

County Court District Court
Denver County, Colorado
1437 Bannock Street, Denver, Colorado 80202

**COLORADO CONGRESS OF PARENTS,
TEACHERS AND STUDENTS; THE INTERFAITH
ALLIANCE OF COLORADO; LEAGUE OF UNITED
LATIN AMERICAN CITIZENS; COLORADO STATE
CONFERENCE OF BRANCHES OF THE NAACP;
DEBORAH A. BRENNAN and ALAN J. DeLOLLIS,
on behalf of themselves and their minor child
Cameron Brennan; CAROLYN BARTELS and
HOWARD BARTELS, on behalf of themselves
and their minor child Hannah Bartels; SENATOR
PATRICIA HILL PASCOE; SENATOR DOROTHY
S. WHAM; RABBI JOEL R. SCHWARTZMAN;
REVEREND DR. CYNTHIA CEARLEY;
FRANCISCO CORTEZ; BEVERLY J. AUSFAHL;
THERESA SOLIS; DANIELLE L. WAAGMEESTER
and WILLIAM J. WAAGMEESTER, on behalf of
themselves and their minor children Rachel
Waagmeester, Madison Waagmeester, and Dane
Waagmeester; JANET TANNER, on behalf of
herself and her minor child Benjamin Tanner;
and PAMELA WEBER, on behalf of herself and
her minor child Kenneth Weber,**

Plaintiffs,

v.

**BILL OWENS, in his official capacity as
Governor of Colorado; and the STATE OF
COLORADO,**

Defendants.

▲ COURT USE ONLY ▲

Case Number:

Div.: Ctrm:

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COMPLAINT

1. This is a complaint for declaratory and injunctive relief, in which plaintiffs challenge the constitutionality of the Colorado Opportunity Contract Pilot Program (“Voucher Program”), §§ 22-56-101 to 22-56-110, C.R.S. Enacted on April 16, 2003, the Voucher Program will pay for certain Colorado students in grades Kindergarten through 12 to attend private schools – most of

which are sectarian – at taxpayer expense. The Voucher Program violates multiple provisions of the Colorado Constitution, including Article II, § 4, Article V, §§ 25 & 34, and Article IX, §§ 2, 3, 7 & 15.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the complaint pursuant to Article VI, § 9 of the Colorado Constitution. Venue is proper in this county under C.R.C.P. 98.

PARTIES

3. Plaintiff Colorado Congress of Parents, Teachers and Students (“Colorado PTA”) is a Colorado nonprofit corporation. Colorado PTA’s 32,000 members are parents and teachers of children in Colorado’s public schools, as well as other Colorado citizens concerned about improving the education, health, safety, and well-being of Colorado’s children and youth. Colorado PTA and its members are Colorado taxpayers, and many of its members are residents and taxpayers of, and/or parents of children enrolled in, the school districts required to participate in the Voucher Program. Colorado PTA brings this action on its own behalf and on behalf of its members.

4. Plaintiff Interfaith Alliance of Colorado (“Interfaith Alliance”) is a Colorado nonprofit corporation. With approximately 700 clergy and lay members from a variety of faith traditions, Interfaith Alliance is dedicated to promoting the positive role of faith in civic life, challenging intolerance and extremism, safeguarding religious liberty, and strengthening public education. Interfaith Alliance and its members are Colorado taxpayers, and many of its members are residents and taxpayers of, and/or parents of children enrolled in, the school districts required to participate in the Voucher Program. Interfaith Alliance brings this action on its own behalf and on behalf of its members.

5. Plaintiff League of United Latin American Citizens (“LULAC”), a Texas nonprofit corporation headquartered in the District of Columbia, is a national organization of some 115,000 members, including approximately 1,000 members organized in five councils in Colorado. The largest and oldest Hispanic organization in the United States, LULAC works to advance the economic condition, educational attainment, political influence, health, and civil rights of Hispanic Americans. LULAC brings this action on behalf of its Colorado members, who are Colorado citizens and taxpayers – many of them residents and taxpayers of, and/or parents of children enrolled in, the school districts required to participate in the Voucher Program.

6. Plaintiff Colorado State Conference of Branches of the NAACP (“Colorado NAACP”) is an unincorporated association representing

approximately 750 NAACP members statewide. Since its founding in 1909, the NAACP has endeavored to protect and enhance the civil rights of African Americans and other minorities. One of its principal goals, pursued through legislative advocacy and litigation, has been to secure the right of all children to receive a quality public education. Colorado NAACP and its members are Colorado taxpayers, and many of its members are residents and taxpayers of, and/or parents of children enrolled in, the school districts required to participate in the Voucher Program. Colorado NAACP brings this action on its own behalf and on behalf of its members.

7. Plaintiffs Deborah A. Brennan and Alan J. DeLollis are Colorado citizens and taxpayers. They are residents of Denver and pay taxes to Denver County School District No. 1. Ms. Brennan and Mr. DeLollis are the parents of a minor child, Cameron Brennan, who is enrolled in Eighth Grade in the Denver Public Schools. Ms. Brennan is a teacher in the Denver Public Schools. Ms. Brennan and Mr. DeLollis bring this action on their own behalf and on behalf of their minor child.

8. Plaintiffs Carolyn Bartels and Howard Bartels are Colorado citizens and taxpayers. They are residents of Golden and pay taxes to Jefferson County School District No. R-1. The Bartels are the parents of a minor child, Hannah Bartels, who is enrolled in Third Grade in the Jefferson County Public Schools. They bring this action on their own behalf and on behalf of their minor child.

9. Plaintiff Senator Patricia Hill Pascoe is a Colorado citizen and taxpayer. She is a resident of Denver and pays taxes to Denver County School District No. 1. Senator Pascoe is a former member of the Colorado state Senate.

10. Plaintiff Senator Dorothy S. Wham is a Colorado citizen and taxpayer. She is a resident of Englewood and is a former member of the Colorado state Senate.

11. Plaintiff Rabbi Joel R. Schwartzman is a Colorado citizen and taxpayer. Rabbi Schwartzman is a resident of Lone Tree (Douglas County). He is rabbi of the B'nai Chaim Congregation in Littleton and President of The Interfaith Alliance of Colorado.

12. Plaintiff Reverend Dr. Cynthia Cearley is a Colorado citizen and taxpayer. She is a resident of Arapahoe County and is co-pastor of the Montview Boulevard Presbyterian Church in Denver.

13. Plaintiff Francisco Cortez is a Colorado citizen and taxpayer. He is a resident of Greeley and pays taxes to Greeley School District No. 6. Mr. Cortez is Director of the Northern Colorado Parent Coalition and Vice President of the Statewide Parent Coalition.

14. Plaintiff Beverly J. Ausfahl is a Colorado citizen and taxpayer. She is a resident of Denver and pays taxes to Denver County School District No. 1. Ms. Ausfahl is a retired teacher in the Pueblo Public Schools and a former President of the Colorado Education Association.

15. Plaintiff Theresa Solis is a Colorado citizen and taxpayer. She is a resident of Greeley and pays taxes to Greeley School District No. 6.

16. Plaintiffs Danielle L. Waagmeester and William J. Waagmeester are Colorado citizens and taxpayers. They are residents of Aurora and pay taxes to Aurora School District No. 28J. The Waagmeesters are the parents of two minor children, Rachel Waagmeester and Madison Waagmeester, who are enrolled in Third Grade and Kindergarten, respectively, in the Aurora Public Schools, as well as a third minor child, Dane Waagmeester, whom they intend to enroll in the Aurora Public Schools beginning in 2007. They bring this action on their own behalf and on behalf of their minor children.

17. Plaintiff Janet Tanner is a Colorado citizen and taxpayer. She is a resident of Colorado Springs and pays taxes to Colorado Springs School District No. 11. Ms. Tanner is the parent of a minor child, Benjamin Tanner, who is enrolled in Ninth Grade in the Colorado Springs Public Schools. Ms. Tanner brings this action on her own behalf and on behalf of her minor child.

18. Plaintiff Pamela Weber is a Colorado citizen and taxpayer. She is a resident of Denver and pays taxes to Denver County School District No. 1. Ms. Weber is the parent of a minor child, Kenneth Weber, who is enrolled in Ninth Grade in the Denver Public Schools. Ms. Weber brings this action on her own behalf and on behalf of her minor child.

19. As Colorado taxpayers, plaintiffs will suffer injury from the Voucher Program because it expends taxpayer funds in violation of multiple express prohibitions of the Colorado Constitution. As residents and taxpayers of school districts required to participate in the Voucher Program, and/or as parents of children attending schools in those school districts, plaintiffs Brennan, DeLollis, Bartels, Pascoe, Cortez, Ausfahl, Solis, Waagmeester, Tanner, and Weber, as well as their minor children, will also suffer injury because of the loss of revenue by those school districts and their loss of control over the education they are required to fund.

20. Defendant Bill Owens is Governor of the State of Colorado. It is his duty under Article IV, § 2 of the Colorado Constitution to “take care that the laws be faithfully executed.” Governor Owens is sued in his official capacity.

21. Defendant State of Colorado is a body politic.

FACTS

The Legislation

22. The Voucher Program was enacted as House Bill 03-1160, which was signed into law by Governor Owens on April 16, 2003. A copy of House Bill 03-1160, as enacted, is attached hereto as Exhibit A and incorporated herein by reference. Technical corrections were made to the Voucher Program by House Bill 03-1369, which passed the General Assembly on May 7, 2003 and awaits the Governor's signature. A copy of House Bill 03-1369 is attached hereto as Exhibit B and incorporated herein by reference.

23. Beginning with the 2004-05 school year, school districts participating in the Voucher Program are required to enter into "opportunity contracts" with the parents of "eligible" children, pursuant to which the school districts must pay for such children to attend private schools, rather than the public schools they would otherwise attend.

24. The statute mandates participation in the Voucher Program by a class of school districts that is defined to include any school district "which, for the 2001-02 school year, had at least eight schools that received an academic performance rating of 'low' or 'unsatisfactory' pursuant to section 22-7-604(5), and which school district continues to operate said schools in the 2003-04 school year." § 22-56-103(10)(a)(I), C.R.S. No other Colorado school districts are required to participate in the Voucher Program, although they may voluntarily choose to do so. § 22-56-104(1)(b), C.R.S.

25. Students are eligible to participate in the Voucher Program if they reside within a participating school district, are eligible for free or reduced-cost lunch under the National School Lunch Act, attended a public school (or had not reached mandatory school attendance age) in the year prior to application, and (a) for Grades 4-12, performed at a proficiency level of "unsatisfactory" in at least one academic area on a statewide assessment or college entrance exam, or (b) for Grades K-3, lack "overall learning readiness" based on certain risk factors, reside in the attendance area of a school rated "low" or "unsatisfactory," or (for Grades 1-3 only) performed below grade level on certain reading assessments. § 22-56-104(2), C.R.S. Under these standards, many students will be eligible to attend private schools at public expense even if the public school they would otherwise attend has an academic performance rating of "average," "high," or "excellent."

26. The number of students from a school district who may participate in the Voucher Program during a particular school year is limited to a percentage of the school district's total student enrollment during the previous school year. The percentage rises from 1% for the 2004-05 school year to 6% for the 2007-08 and subsequent school years. If demand for participation

exceeds the applicable limit, participants will be selected by a series of priorities and a lottery. § 22-56-104(5), C.R.S.

27. A student selected for participation in the Voucher Program must apply for admission to a participating private school. Participating private schools are free to apply any of their own admission criteria that do not conflict with Voucher Program requirements, and (with exceptions for previously enrolled students and siblings) are otherwise to admit students in the order in which their applications are received. § 22-56-105, C.R.S. Such schools are accordingly free to apply admission criteria that exclude students based on their academic performance, disciplinary records, and similar considerations.

28. Once enrolled in a private school under the Voucher Program, a student is eligible to continue in the Program and receive a publicly subsidized private-school education through Grade 12, as long as he or she remains enrolled in a participating private school, meets minimum attendance requirements, resides in Colorado, and takes required statewide assessments, § 22-56-104(3)(a), (8)(a), C.R.S. – regardless of the academic performance ratings of the public schools the student would otherwise attend.

29. Any private school that submits a timely application to a school district has a right, enforceable through an appeal to the State Board of Education, to participate in the Voucher Program, as long as it complies with certain standards set forth in § 22-56-106(1) & (2), C.R.S. Under these standards, participating private schools are prohibited from discriminating against “eligible children” on the basis of race, color, religion, national origin, or disability (although the Voucher Program does not prohibit discrimination on any of those grounds in the admission of other students and in the employment of faculty and staff); they may not “advocate or foster unlawful behavior or teach hatred of a person or a group,” and must meet the requirements of relevant health and safety codes, participate in the statewide assessment program, obtain criminal background checks of their employees, and make available information about their history, structure, educational philosophy, and curriculum. Schools in operation for less than three years also must provide certain financial guarantees.

30. School districts have no discretion to deny the application of any private school that demonstrates compliance with the statutory standards for participation in the Voucher Program. § 22-56-106(3)(b), C.R.S.

31. The Voucher Program does not require that the private school a student attends offer a higher quality education than the public school the student would otherwise attend. Indeed, the statutory standards do not in any way limit private schools’ participation on the basis of the quality of the education those schools provide.

32. The statute does not limit participation in the Voucher Program to private schools that are nonsectarian. Nor does it exclude from participation schools that are “pervasively sectarian,” as that term is used in § 23-3.5-105, C.R.S., and in *Americans United v. State*, 648 P.2d 1072 (Colo. 1982). And the statute does not prohibit participating schools from requiring students enrolled under the Voucher Program to participate in prayer, worship, religious training, and other sectarian activities.

33. The school district of residence of a student attending private school under the Voucher Program is required to pay for the student’s private-school education in an amount that is the lesser of (a) the private school’s “actual educational cost per pupil,” or (b) 85%, 75%, or 37.5% of the school district’s per pupil operating revenues, for students in Grades 9-12, 1-8, and Kindergarten, respectively. § 22-56-108(2), C.R.S. No additional state funding is provided to cover these voucher payments, which school districts must make from funds they otherwise would use to operate the public schools. The statute does not prohibit a participating private school from charging students attending under the Voucher Program additional fees or tuition, beyond the amount received from the school district.

34. The school district’s payments for the private-school education of students participating in the Voucher Program are to be made by check in four equal installments throughout the school year. § 22-56-108(3), C.R.S. The statute provides that the check is to be made out “in the name of the eligible child’s parent,” and that “[t]he school district shall send the check to the participating nonpublic school in which the parent’s child is enrolled, and the parent shall restrictively endorse the check for the sole use of the participating nonpublic school.” § 22-56-108(4)(a), C.R.S.

35. Although denominated a “pilot program,” the Voucher Program is of permanent duration. The General Assembly specifically rejected a “sunset” provision that would have terminated the Voucher Program after the 2008-09 school year.

The Implementation Environment

36. The statutory definition of the class of “school district[s]” required to participate in the Voucher Program, § 22-56-103(10)(a)(I), C.R.S., identifies the following school districts as mandatory participants: Adams County School District No. 14, Aurora School District No. 28J, Colorado Springs School District No. 11, Denver County School District No. 1, Greeley School District No. 6, Harrison School District No. 2, Jefferson County School District No. R-1, Northglenn-Thornton School District No. 12, Pueblo School District No. 60, St. Vrain Valley School District No. RE-1J, and Westminster School District No. 50. Under the terms of the statute, the class of school districts required to

participate in the Voucher Program will never include any school district other than these eleven.

37. While other Colorado school districts may choose whether to participate in the Voucher Program, the eleven school districts that are members of the class designated by the statute have no choice: they must divert a portion of their education revenues to pay for the private-school vouchers and for the costs of administering the Program.

38. The school districts that are required through the Voucher Program to pay for their residents' education in private schools have no control over the education that is offered in such schools.

39. Except for the minimal requirements of § 22.56-106(1) & (2), C.R.S., private schools eligible to participate in the Voucher Program are subject to virtually no state regulation or control.

40. The vast majority of the private schools that are eligible to participate in the Voucher Program are "sectarian" or "religious," as those terms are used in Article II, § 4, Article V, § 34, and Article IX, § 7, of the Colorado Constitution. According to data maintained by the Colorado Department of Education, approximately 70% of all Colorado private schools that offer education beyond Kindergarten are sectarian. Of those located within the eleven school districts required to participate in the Voucher Program, nearly three-quarters are sectarian. And sectarian schools constitute all, or all but one, of the private schools that exist in fully half of those school districts.

41. Unlike most sectarian private schools, many or most of the nonsectarian private schools eligible to participate in the Voucher Program charge tuition that exceeds the amount school districts will be required to pay under § 22-56-108(2), C.R.S. Most of the low-income families eligible to participate in the Voucher Program will be unable to afford the supplemental tuition necessary to attend such schools. For this reason, the percentages cited in the preceding paragraph understate the extent to which the opportunities for private-school enrollment actually available to Voucher Program participants will be overwhelmingly sectarian.

42. The Voucher Program places no restrictions on how participating private schools may expend the public funds that are paid to them under the Program. Thus, participating sectarian private schools are free to use these funds in whole or in part for sectarian purposes, such as religious instruction, worship services, salaries or stipends of clergy or members of religious orders, purchase of Bibles and other religious literature, and construction of chapels and other facilities used for worship and prayer.

43. The sectarian private schools eligible to participate in the Voucher Program are religious ministries of the churches or other religious organizations that own, operate, sponsor, or control the schools. Most or all such schools are owned, operated, sponsored, or controlled by churches, sects, denominations, and other religious entities.

44. All or almost all of the sectarian private schools eligible to participate in the Voucher Program are “pervasively sectarian,” as that term is used in § 23-3.5-105, C.R.S., and in *Americans United v. State*, 648 P.2d 1072 (Colo. 1982). A substantial portion of their functions is subsumed in their religious missions, and their religious character bears a significant relationship to their educational function.

45. All or almost all of the sectarian private schools eligible to participate in the Voucher Program are places of worship.

46. Most sectarian private schools eligible to participate in the Voucher Program charge tuition that does not fully cover those schools’ “actual educational cost per pupil,” § 22-56-108(2)(a), C.R.S., and the difference is made up by subsidies from the religious entities that own, operate, sponsor, or control these schools. The payments school districts are required to make to participating sectarian private schools under the Voucher Program therefore will often exceed the tuition charged by such schools. As a result, the public funds paid to such schools under the Voucher Program will contribute to defraying all or part of the subsidies that otherwise would be provided, as part of their religious ministries, by the churches and other religious entities that own, operate, sponsor, or control the participating sectarian private schools.

47. A substantial purpose of the sectarian private schools eligible to participate in the Voucher Program, and of the religious entities that own, operate, sponsor, or control them, is to provide students with a religious upbringing and to inculcate in them the particular religious beliefs and values of the school or sponsoring religious organization.

48. The Voucher Program will make it possible for participating sectarian private schools to provide such religious training and instruction to students who otherwise would not have received the religious education those schools offer.

49. All or almost all of the sectarian private schools that participate in the Voucher Program will, in accordance with their standard curriculum and practice, require students who attend under the Voucher Program to participate in prayer, worship, religious training and instruction, and other sectarian activities that tend to inculcate in such students the particular religious beliefs and values of the churches and other religious organizations that own, operate, sponsor, or control said schools.

50. Through the Voucher Program, the religious ministries of churches and other religious organizations will be partly supported by taxation.

51. If all of the available student slots in the Voucher Program are filled, the Program will, by the time it is fully implemented in the 2007-08 school year, result in a loss of revenue to the eleven school districts required to participate in the Program of more than \$90 million each year.

52. School district revenue, from which the school districts that participate in the Voucher Program will make the required payments for private-school education, derives in part from income from the public school fund of the State.

FIRST CAUSE OF ACTION
(Article V, § 25, Colorado Constitution)

53. The allegations of paragraphs 1-52 are realleged and incorporated herein by reference.

54. Article V, § 25 of the Colorado Constitution prohibits the General Assembly from enacting “local or special laws” with respect to, *inter alia*, “the management of common schools.”

55. House Bill 03-1160, which established the Voucher Program, constitutes an impermissible “local or special law” with respect to the management of the common schools, in that it creates an illusory class of school districts to which the law’s mandatory-participation provision applies. Because the class is defined by reference to conditions that existed at a time certain in the past (academic performance ratings for the 2001-02 school year), it does not constitute a genuine class that would embrace other school districts that in future years might come to be similarly situated to the existing class members; it thus is not general and uniform in its operation upon all in like situation.

56. House Bill 03-1160 also violates Article V, § 25 because its creation of a class of Colorado school districts defined by having eight or more schools rated “low” or “unsatisfactory” – without regard to the total number of schools operated by the school district – is not reasonably related to a legitimate governmental purpose.

SECOND CAUSE OF ACTION
(Article IX, § 15, Colorado Constitution)

57. The allegations of paragraphs 1-56 are realleged and incorporated herein by reference.

58. Article IX, § 15 of the Colorado Constitution, which provides that local school boards “shall have control of instruction in the public schools of their respective districts,” vests in the school board of each school district control over the instruction provided with that school district’s funds.

59. The Voucher Program violates Article IX, § 15 because it removes from the school boards of the participating school districts all discretion and control as to the content of the instruction provided, with the school district’s funds, to students participating in the Voucher Program.

THIRD CAUSE OF ACTION
(Article II, § 4, Colorado Constitution)

60. The allegations of paragraphs 1-59 are realleged and incorporated herein by reference.

61. Article II, § 4 of the Colorado Constitution guarantees the “free exercise and enjoyment of religious profession and worship,” and provides that “[n]o person shall be required to . . . support any ministry or place of worship, religious sect or denomination against his consent.”

62. By using public funds to pay for students to attend sectarian private schools, the Voucher Program requires plaintiffs and other Colorado taxpayers, through their tax payments, to support such schools, which are places of worship, and to support the religious ministries of the sectarian private schools and the religious sects and denominations that own, operate, sponsor, or control them, in violation of Article II, § 4 of the Colorado Constitution.

FOURTH CAUSE OF ACTION
(Article IX, § 7, Colorado Constitution)

63. The allegations of paragraphs 1-62 are realleged and incorporated herein by reference.

64. Article IX, § 7 of the Colorado Constitution prohibits the State and its political subdivisions, including school districts, from ever “pay[ing] from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school . . . controlled by any church or sectarian denomination whatsoever.”

65. The Voucher Program requires participating school districts to pay for certain of their students to attend schools controlled by churches and sectarian denominations, where they will receive religious training and

instruction that reflects the particular religion of the sponsoring church or organization. This use of public funds is in aid of and helps to support and sustain sectarian private schools and the churches and sectarian denominations that sponsor them, in violation of Article IX, § 7. Such payments also support these schools' and churches' "sectarian purpose," in violation of Article IX, § 7, by making it possible for them to provide religious training and instruction reflecting their particular religion to students whom they otherwise would not have been able to reach with their religious message.

FIFTH CAUSE OF ACTION
(Article II, § 4 and Article IX, § 7, Colorado Constitution)

66. The allegations of paragraphs 1-65 are realleged and incorporated herein by reference.

67. Because of the overwhelmingly sectarian nature of the opportunities for private-school enrollment actually available to many or most Voucher Program participants, the Voucher Program will operate to coerce parents to accept religious indoctrination for their children as the price for the state-subsidized private-school education the Program offers.

68. The offer of a government benefit that has the effect of compelling parents to accept religious indoctrination they would not otherwise have chosen for their children violates the free exercise and establishment provisions of Article II, § 4 and Article IX, § 7 of the Colorado Constitution.

SIXTH CAUSE OF ACTION
(Article V, § 34, Colorado Constitution)

69. The allegations of paragraphs 1-68 are realleged and incorporated herein by reference.

70. Article V, § 34 of the Colorado Constitution provides that "[n]o appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association."

71. The Voucher Program violates Article V, § 34 because an appropriation is made for educational purposes to persons, corporations, and communities not under the absolute control of the State, and to denominational and sectarian institutions.

SEVENTH CAUSE OF ACTION
(Article IX, § 3, Colorado Constitution)

72. The allegations of paragraphs 1-71 are realleged and incorporated herein by reference.

73. Article IX, § 3 of the Colorado Constitution provides that any income from the public school fund of the State “shall be expended in the maintenance of the schools of the state,” and that no part of such income “shall ever be . . . used . . . except as provided in this article IX.”

74. Under the Voucher Program, participating school districts will make payments from their general revenues, which are derived in part from income from the public school fund of the State, for certain students to attend private schools. The use of income from the public school fund to pay for education in private schools violates Article IX, § 3, because these payments do not go to maintain the public “schools of the state,” and because the funding of education in private schools is not a purpose authorized by Article IX of the Colorado Constitution.

EIGHTH CAUSE OF ACTION
(Article IX, § 2, Colorado Constitution)

75. The allegations of paragraphs 1-74 are realleged and incorporated herein by reference.

76. Article IX, § 2 of the Colorado Constitution requires the State to provide publicly funded education to residents between the ages of 6 and 21 through “a thorough and uniform system of free public schools throughout the state.”

77. The Voucher Program violates the uniformity requirement of Article IX, § 2, by establishing a dual system of publicly funded education in those school districts that participate in the Voucher Program, through which some students will receive their publicly funded education in a system of private schools that are almost entirely beyond public control.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court:

(1) Declare the Voucher Program unconstitutional under Article II, § 4, Article V, §§ 25 & 34, and Article IX, §§ 2, 3, 7 & 15, of the Colorado Constitution;

(2) Enjoin defendants, and all persons and entities acting under their direction or in concert with them, from taking any actions to implement or enforce the Voucher Program;

(3) Award plaintiffs their attorneys' fees, expenses, and costs incurred in prosecuting this lawsuit; and

(4) Order such other and further relief as this Court may deem appropriate.

Respectfully submitted,

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