

IN THE CHANCERY COURT FOR DAVIDSON COUNTY  
TWENTIETH JUDICIAL DISTRICT  
THE STATE OF TENNESSEE

ROXANNE McEWEN, et al.,	)	Case No. 20-0242-II
	)	
Plaintiffs,	)	Hon. Anne C. Martin
	)	
vs.	)	PLAINTIFFS' CONSOLIDATED REPLY
	)	IN FURTHER SUPPORT OF
BILL LEE, et al.,	)	PLAINTIFFS' MOTION FOR
	)	TEMPORARY INJUNCTION
Defendants.	)	PURSUANT TO TENN. R. CIV. P. 65.04
	)	

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## **I. INTRODUCTION**

Plaintiffs Roxanne McEwen, David P. Bichell, Terry Jo Bichell, Lisa Mingrone, Claudia Russell, Inez Williams, Sheron Davenport, Heather Kenny, Elise McIntosh, Tracy O'Connor, and Apryle Young (collectively, "Plaintiffs") respectfully submit this Consolidated Reply in Further Support of Plaintiffs' Motion for a Temporary Injunction Pursuant to Tenn. R. Civ. P. 65.04 (the "Motion").

The Motion established that all four factors the Court must weigh in evaluating whether to grant the temporary injunction strongly support its issuance. Because Defendants have failed to establish that *any* of the four factors weigh against the injunction, it should be granted.

## **II. ARGUMENT**

### **A. Plaintiffs Have Standing to Challenge the Voucher Law**

Plaintiffs, as taxpayers and parents of children enrolled in public schools operated by Metro Nashville Public Schools and Shelby County Schools, have standing to bring this lawsuit. First, Plaintiffs are taxpayers challenging illegal governmental action that unlawfully diverts public funds. MTD Opp. at 7-11. Second, Plaintiffs suffer a special injury from the Voucher Law that is not common to the public generally. MTD Opp. at 11-17. The State did not make any arguments regarding standing that are not already fully

briefed in connection with the various motions to dismiss.<sup>1</sup> Liberty Justice Center's ("LJC") reframing of a previous argument warrants a brief response.<sup>2</sup> LJC Mem. at 10-11.

LJC now argues that the Voucher Law "gives a financial advantage to students in affected school districts" because: (1) it is possible school improvement grants will be awarded during the first three years that vouchers are used; (2) local BEP contributions in Davidson and Shelby Counties are higher than required, and those funds will stay in the targeted districts when voucher students leave; and (3) after three years, leftover school improvement grant funds will be distributed to districts with "priority" schools. LJC Mem. at 10-11.

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<sup>1</sup> In order to avoid duplicative briefing, Plaintiffs incorporate by reference their Consolidated Opposition to the State Defendants' Motion to Dismiss; Greater Praise Christian Academy, Alexandria Medlin and David Wilson, Sr.'s Motion to Dismiss under Rule 12.02(6); and Bria Davis, Star Brumfield, Natu Bah and Builguissa Diallo's Joint Motion for Judgment on the Pleadings (the "MTD Opp."). All ¶\_\_ and ¶¶\_\_ refer to the Complaint ("Complaint"). "LJC Mem." refers to Greater Praise Christian Academy ("GPCA"); Alexandria Medlin; and David Wilson, Sr.'s Memorandum of Law and Facts in Support of Motion to Dismiss Under Rule 12.02(6). "Pltfs' Mem. TI" refers to Plaintiffs' Memorandum of Law in Support of Motion for a Temporary Injunction Pursuant to Tenn. R Civ. P. 65.04. "State Opp. " refers to Defendants' Response and Memorandum of Law in Opposition to Plaintiffs' Motion for Temporary Injunction. "Beacon/IJ Opp." refers to Joint Brief of Intervenor-Defendants Natu Bah, Builguissa Diallo, Bria Davis and Star Brumfield in Opposition to Plaintiffs' Motion for a Temporary Injunction Pursuant to Tenn. R. Civ. P. 65.04. "LJC Opp." refers to Greater Praise Christian Academy; Alexandria Medlin; and David Wilson, Sr.'s Response and Memorandum of Law and Facts in Opposition to Plaintiffs' Motion for Temporary Injunction. "LJC MTD" refers to Greater Praise Christian Academy, Alexandria Medlin, and David Wilson, Sr.'s Motion to Dismiss Under Rule 12.02(6).

<sup>2</sup> Although not a new argument, when discussing the demand requirement for taxpayer standing, LJC suggested for the first time that a demand letter authored by the ACLU may have "swayed some of the votes necessary for passage of the law." LJC Mem. at 14-15. This assessment is wrong for two reasons. First, the ACLU *did* lobby (unsuccessfully) against the voucher bill. Second, each of the Defendants was intimately involved with passage or implementation of the Voucher Law, making any demand a mere formality and futile gesture. MTD Opp. at 9-11.

As Plaintiffs have thoroughly explained, there are multiple reasons the school improvement fund grants that *may* be funded for the first three years vouchers are used would not compensate for the loss in funding resulting from the diversion of BEP funds to the voucher program. ¶¶75-80; MTD Opp. at 34. Furthermore, local BEP contributions in Davidson and Shelby Counties – funded by local tax contributions that are already higher than the state requires because the BEP allocation does not cover all essential educational resources (¶71) – will not result in increased per-pupil funding for remaining district students. In fact, the opposite is true. The Voucher Law will cause targeted districts to lose far more per pupil in state BEP funds than either district receives because it mandates that, for each voucher student, both the state *and* local per-pupil share of the BEP allocation intended for each district be deducted from the districts' *state* BEP share. ¶65; MTD Opp. at 31-34. As a result, local BEP funds would be used to attempt to compensate for the funding shortfall resulting from the Voucher Law, not to increase the per-pupil funding for students who remain in district schools.

**B. Plaintiffs Are Likely to Succeed on the Merits of Their Constitutional Claims**

**1. Plaintiffs Are Likely to Succeed on Their Claim that the Voucher Law Violates the Home Rule Provision**

Plaintiffs have a substantial likelihood of success on their Home Rule claim because the Voucher Law applies only to Davidson and Shelby Counties but does not require the counties' local approval. Pltfs' Mem. TI at 19-26; MTD Opp. at 17-24.

As Plaintiffs have explained, the Voucher Law affects Davidson and Shelby Counties in their well established role in funding public education, which is not

contradicted by their county charters, and, given this effect on the counties – the relevant inquiry under the Home Rule amendment – it is immaterial that the law refers to local education agencies. MTD Opp. at 19-24. The State and Beacon/IJ’s arguments on these points in response to the Pltfs’ Mem. TI, State Opp. at 9-13; Beacon/IJ Opp. at 4-10, were fully addressed in Plaintiffs’ response to the motions to dismiss.

Plaintiffs have also responded to LJC’s contention that the Home Rule provision is inapplicable because the Voucher Law affects two counties.<sup>3</sup> Pltfs’ Mem. TI at 24-26; MTD Opp. at 18-19. LJC elaborates here by arguing that the plain text of the Home Rule provision limits its applicability to statutes affecting a “singular” county, LJC Opp. at 17-21, but this is simply not supported by the cases applying Article XI, §9. Only one of the cases cited by LJC interprets the Home Rule provision, there focusing on a different portion, *see Shelby Cty. v. Hale*, 292 S.W.2d 745 (Tenn. 1956) – and the vast majority do not interpret any part of the constitution. In contrast, when the Tennessee Supreme Court *has* undertaken interpretation of the section of the Home Rule provision at issue here, the Court has expressly held that it applies when a statute affects two counties. *See* Pltfs’ Mem.

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<sup>3</sup> LJC notes that the Voucher Law applies to students in the Achievement School District (“ASD”), as well as Metro Nashville Public Schools and Shelby County Schools. LJC Opp. at 16. Plaintiffs agree with the plaintiffs in *Metropolitan Gov’t of Nashville and Davidson Cty. v. Tennessee Dep’t of Educ.*, Case No. 20-0143-II, Mem. Law Supp. Pltfs’ Mot. Summ. J. at 26, that inclusion of the ASD does not save the statute under the Home Rule provision. Allowing the State to circumvent the Home Rule provision by making legislation applicable to a State-run entity in addition to the targeted counties would render the provision meaningless. Moreover, including the ASD did not make the Voucher Law applicable outside the two counties it targets because all ASD schools were physically located in those counties at the date fixed in the statute. T.C.A. §49-6-2602(3)(C)(ii) (eligibility based on student being “zoned to attend a school that [wa]s in the ASD on May 24, 2019”); *Schools*, Achievement School District, <http://achievementschooldistrict.org/index.php/schools/> (last visited Apr. 2, 2020) (showing that, in 2019, ASD only included schools physically located in Davidson and Shelby Counties).



TI at 24-25; MTD Opp. at 18; *see also* MTD Opp. at 19 (Court has considered Home Rule challenges even when a statute affected multiple counties). As Plaintiffs have explained, the Home Rule provision's intent is "to vest control of local affairs in local government, or the people, to the maximum extent possible." *Farris v. Blanton*, 528 S.W.2d 549, 551 (Tenn. 1975). If applicability of the Home Rule provision could be defeated merely by targeting two counties rather than one, the provision would be rendered meaningless – an interpretation that would violate both its plain meaning and clear intent. *See* Pltfs' Mem. TI at 19-20, 24-26.

## **2. Plaintiffs Are Likely to Succeed on Their Appropriations Claims**

Plaintiffs' claims under the Appropriation of Public Moneys provision and related statutes are likely to succeed on the merits. *See* Pltfs' Mem. TI at 26-30; MTD Opp. at 46-52. Defendants and Intervenors collectively raise two new arguments in their Response briefs. State Opp. 13-16; LJC Opp. 21-28. Below, Plaintiffs respond to these new arguments after clarifying one point related to the constitutionally mandated "estimated first year's funding" for new legislation.

### **a. Even if the Court Finds that an Appropriation for the Voucher Law Was Made, it Was Meaningless Under the Constitution**

Article II, §24 of the Tennessee Constitution provides that "[a]ny law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding." Plaintiffs assert, for the reasons stated in their TI Motion, that no appropriation was made. Pltfs' Mem. TI at 26-29. However, if the Court finds there was an appropriation made, that

amount was meaningless under the “estimate” requirement of the Constitution. An “estimate” is “a rough or approximate calculation” or “a numerical value obtained from a statistical sample and assigned to a population parameter.”<sup>4</sup> Even if the Court finds that an appropriation was made for the Voucher Law, that appropriation – \$771,300 to pay private vendors and support 20 new staff positions<sup>5</sup> – was so insufficient as to be meaningless under the Constitution. MTD Opp. at 46-52.

The fundamental purpose in interpreting a constitutional provision is “to ascertain and give effect to the intent and purpose of those who adopted it.” *Barrett v. Tenn. Occupational Safety and Health Review Comm’n*, 285 S.W.3d 764, 787 (Tenn. 2009). Here, that means requiring the word “estimate” be interpreted to achieve the purpose of the constitutional provision – ensuring a balanced budget. Otherwise, nothing prevents a scenario in which legislators pass a law because of its purportedly low cost but later learn that the law requires significantly more funding than was originally represented.<sup>6</sup>

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<sup>4</sup> *Estimate*, Merriam-Webster, available at <https://www.merriam-webster.com/dictionary/estimate> (last visited Apr. 26, 2020).

<sup>5</sup> See Sen. Finance, Ways, & Means Committee, 111th Gen. Assemb. (Tenn. Apr. 23, 2019) (statements of Commissioner Schwinn asserting that the Tennessee Department of Education (“TDOE”) would need 20 staff members to oversee the voucher program).

<sup>6</sup> This is exactly what happened with the Voucher Law. Legislators who *supported* the Voucher Law have acknowledged that the cost of the program creates an inequitable system for public school students. See *Dept. of Educ.: Focus Hearing Before the Appropriations Subcomm.*, HH0201, 2020 Leg., 111th Gen. Assemb. (Tenn. Feb. 12, 2020) (statement of Patsy Hazlewood (R-Signal Mountain) at 1:23:00-1:24:05):

As I understand the ESAs, we will be providing to students who are accepted through this application process, they will have, I believe it’s \$7,400 per student, to take with them to use for education. So, that’s what we are providing, or the average cost that we provide to every Tennessee student in public schools. But in addition to that, when we talk about the cost of this program, in addition to the

**b. The Transfer of Funds from the Career Ladder Program Was Unlawful**

Plaintiffs argue in their Motion for Temporary Injunction that TDOE illegally transferred funds from a different, unrelated program – the Career Ladder program – to pay for the \$2.5 million contract with ClassWallet. Pltfs’ Mem. TI at 28.<sup>7</sup> Defendants and Intervenors argue that the method by which TDOE reallocated public funds from Career Ladder to the contract with ClassWallet was lawful under T.C.A. §9-4-5110 and the 2019 Appropriations Law. *Compare* LJC MTD at 20 (relying on a process in the 2019 Appropriations Law at 53 §15, Item 1) *with* State submission of D. Thurman Executed Aff. (relying on a process under T.C.A. §9-4-5110). However, those two laws are in conflict. Section 15 of the Appropriations Law requires “approval of a majority of a committee comprised of the Speaker of the Senate, the Speaker of the House and the Comptroller of the Treasury” to transfer public funds. Such approval was not obtained here. *See* MTD Opp. at 51-52. In contrast, T.C.A. §9-4-5110 requires only that the Governor consult with the Commissioner of the Department of Finance and Administration prior to reallocating

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\$7,400 per student, we’ve got the \$2.5 million for ClassWallet, we’ve got the – I’m sorry, Mr. Chairman, how much was it for the 20 positions this year? – at any rate, we have all of those dollars. *If we divide that out over these students, we’re going to come out with a significantly heftier amount than we are currently investing for our students in public schools. And I think that should give us some pause and some concern.*

(Emphasis added.) At that same hearing, Representatives Hill and Faison, who voted in favor of the bill, also expressed outrage over the extremely high costs of the program. *Id.*

<sup>7</sup> Plaintiffs also asserted in their Motion for Temporary Injunction that this contract was unlawful because it was with a private, for-profit company, in violation of the Voucher Law’s proscription that TDOE may only partner with nonprofits for administration of the program. T.C.A. §49-6-2605(i); Pltfs’ Mem. TI at 28. Importantly, that argument was not refuted in any brief.

funds. Neither Defendants nor Intervenors provides any authority to suggest which statutory process for reallocating public funds prevails when such a conflict arises. In fact, when two statutes are in conflict, the later one controls. *State ex rel. Holt v. Wert*, 178 Tenn. 21, 152 S.W.2d 1032 (1941). Here, that means the process described in the Appropriations Law, which was not followed, controls. Thus, this reallocation of public funds was unlawful.

**c. The Voucher Law’s Severability Clause Does Not Apply to the ClassWallet Contract**

LJC contends that if the Court finds that the transfer of Career Ladder funds to the voucher program was unlawful, the remedy is to sever the ClassWallet contract rather than invalidate the voucher program. LJC Opp. at 27-28. This argument is incorrect. The severability clause in the Voucher Law only applies to provisions in the Voucher Law. T.C.A. §49-6-2611 (“If *any provision of this part or this part’s application to any person or circumstance* is held invalid, then the invalidity must not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to that end *the provisions of this part* are severable.”) (emphases added). Because neither the ClassWallet contract nor the misappropriation of Career Ladder funds to pay the contract is a provision of the Voucher Law, the severability clause is inapplicable.<sup>8</sup>

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<sup>8</sup> Intervenors also argue that this claim is moot because the General Assembly appropriated “school improvement grants” for FY2020-2021. LJC Opp. at 28 n.20. However, the unconstitutional use of public funds does not suddenly become moot if the General Assembly and various executive agencies decide, after the unconstitutional conduct has occurred, to follow the Constitution. *Cf. State v. City of Memphis*, 147 Tenn. 658, 251 S.W. 46, 49 (1923) (potential “unlawful diversion of public moneys to private uses,” was “not a moot question” despite the fact that the money was later made up).

**C. Plaintiffs Will Be Irreparably Harmed if a Temporary Injunction Is Not Issued**

The Motion establishes that Plaintiffs will be irreparably harmed absent an injunction due to the loss of a constitutional right, as well as the unlawful diversion of public funds. Pltfs' Mem. TI at 30-32. Importantly, other than wrongly contending that the Voucher Law is constitutional and its funding appropriate, *Defendants do not dispute that these types of injuries are sufficient to show irreparable harm.*<sup>9</sup> In other words, if the Court finds a likelihood of success on the merits, there can be no dispute that Plaintiffs have necessarily established irreparable harm as well. *Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir. 2001) (“When reviewing a motion for preliminary injunction, if it is found that a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated.”).

The State asserts that Plaintiffs cannot show irreparable harm because any loss of funding to Metro Nashville Public Schools and Shelby County Schools is speculative. *See* State Opp. at 5-8. While such funding losses are not speculative, the State's contentions are irrelevant because the Motion does not assert irreparable harm from lost school funding as a basis for the requested injunction. Pltfs' Mem. TI at 30-32. Similarly, Beacon/IJ erroneously contend that Plaintiffs have asserted a “vague and undefined educational injury to school districts” (Beacon/IJ Opp. at 13), when in fact the Motion establishes that, as a matter of law, misappropriation of public funds on unconstitutional legislation “will result

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<sup>9</sup> For example, the State only contends (wrongly) that Plaintiffs' “claim that loss of a constitutional right in itself constitutes irreparable injury is undermined by the weakness of their constitutional arguments.” State Opp. at 8.

in irreparable injury to the county and taxpayers.” *Pope v. Dykes*, 93 S.W. 85, 88 (Tenn. 1905).

Plaintiffs have established irreparable harm.

**D. The Balance of Harms Weighs Heavily in Favor of Granting Plaintiffs’ Motion for Temporary Injunction**

State Defendants and Intervenor-Defendants fail to identify harm that would outweigh the temporary injunction of an unconstitutional law. As Plaintiffs explained in the Motion, preventing the implementation of an unconstitutional law and the continuing illegal expenditure of public funds weigh heavily in favor of temporally enjoining the Voucher Law until the Court has had the opportunity to rule.<sup>10</sup> *See* Pltfs’ Mem. TI at 32-35. Plaintiffs also established that an injunction would likely benefit, rather than harm, the State and Interveners. *Id.* at 32-34.

When addressing the balance of harm, the State Defendants point only to the “substantial steps” they have taken and the money they have expended toward the early implementation of the voucher program. The program, however, was not mandated to be available until the fall of 2021. *See* T.C.A. §49-6-2604(b). By pushing to implement the program a full year in advance, in spite of pending legal challenges, the State Defendants are the architects of their own harm. Moreover, halting the rushed implementation efforts for a short period of time will allow the Court to assess whether those funds and resources

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<sup>10</sup> Contrary to Intervenor-Defendants’ contention, an injunction would preserve the *status quo* rather than disrupt the state of education in Tennessee prior to the enactment of the Voucher Law.

already expended have been issued in support of an unconstitutional law and to prevent the further illegal expenditure of taxpayer money in vain.

Intervenor-Defendants raise only that they would be unable to take advantage of a program that they believe would be beneficial for their children. Plaintiffs are sympathetic to Intervenor-Defendants' frustrations with the educational resources in their schools and the individual hardships outlined, such as school bullying. Beacon/IJ Opp. at 10-11. However, transferring funding away from those public schools to private schools, especially pursuant to an unconstitutional law, will not remedy the problems Intervenor-Defendants describe and will likely multiply them.<sup>11</sup> Furthermore, Intervenor-Defendants' suggestions about the comparative quality of the private schools they wish to utilize cannot be the basis for finding they are harmed because there is no evidence in the record to demonstrate that such schools would actually provide an improved education to any student or that Intervenor-Defendants' children would be awarded a voucher or accepted to any specific private school. To be sure, all parents want their children to receive a high quality education. But precluding the State from implementing an unconstitutional law that would further drain money and resources from the Shelby and Davidson County school systems does not constitute a cognizable harm.

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<sup>11</sup> Intervenor-Defendants state that a temporary injunction will not only affect them but the thousands of other students who wish to receive state money to attend private schools. Beacon/IJ Opp. at 11. While this is not the irreparable harm contemplated by Plaintiffs' motion, this position ignores the tens of thousands of public school students who will remain in district schools and suffer the loss of millions of dollars that will no longer be available to provide for their constitutionally guaranteed public education.

Relying on an affidavit from the Director of GPCA, LJC contends that an injunction would create hardship for this private school, which has taken steps to prepare to accept voucher students. LJC Opp. at 29-30. But any such hardships are the result of the State's rushed implementation of the Voucher Law in spite of outstanding legal challenges, and GPCA has no right to receive funding pursuant to an unconstitutional program. In any case, the harm GPCA asserts is speculative. As a Category IV school, GPCA is not currently eligible to accept vouchers. LJC, Ex. X at ¶11. Its facilities have yet to be approved for an increased number of students. *See id.* at ¶13. No new teachers have been hired. *See id.* at ¶16. And even if GPCA were approved to participate in the program, there is no guarantee that any additional students would even apply or, if they did, that such students would be successful in obtaining a voucher.

Additionally, allowing an unconstitutional program to go forward could subject the Intervenor-Defendants and the State to additional harm. As argued in the Motion, if the voucher program is found unconstitutional, any vouchers already awarded would be null and void. Pltfs' Mem. TI at 32-33. The State will continue to throw good taxpayer money after bad. Intervenor-Defendants might find themselves in a situation where they have made commitments to private institutions and no longer have the benefit of the state subsidies to pay them, and their children's education will be disrupted by having to switch schools midyear. And schools such as GPCA might find themselves having committed to admitting students using voucher funds, only to see such students and funding disappear if the Voucher Law is subsequently found to be unconstitutional. This disruption weighs strongly against any harm identified by Intervenor-Defendants.



**E. The Public Has a Strong Interest in This Court Granting Plaintiffs' Motion for Temporary Injunction**

State Defendants and Intervenor-Defendants fail to rebut Plaintiffs' contentions that the public interest strongly favors a temporary injunction. As Plaintiffs explained in the Motion, preventing the implementation of an unconstitutional law, and the illegal expenditure of public funds thereon, is of primary public importance. Pltfs' Mem. TI at 35. Moreover, a temporary injunction that will preserve the *status quo* and prevent harm to all parties serves the public interest. *Id.* at 35-36.

Both the State Defendants and the Beacon/IJ Intervenors misconstrue the State's role in education by claiming the State has a "public interest" in funding private school vouchers. State Defendants erroneously contend that funding private school vouchers with public funds is part of the State's mandate under the Education Clause of the Tennessee Constitution. State Opp. at 16-17. However, as the cases they cite make clear, the State's obligation under the Education Clause is to maintain a system of *public* schools, not to use public education funds to finance private schools. *Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 150 (Tenn. 1993) (constitution "requires the General Assembly to provide for the maintenance, support and eligibility standards of a system of free public schools") (internal quotations omitted); *Leeper v. State*, 53 S.W. 962, 968 (Tenn. 1899) (constitution mandates State educate the children of Tennessee by funding a system of "common schools"); *see also Bd. of Educ. of Memphis City Sch. v. Shelby Cty.*, 292 S.W. 462, 463 (Tenn. 1927) (constitution "has been construed by this court to manifest the intent of the people that the education of the children through a system of common schools should be a state purpose") (internal quotations omitted). Consequently, and contrary to the Beacon/IJ

Intervenor-Defendants' claim, Beacon/IJ Opp. at 11, while individual parents are free to choose private education options, it is not in the public interest to use public education funds to finance them. Moreover, the Beacon/IJ Intervenor-Defendants' argument is speculative because even if the voucher program moves forward, no individual applicant is guaranteed a voucher.

As Beacon/IJ Intervenor-Defendants note, the pandemic has disrupted public education in Metro Nashville Public Schools and Shelby County Schools.<sup>12</sup> Launching a voucher program that will likely be found unconstitutional and discontinued, thus returning voucher students to the public schools, will only cause further disruption to students using vouchers as well as to those already attending public schools in the targeted districts. Thus, the *status quo* will, and should, be maintained with a temporary injunction.

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<sup>12</sup> The Beacon/IJ Intervenor-Defendants accuse Plaintiffs of belatedly filing their motion for a temporary injunction. Beacon/IJ Opp. at 11. This contention is baseless. Plaintiffs filed their motion as soon as they knew the State was proceeding with the application process for the voucher program. The State's ESA voucher application website went live on Friday, March 27, 2020. Marta W. Aldrich, *Tennessee Begins Taking School Voucher Applications Amid Court Battle, Pandemic, and Likely Recession*, Chalkbeat (Mar. 30, 2020), <https://tn.chalkbeat.org/2020/3/30/21225476/tennessee-begins-taking-school-voucher-applications-amid-court-battle-pandemic-and-likely-recession>. Plaintiffs' motion was filed on Friday, April 3, 2020.

### III. CONCLUSION

Plaintiffs' Motion should be granted.

DATED: April 27, 2020

Respectfully submitted,

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