "maximum scholarship" calculation is approximately \$4390.

519. This maximum scholarship calculation is inaccurate for it fails to take into account all of Plaintiff B.S.'s conditions.

520. Upon information and belief, Defendant Union Public Schools has reduced or caused the reduction of Plaintiff B.S.'s scholarship to retaliate against Plaintiffs Jerry and Shanna Sneed for claiming a scholarship pursuant to the Act.

521. Plaintiffs Russell and Stephanie Spry received on approximately February 28, 2011 notice that their "maximum scholarship" calculation is approximately \$10,000.

522. Plaintiffs Tim and Kimberly Tylicki received on approximately February 11, 2011 notice that their "maximum scholarship" calculation is approximately \$11,360.

523. On information and belief, Defendant School Districts' failure to act on their January 24, 2011 declaration of intent to sue their Attorney General for a declaratory judgment on the constitutionality of the Act is motivated by a desire to retaliate against, prejudice, or otherwise injure the Plaintiffs as a result of excessive delay.

524. Defendants' actions have caused damages to Plaintiffs in an amount to be determined at trial.

COUNT I
Violation of the United States Constitution
First Amendment: Free Exercise
(42 U.S.C. § 1983)

525. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to their free exercise of religion—as secured by the Fourteenth Amendment to the United States Constitution—by denying Plaintiffs, based upon their religious status or sincerity, the right to funding guaranteed by state statute, by discriminating against them on the basis of their religious views or religious status, and by singling out religious practice for discriminatory treatment.

COUNT II
Violation of the United States Constitution
Fourteenth Amendment: Equal Protection
(42 U.S.C. § 1983)

526. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to equal protection of the laws—as secured by the Fourteenth Amendment to the United States Constitution—by denying Plaintiffs, on the basis of the suspect classification of religion, the right to funding guaranteed by state statute, and by discriminating against them on the basis of religion.

COUNT III
Violation of the United States Constitution
Fourteenth Amendment: Equal Protection
(42 U.S.C. § 1983)

527. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to equal protection of the laws—as secured by the Fourteenth

Amendment to the United States Constitution—by discriminating against them on the basis of the disabilities of their children without rational basis.

COUNT IV
Violation of the United States Constitution
Fourteenth Amendment: Due Process
(42 U.S.C. § 1983)

528. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to property without due process of law by refusing to honor their entitlement to funding granted by a state law that places substantive limitations on official discretion, thus denying Plaintiffs property guaranteed to them without due process of law.

COUNT V
Violation of the United States Constitution
Fourteenth Amendment: Due Process
(42 U.S.C. § 1983)

529. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to liberty without due process of law by denying them the rights guaranteed to them by duly enacted law for exercising their constitutional right to direct the upbringing and education of their children, and by impermissibly interfering with their liberty to direct the upbringing and education of their children.

COUNT VI
Violation of the United States Constitution
First and Fourteenth Amendments: Freedom of Speech
(42 U.S.C. § 1983)

530. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to free speech by discriminating against them on the basis of viewpoint as expressed through their decision to attend a nonpublic school.

COUNT VII

**Violation of Americans with Disabilities Act, Title II
(42 U.S.C. § 12133)**

531. Defendants, government entities acting under color of state law, have discriminated against and threaten to continue to discriminate against Child Plaintiffs by denying them access to public aid designated to accommodate their respective disabilities and excluding them from the benefits of a public program by reason of their disabilities.

COUNT VIII

**Violation of Rehabilitation Act of 1973, Section 504
(29 U.S.C. § 794a)**

532. Defendants, recipients of federal financial assistance, have discriminated against and threaten to continue to discriminate against Child Plaintiffs by denying them access to public aid designated to accommodate their respective disabilities and excluding them from the benefits of a public program by reason of their disabilities.

COUNT IX

**Violation of Oklahoma Constitution
Article 2, Section 7: Due Process**

533. Defendants have deprived and threaten to continue to deprive Plaintiffs of their right to property without due process of law by refusing to honor their entitlement to funding granted by a state law that places substantive limitations on official discretion, thus denying Plaintiffs property guaranteed to them without due process of law.

COUNT X

**Violation of Oklahoma Constitution
Article 2, Section 7: Equal Protection
Discrimination on the basis of religious belief**

534. Defendants have deprived and threaten to continue to deprive Plaintiffs of their right to equal protection of the laws—as secured by Article 2, Section 7 of the Oklahoma

Constitution—by discriminating against them on the basis of the disabilities of their children without rational basis

COUNT XI
Violation of Oklahoma Constitution
Article 2, Section 7: Equal Protection
Discrimination on the basis of disability

535. Defendants, acting under color of state law, have deprived and threaten to continue to deprive Plaintiffs of their right to equal protection of the laws—as secured by Article 2, Section 7 of the Oklahoma Constitution—by discriminating against them on the basis of the disabilities of their children without rational basis

COUNT XII
Violation of the School Code of 1971, Article V
OKLA. STAT. tit. 70, § 5-101, *et seq.*
(OKLA. STAT. tit. 70, § 5-117)

536. Defendants have exceeded the powers granted to them by the statutes of the State of Oklahoma, which authorizes them to make rules “not inconsistent with the law.” Their *ultra vires* actions have harmed and threaten to continue to harm Plaintiffs. Those actions are illegal and invalid.

COUNT XIII
Violation of the School Code of 1971, Article XIII
OKLA. STAT. tit. 70, § 13-101.1, *et seq.*
(OKLA. STAT. tit. 70, § 13-101.2)

537. Defendants abdicated and ignored their obligations created by the Act, a duly enacted statute of the State of Oklahoma, as in force at the time of the aforementioned allegations, which required (without the opportunity to exercise any discretion) school districts to verify student enrollment in qualified nonpublic schools and thereafter, following the conclusion of each quarter of the school year, issue scholarship checks. Rather than comply with these obligations, the Defendants have retaliated against Plaintiffs, made it difficult or impossible for

the Plaintiffs to exercise their rights, and unlawfully withheld money or unlawfully delayed the transfer of money owed to the Parent Plaintiffs.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

- (1) a declaration that Defendants' actions have violated and continue to violate the United States and Oklahoma Constitutions, and state and federal statutes;
- (2) a permanent injunction requiring Defendants to comply with the law;
- (3) compensatory damages;
- (4) costs and attorney's fees; and
- (5) such other further legal or equitable relief that this Court may deem appropriate.

Dated: June 30, 2011

Respectfully submitted,

/s Meir Katz

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CERTIFICATE OF SERVICE


I hereby certify that on June 30, 2011, I electronically transmitted the attached pleading to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

J. Douglas Mann
Frederick J. Hegenbart
Jerry Alan Richardson
Karen L. Long

Date: June 30, 2011

/s Meir Katz
Meir Katz

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Special-needs scholarships to top \$700,000

by: KIM ARCHER World Staff Writer
Monday, October 17, 2011
10/20/2011 5:34:10 PM

Correction

This story originally incorrectly implied the timing of an auditor's investigation and the lawsuit. The story has been corrected.

At least \$700,000 in state public school funds will be paid this year to send special-education students to private schools in Oklahoma, according to state Education Department estimates.

The spending is part of a new law that has drawn criticism from public-school advocates. The Lindsey Nicole Henry Scholarships for Students with Disabilities Act passed last year and has rankled many who contend it violates the Oklahoma constitution by sending public school funding to private religious schools.

The \$700,000 dollar figure could rise as the 2011-12 school year progresses and more parents apply for the scholarships, said department spokesman Damon Gardenhire. The application deadline for this school year is Dec. 1.

Thirty-three private schools in the state are approved to accept students with Lindsey Nicole Henry scholarships. Of those, 32 are religious schools.

Public-school advocates, including a group of Tulsa-area school superintendents, say the private-school scholarships siphon resources from public education. But Rep. Jason Nelson, R-Oklahoma City, author of the law, has said the funding comes from the amount that would have been spent on that student anyway.

In April, a group of 20 parents filed suit in federal court against the Broken Arrow, Jenks, Tulsa and Union districts, claiming that their special needs children had been denied private school scholarships in 2010-11.

Each district's superintendent says all scholarships were paid.

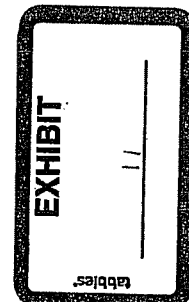
Last month, the Jenks and Union districts filed a lawsuit in state court to challenge the constitutionality of the new law. Their suit named the parents of three students in each district who had participated in the federal lawsuit against the schools.

In late August, state Attorney General Scott Pruitt asked the state Auditor's Office to investigate whether Broken Arrow, Jenks, Liberty, Owasso, Tulsa and Union school districts complied with the law.

According to state records, Tulsa County school districts represent the bulk of the nearly \$700,000 or more the state expects to pay for the private-school scholarships.

The total scholarship amount for Tulsa County school districts is \$483,804.45, representing 59 students, records show.

Broken Arrow, Jenks, Tulsa and Union school districts have the greatest number of students who qualified for



scholarships in 2011-12.

Bixby, Collinsville, Glenpool, Owasso and Sand Springs each have three students or fewer who qualified for the scholarships, records show.

In 2010-11, there were 98 requests for the scholarships, compared with 95 submitted so far this year, records show.

Last year was the first time parents could apply for the scholarships. It was since revised so that the state education department administers the program, rather than individual districts.

The state will not have the total cost of the scholarships for 2010-11 until the end of October, when the department's accounting service completes its processing of all state school districts' expenditures, Gardenhire said.

Eligible schools

Here are the private schools eligible for Lindsey Nicole Henry scholarships:

- All Saints Catholic School, Norman
- Bishop John Carroll School, Oklahoma City
- Community Christian School, Norman
- Emmanuel Christian School, Enid
- Good Shepherd Catholic School at Mercy, Oklahoma City
- Good Shepherd Lutheran School and Child Development Center, Midwest City
- Happy Hands Education Center, Broken Arrow
- Holy Family Cathedral School, Tulsa
- Holy Trinity Catholic School, Okarche
- Immanuel Lutheran Christian Academy, Broken Arrow
- Ketchum Adventist Academy, Langley
- Lakewood Christian School, McAlester
- Life Christian Academy, Oklahoma City
- Messiah Lutheran School, Oklahoma City
- Monte Cassino Catholic School, Tulsa
- Metro Christian Academy, Tulsa
- Mount Saint Mary Catholic High School, Oklahoma City
- Oak Hall Episcopal School, Ardmore
- Rosary School, Oklahoma City
- Sacred Heart Catholic School, El Reno
- Saint Catherine Catholic School, Tulsa
- St. Joseph Catholic School, Muskogee

- Saint Mary's Catholic School, Lawton
- Saint Paul's Lutheran Church and School, Enid
- Saint Pius X Catholic School, Tulsa
- Saints Peter and Paul Catholic School, Tulsa
- Summit Christian Academy, Broken Arrow
- Town and Country School, Tulsa
- Trinity School, Oklahoma City
- Victory Christian School, Tulsa
- Villa Teresa School, Oklahoma City
- Wesleyan Christian School, Bartlesville
- Western Oklahoma Christian School, Clinton

Source: Oklahoma State Department of Education

Scholarships by school

A look at the Tulsa County schools that provided Lindsey Nicole Henry scholarships in 2011-12:

- Broken Arrow, \$126,033.45 (14 students)
- Jenks, \$118,318.07 (16 students)
- Tulsa, \$102,453.35 (13 students)
- Union, \$49,225.06 (six students)
- Bixby, \$22,388.51 (three or fewer students)
- Collinsville, \$11,268.10 (three or fewer students)
- Glenpool, \$29,653.65 (three or fewer students)
- Owasso, \$14,382.02 (three or fewer students)
- Sand Springs, \$10,082.24 (three or fewer students)

Total number of students: 59


Total number of dollars: \$483,804.45

Source: Oklahoma State Department of Education

Original Print Headline: Scholarships to top \$700,000

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