Is Wisconsin meeting its constitutional obligation to K-12 students?

Inside the *Wisconsin PTA* school funding lawsuit

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EDITOR'S NOTE: No generative artificial intelligence was used in the research or writing of this article.

"[T]he legislative and executive branches and the citizens of the state recognize the high cost of further improving the educational system, but they also realize that the cost of not improving the educational system to meet the constitutional mandate will be much higher. As Derek Bok, former president of Harvard University, wisely stated, 'If you think education is expensive, try ignorance.'"

– Chief Justice Shirley S. Abrahamson, concurring in part and dissenting, Wisconsin Supreme Court decision in *Vincent v. Voight*

Wisconsin PTA, et.al. v. Wisconsin Assembly: Key facts and why it matters

Since the early 1990s, more than 80% of Wisconsin school districts have held an operating referendum at least once (many have done so multiple times). Although originally intended to be a rare occurrence, state school finance policy choices, the rise in educational costs, and other factors have forced districts to turn to voters to shoulder basic operating costs previously borne by the state, like staff compensation and transportation.

This past spring, 63 school districts asked voters to exceed revenue limits through an operating referendum. While a clear majority (37 or 59%) passed, that still left 26 that failed. And many districts won or lost their referendums by extremely tight margins.

The consequences for districts that lose referendums are becoming dire, from staff cuts to the elimination of educational programs to delayed building repairs. At least three districts are considering dissolution or consolidation as a result of falling enrollment, protracted budget shortfalls, and failed referendums.

The failure of school finance policy to address the conditions that now drive the growing need for operating referendums is **not new**. **Superintendents**, school board members, and other school leaders have been calling out the need for school finance reform for many years.

The April 2026 operating referendums took place at a moment when the stakes were especially high: a few months after the legislature passed a state budget that froze general school aids and significantly underdelivered on its special education funding promise.

But just before then, in late February, a school finance lawsuit was **filed** in Eau Claire County Circuit Court against the Wisconsin legislature on the basis that the school finance system does not comply with the state constitution.

The lawsuit is referred to as *Wisconsin PTA, et.al. v. Wisconsin Assembly (Wisconsin PTA).* Its **goal** is to "...have the court hold the Legislature responsible for fulfilling its constitutional obligation to adequately fund Wisconsin public schools – so that every Wisconsin student has an equal opportunity education."

The plaintiffs include the Wisconsin PTA; five school districts (Adams Friendship, Beloit, Eau Claire, Green

Key takeaway

Bottom line, Wisconsin PTA is asking the court to declare the school finance system inadequate under the constitution and to compel the legislature to enact newly designed policies that make sure school leaders in every single district and school have sufficient resources to serve their specific students' needs. It is asking that all Wisconsin children have what we as a state, according to the constitution, have always promised them, an equal opportunity to obtain a sound basic education. If the plaintiffs succeed, school finance experts and other K-12 education leaders will have a critical advocacy role to play, as the issue will shift from the legal process to the legislative arena. It will be incumbent on public education stakeholders and constituents to hold the legislature accountable for its constitutional obligations and to provide policymakers with credible, fact-driven policy recommendations that would effectively address the challenges schools face.

Bay, and Necedah); local education unions in four of those districts (Adams-Friendship does not have a union); parents, teachers, students, taxpayers, and other community members in those five communities; and the Wisconsin Public Education Network (WPEN). Law Forward represents all of the plaintiffs, and the Wisconsin Education Association Council (WEAC) also represents the unions and teachers.

The defendants include the Wisconsin State Assembly, the Wisconsin State Senate, legislative leadership (including the Assembly Speaker, Senate President, and Senate Majority Leader), the Joint Finance Committee, and each member of the Joint Finance Committee.

Specifically, the plaintiffs are asking the court to declare that Wisconsin's school finance system fails to satisfy constitutional guarantees to the state's school children and to compel the legislature in a timely fashion to enact policy changes that address the current system's constitutional shortfalls.

The reason the plaintiffs name the legislature and not the Governor or other state officials as defendants is that the state constitution expressly charges the legislature with the responsibility of creating and maintaining public schools.

Is there a link between the growing use of operating referendums and the filing of this lawsuit? As noted, the rise in referendums is one of the main signals that the school finance system is in distress, and many would attribute that distress to a decades-long pattern of state school finance policies that have fallen short of the needs of students.

But there are many ways the system is blinking red, as every superintendent and school board could attest. To name a few: the class of 2027 will be the 5th class of seniors to graduate without any inflationary increase in the revenue limits throughout their entire educational careers; Wisconsin's ranking on per pupil K-12 spending has now fallen to the bottom half in the nation; and school districts collectively divert over a billion dollars per year from their general education resources to cover federally and state-mandated special education costs.

This article explains the claims in the lawsuit and provides important context for understanding the connection between those claims and the everyday reality of school leaders trying to meet the needs of their students in an increasingly untenable school finance environment.

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What does the Wisconsin Constitution require of the state on K-12 education?

What does the state constitution require of the legislature in terms of K-12 education, and what role does the school finance system play in upholding those requirements?

The plaintiffs point to the constitution itself as well as prior school finance cases that have interpreted it.

From the dawn of statehood, the framers of the Wisconsin Constitution embedded a mandate for free public schools with a character of instruction as uniform as practicable.

The framers charged the legislature specifically with carrying out that mandate. They agreed that funding for such schools would be both a state and local responsibility, with the state assuming two-thirds of the costs.

Today, **Article X, Section 3** of the constitution reads, in part, as follows: "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years." Article X, Section 3 establishes that, through those free public schools, every child has a fundamental right to an equal opportunity for a sound basic education.

The Wisconsin Supreme Court has interpreted Article X, Section 3 and what it means for the statutory school finance system in three major cases in the past 50 years, all of which upheld the school finance system but provided new insights on how the system would be assessed going forward.

In the most recent case, *Vincent v. Voight* (2000), the plaintiffs claimed that the school funding system at the time violated Article X, Section 3 and Article I, Section 1 because it failed to *equalize* access to financial resources among school districts. While the court was not fully convinced and upheld the system, the *Vincent* decision opened the door for the *Wisconsin PTA* challenge.

Although a 4-3 majority in *Vincent* maintained the constitutionality of the state school finance system, a different 4-3 majority **established a new standard** for interpreting the constitutionality of the school finance system, as articulated in the following excerpt from Justice Crooks' majority opinion:[1]

> "We further hold that Wisconsin **students have a fundamental right to an equal opportunity for a sound basic education.** An equal opportunity for a sound basic education is **one that will equip students for their roles as citizens and enable them to succeed economically and personally. The legislature has articulated a standard** for equal opportunity for a sound basic education in Wis. Stat. §§ 118.30(lg)(a) and 121.02(L) (1997-98) **as the opportunity for students to be proficient in mathematics, science, reading and writing, geography, and history, and for them to receive instruction in the arts and music, vocational training, social sciences, health, physical education and foreign language, in accordance with their age and aptitude.**
>
> An equal opportunity for a sound basic education **acknowledges that students and districts are not fungible and takes into account districts with disproportionate numbers of disabled students, economically disadvantaged students, and students with limited English language skills.**
>
> So long as the legislature is providing sufficient resources so that school districts offer students the equal opportunity for a sound basic education as required by the constitution, the state school finance system will pass constitutional muster."

This suggests the corollary also must be true: any time the legislature is *not providing sufficient resources* so that school districts offer students the equal opportunity for

[1] Wisconsin Supreme Court decision in *Vincent v. Voight*, paragraph 3

a sound basic education as required by the constitution, the state school finance system *will not* pass constitutional muster.

Wisconsin PTA builds on *Vincent v. Voight* but differs in a very important way. It says the school finance system violates the constitution, not because it fails to equalize resources between districts, but because it fails to provide **adequate** resources for school districts **to provide every child an equal opportunity to obtain a sound basic education,** which is a fundamental right under Wisconsin's Constitution. The *Wisconsin PTA* case follows a growing evolution of adequacy cases across the country.

Another crucial implication of the language in the *Vincent* decision is that although the *Vincent* court in 2000 ruled that the school finance system did not violate the constitution, it is reasonable, in light of how much has changed in the intervening 26 years, to reevaluate whether that still holds true.

The case for reevaluation draws further weight from language in Chief Justice Abrahamson's separate opinion. She helped make the majority that established a new constitutional standard for evaluating the state's school finance system. And, writing for three of the justices, she went a step further, calling for the case to be sent back to the circuit court.

She deemed such a step necessary to give the lower court a chance to test whether applying the newly established standard to "disparities in funding among school districts result in an unacceptable level of inequality in educational opportunity" and also "whether those students in property-poor districts or in school districts with disproportionate numbers of high needs students [2] are offered unacceptably diminished educational opportunities." [3] She was saying, in short, that now that we have defined what a "sound basic education" means, the lower courts should look carefully at whether Wisconsin was actually providing it.

Wisconsin PTA essentially asks the court to do just that – 26 years later – amid significant change in the intervening years in the conditions that define the educational opportunity on offer to Wisconsin's K-12 students.

"The lawsuit, essentially, asserts that it is time to revisit the system as a whole to determine whether it still upholds the constitution as the Supreme Court decided it did (amid a deeply divided court, it should be noted) in *Vincent v. Voight*."

Conditions have changed since *Vincent v. Voight*

The school finance system of today is not the same as it was 26 years ago. Although many of the components of the system remain in place, much has changed in the way they function. New components have been introduced. And the educational and economic conditions in which the school finance system operates also have changed. Significant shifts in student demographics, educational outcomes, and budgetary conditions for local school districts have converged with changes in school finance policy to erect significant barriers to school districts' efforts to fulfill the state's constitutional guarantees of educational opportunity.

Because of all of these changes, the lawsuit, essentially, asserts that it is time to revisit the system as a whole to determine whether it still upholds the constitution as the Supreme Court decided it did (amid a deeply divided court, it should be noted) in *Vincent v. Voight*.

Proficiency

It could be argued, based on the constitutional standard established in *Vincent v. Voight,* that an essential function of Wisconsin's school funding system is to provide sufficient resources to ensure that students are proficient in reading, math, and other subjects the legislature has specified. A majority of justices deemed the state school

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[2] "High needs students include disabled children, economically disadvantaged children and children with limited skills in the English language." Wisconsin Supreme Court decision in *Vincent v. Voight*, paragraph 103

[3] Wisconsin Supreme Court decision in *Vincent v. Voight,* paragraph 118

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finance system met that criterion at the time, and the case was never remanded to a lower court to test the standard.

Based on the data presented in the *Wisconsin PTA* complaint, overall student outcomes, as measured by average statewide reading and math proficiency data, have declined significantly since the *Vincent* decision. Proficiency levels for high needs students start from a significantly lower baseline and also have declined. And in any given year, large differences in average proficiency scores persist between districts and student groups. By 2022-23 (the most recent year where proficiency scores are comparable to earlier scores), selected data presented in the complaint show that well below half of Wisconsin's 4th, 8th, and 11th graders were proficient in reading and/or math. These are just a few of the measures that appear to indicate wide disparities among districts and students of varying needs in access to what the court has defined as a *basic* education.

A key question before the court will be whether large numbers of students failing to reach proficiency, as well as wide disparities in state proficiency test scores, demonstrate an objective failure on the state's part to provide an equal opportunity to be proficient in the basic skills that someone would need to succeed as a citizen and economically.

It is also worth noting that although it is methodologically difficult to directly attribute changes in state-specific standardized test scores to changes in state funding policy, a robust body of literature firmly establishes a causal link between funding and student outcomes such as performance on standardized tests. And the link is especially strong for students in one or more of the high needs groups.

Enrollment

Wisconsin's public school population hit its peak in 1997. But many school districts were able to mitigate enrollment losses starting in the mid-2000s by starting 4K programs.

In 2006-07, a few years after *Vincent v. Voight*, Wisconsin's public school enrollment was 864,747[4] and held relatively stable until 2012-13, at which point enrollment began to decline, a trend that is driven by lower birth rates and is projected to continue indefinitely into the future.[5] As of 2025-26, enrollment has fallen to 787,397,[6] an 8.9% drop since 2006-07. Between 2024-25 and 2029-30, public school enrollment is projected to continue to decline by 6.3%.[7]

While enrollments were steady or increasing, many school districts generally could expect the main portion of their general revenues to increase from one year to the next. That is because the state's school finance system under revenue limits directs the majority of school funding on a per pupil basis. And state law also allowed those revenues to rise with inflation for much of that period.

This kind of revenue stability meant that districts had some revenue predictability to be able to effectively plan budgets from year to year. They also were more likely to maintain current facilities and programming and might have been able to consider investments in additional educational opportunities to meet the changing needs of their students and families.

With statewide enrollment trends turning downward as of 2013-14 and projected to slide further in the future, the fiscal outlook for school districts raises concerns. These enrollment patterns exposed a fundamental flaw in the revenue limit mechanism that was not as discernible in the years of enrollment growth. The costs districts incur to educate their students do not decline in lockstep with state-controlled funding decreases due to enrollment losses. Regardless of student count, districts must absorb whatever it costs to provide building operations, main-

[4] 2026-07 Certified Enrollment. WISEdash Data Files. Department of Public Instruction

[5] Kemp, Sarah (November 2023) Declining enrollment: How demographics and the pandemic affect Wisconsin's Schools. WASB presentation slides. Slide 16. UW-Wisconsin Madison Applied Population Laboratory

[6] 2025-26 Certified Enrollment. WISEdash Data Files. Department of Public Instruction

[7] Kemp, Sarah (May 2026) Declining enrollment: Wisconsin demographics, school enrollment, and statewide projections. WASBO/CESA 8 declining enrollment workshop presentation slides. Slide 13. UW-Wisconsin Madison Applied Population Laboratory

tenance, facilities, transportation, insurance, curriculum, utilities, administration, and other fixed costs.

And because the number of students that districts lose is distributed in small increments across the entire K-12 grade span (for example, one or two per classroom), districts cannot reduce the number of classroom sections or educators, at least in the short run, without significantly raising class sizes. As a result, even though many districts' enrollment is lower with each successive year, they cannot immediately reduce staffing costs, which is their largest budget item.

As districts work to balance their budget each year, they face increasingly strong fiscal headwinds over which they have little control. As explained, because the state school finance system links general operating revenue to enrollment, if their enrollment is declining, they face a structural leak in their budgets because their enrollment loss is causing revenues to diminish faster than they can cut costs.

But the enrollment-related fiscal challenge would be more manageable if not for two major separate factors. First, the legislature has kept annual adjustments to revenue limits below inflation for almost 20 years, creating a budget leak for any school district, but worse for those with enrollment declines (more on that in the "three-legged stool" section). In addition, the lack of funding to cover mandated services for high needs students contributes further to the problem (more on that in the next section). Combined, these forces put districts in a perpetual cycle of trying to manage structural deficits while working to preserve the educational offerings and quality their students need.

Student needs and resources to support them

Amid the decline in the general student population, both the numbers and shares of students with higher educational needs specifically mentioned in *Vincent* (i.e., students with disabilities, English learners, and economically disadvantaged students) has increased over the last 26 years. Between 2005-06 and 2025-26, the number of public school students declined by 9.4%. In the same period, the number of students with disabilities *increased* by 4%. The increase among low-income students and English learners was especially dramatic, growing in number by 17.6% and 39.7%, respectively.[8] Because such growth occurred against an overall decline in all students, these high need student groups as a share of the overall student population also increased over the time period.

This carries fiscal implications because districts incur additional costs to meet federal and state mandates associated with serving high needs students. Federal funds offset some of these costs, but the state provides extremely low or nonexistent reimbursement rates for the remaining expenditures.

For example, although reimbursement for special education costs likely will be higher in 2025-26 (estimated at between 35% and 38%) than it was in 2005-06 (28.9%), it nonetheless leaves districts with significant shortfalls that require diverting dollars from their general funds for the core educational program that serves all students, including high needs students. In 2023-24, the total amount districts had to transfer out of their general funds to pay for special education reached $1.29 billion.

The mechanics are similar for English learners. Although a state categorical aid exists to help offset the costs of providing mandated services, only a small share of districts qualify for it. And those that do were reimbursed at 11.4% in 2004-05 and even less, 7.9%, in 2024-25. Meanwhile, the state has no universal categorical aid that provides school districts with additional resources to meet the needs of students experiencing poverty, even though these students are at higher risk of needing more educational supports to be able to gain full access to educational opportunities.

State-controlled school revenues

As student demographics and the educational needs of students has changed over time, the resources provided by the state school finance system have not kept up with those needs.

By several indicators, overall spending on Wisconsin public schools has lost ground since the early 2000s when *Vincent* was decided. State aids for K-12 schools (includ-

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[8] 2005-06 Certified Enrollment. 2025-26 Certified Enrollment. WISEdash Data Files. Department of Public Instruction, WASBO calculations

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ing voucher and independent charter schools) as a share of total state general fund expenditures (General Purpose Revenue or **GPR**) fell from 43.1% in 2003 to 32.2% in 2024 (in nominal dollars).

Data cited in the complaint claim that adjusted for inflation, state aids for public schools were $833 less per pupil in 2023-24 than in 2002-03 (when state per pupil spending on public schools was at its peak).[9]

U.S. Census data on overall **inflation-adjusted** spending for K-12 education (including local, state, and federal funding sources) provides a national context. In Wisconsin, that measure increased by $360 (2.4%) between 2002 and 2023, while the average increase in spending at the national level was almost 10 times Wisconsin's, surging by $3,483 (21.1%) during the same period.

This disparity helped Wisconsin's ranking on per pupil K-12 spending drop to the bottom half of states in 2023, from 11th in the nation in 2002 (when it was spending 11% more than the national average) to 26th in 2023 (with spending at 9.6% below the national average).

State-imposed limits on general school revenues per pupil also have declined relative to inflation in that time frame. Between 1993-94 and 2008-09, state law automatically adjusted per pupil revenue limits to keep pace with inflation, but policymakers abandoned that provision in 2009-10. As a result, annual adjustments in the combination of revenue limits per pupil and per pupil categorical aid fell behind inflation by $3,300 between 2009-10 and 2023-24.

Not surprisingly, these downward trends in state and local investment in public education have coincided with historic declines in state and local tax burden (taxes as a percent of personal income), which reached a **record low** in 2025.

Whether measured in raw change, inflation-adjusted dollars, or relative to national trends, the overall thrust of these indicators suggest that spending on public schools has fallen as a priority for Wisconsin in the quarter century since the constitutionality of the state's school finance system last was evaluated.

"Three-legged stool" dismantled

At the time of the *Vincent* decision, Wisconsin's school finance system was undergirded by an instrumental three-pronged school finance policy package implemented in the early 1990s. Collectively nicknamed the "three-legged stool", these provisions sought to balance the triple policy goals of constraining school spending, limiting reliance on and growth in property taxes to fund schools, and providing inflationary revenue increases to help ensure schools had a sustainable and predictable flow of funds for general operating purposes. Today, only one broken leg remains.

The first leg was a statutory commitment to provide two-thirds of "partial school revenues" through substantial increases in school aids and property tax credits that were linked to school levies. The second leg established the "qualified economic offer" (QEO) to help school districts limit growth in spending on their largest budget line-item, staff compensation. Under the QEO, as long as a school district offered educators an annual increase in compensation of at least 3.8%, they could avoid the costs and risks of arbitration awards.

The last leg, the revenue limit, worked in conjunction with the previous two to limit school spending by capping, on a per pupil basis, the annual increase a district could receive in the combination of general school aids and property tax levy (absent an operating referendum to exceed the cap). While each district had its own individualized revenue limit that locked in certain assumptions from the early 1990s, the limits were indexed to the Consumer Price Index until 2008-09.

The two-thirds commitment was eliminated as part of the 2003-05 state budget, and the QEO was repealed in the 2009-11 state budget. The revenue limit is the only leg that remains, but it does not function as intended in the absence of the other two legs and the elimination of the inflationary indexing mechanism (the class of 2027

[9] *Wisconsin PTA* complaint, paragraph 210

will be 5th class of seniors to graduate without any inflationary increase in the revenue limits throughout their K-12 years).

Add to that a series of intervening policy choices that further hamper the effectiveness of the revenue limit, such as a 5.5% ($554 per pupil on average) *cut* in the annual adjustment to district per pupil revenue limit in 2011-12, frozen revenue limits in six of the last 10 years, declining enrollment, underfunding of special education costs, and most recently, a freeze on equalization aids. The combination of these and other developments help explain the fiscal distress in which an increasing number of districts find themselves and the dramatic rise in the number and dollar amounts of operating referendums, especially since 2009-10.

Referendums

By virtue of all of these developments over time, school districts increasingly are operating on extremely tight, if not negative, operating margins where the cost to simply maintain status quo operations and educational programming exceeds (sometimes significantly) the revenues coming in (the vast majority of which are controlled or provided by the state). Since 2006-07, an average of 29.6% (almost a third) of districts faced a structural deficit in their general funds in a given year. The challenge has only grown over time, with the share of districts budgeting for a structural deficit in a given year surging to 38.2% on average since 2022-23.[10]

To cope with these fiscal pressures and to preserve educational opportunity and quality, increasingly, communities are taking matters into their own hands by asking local property taxpayers to step in for the state by approving operating referendums to exceed state-imposed revenue limits. Referendums have become an essential lifeline in communities where taxpayers are able and willing to shoulder the costs.

Between 2010 and 2024, the overall trend in the number of operating referendums has been on the rise, with 2024 setting a record at 148 questions among 131 school districts. Although a healthy majority (65%) passed, that rate was far below previous passage rates in even-numbered years. In 2025, there were 62 operating referendums (with a 53% passage rate), the most in an odd-numbered year since 2001. According to a 2023 **study** by Forward Analytics, since the dawn of revenue limits in 1993-94, at least 82% of school districts in Wisconsin have requested to override their revenue limits via operating referendum option at least once.

"In the 26 years since Vincent, efforts to effect policy change through the legislature have proven insufficient to address these worsening conditions. Consequently, the lever of litigation has emerged as one of the only remaining viable avenues to establish that the current school finance system fails to meet constitutional requirements and to compel meaningful legislative response going forward."

As a result, district budgets have grown more dependent on operating referendum dollars to avoid deficits. In 2022, an alarming 100 districts (almost a quarter) relied on operating referendum dollars to fund more than **10%** of their total education costs. Overall statewide, the percent of school tax levies attributable to operating referendums rose from **1.8% in 2012 to 13% in 2025.**

In many communities, however, taxpayers have not been willing or able to pass operating referendums, even though they operate under the same conditions and encounter the same cost pressures as communities that can and do pass referendums (many of which have done so multiple times).

As a consequence, disparities between districts' revenue limits have grown over the last 20 years. A Wisconsin Policy Forum **analysis** shows that between 2005 and 2025,

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[10] WASBO analysis of DPI school finance data

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the gap between districts at the 10th and 90th percentiles in terms of revenue limit per pupil increased by 13 percentage points or $2,470. Resource disparities, especially as they grow over time, raise concerns about their potential to perpetuate fundamental disparities amongst students' access to the educational opportunity that the state constitution guarantees them.

Because of districts' growing dependence on referendums, the stakes for failed referendums also are higher. To illustrate, failed ballot questions during the most recent April 2026 referendums resulted in impacts to districts ranging from drastic cuts to core teaching staff, pay freezes, increased class sizes, cuts to academic and extracurricular programs, and reduced student supports like counseling to school closures and even possible district dissolution.

These are only a few of the forces affecting school finance and educational opportunity that have changed since 2000. Other important state school funding factors contribute meaningfully to fiscal conditions for school districts such as the declining number of school districts that receive aid through the equalization aid formula; educator retention challenges due in large part to districts' inability to provide competitive compensation; the legislature's increasing preference for funding the school levy tax credit over general school aids; and dramatic growth in the cost of voucher and independent charter programs, to name a few.

"A key question before the court will be whether large numbers of students failing to reach proficiency, as well as wide disparities in state proficiency test scores, demonstrate an objective failure on the state's part to provide an equal opportunity to be proficient in the basic skills that someone would need to succeed as a citizen and economically."

Understanding how these factors have developed since the *Vincent* era is crucial for assessing how the performance of the school finance system has changed and whether it has evolved to such a degree that it violates the constitutional rights of Wisconsin students today.

What is the lawsuit asking for, and how does it make its case?

The *Wisconsin PTA* lawsuit asks the court to declare that Wisconsin's school finance system, as currently promulgated by the legislature, is invalid because it violates the Wisconsin Constitution under three specific sections. It makes six distinct but related claims.

The **first four** claims form the foundation of the complaint and are based on violations of Article X, Section 3. That section **guarantees every Wisconsin student an equal opportunity to obtain a sound basic education in a tuition-free public school where the character of instruction is as nearly uniform as practicable.**

The first two claims say that the school finance system and the level of funding it provides are inadequate and therefore deny Wisconsin students that guarantee. The third claim points specifically to how the school finance system does not account for student needs and therefore denies that guarantee to high needs students (defined as students with disabilities, English learners, and students from economic disadvantage).

The fourth builds on the previous three, specifically calling out how "underfunding" of mandated special education costs essentially forces school districts either to divert money away from the general education program to satisfy legal mandates for special education, or to violate those mandates in favor of preserving resources for the general program. Either choice violates the law and harms all students.

The **fifth** claim draws on Article I, Section 1 (the equal protection guarantee) to reinforce the manner in which

the school finance system, by insufficiently accounting for the additional resources required to serve high needs students, fails to provide them with an equal opportunity for a sound basic education.

Finally, the **sixth** claim says that the school finance system violates Article I, Section 22, the constitutional guarantee that Wisconsin will maintain a free government based on "first principles". It argues that free public schools are essential to a free government, that they are a foundational principle since before the state was founded, and that inadequate state funding of public schools violates that guarantee.

The arguments in the complaint are focused on the history and basic mechanics of Wisconsin's school finance system and use extensive data and examples of how reality on the ground backs up the claims in the five plaintiff school districts.

Although plaintiff districts are individually situated, the complaint essentially provides case studies using data and anecdotes to illustrate the fiscal constraints the school finance system places on the plaintiff districts and the effects those constraints have on students, staff, and communities.

Common themes surrounding these effects, as cited in the complaint, include:

- Extremely low math and reading proficiency levels
- Growing reliance on local property taxpayers (rather than state support) via operating referendums to fund basic operations
- Program/course eliminations
- School closures and consolidations
- Delayed purchase of curricula, instructional equipment, and textbooks for mandatory subjects
- Struggles to attract and retain teachers and support staff, some of whom are essential to support high needs students, largely attributable to districts not having the financial means to offer competitive compensation
- Severely delayed facility maintenance and safety repairs causing unsafe conditions, closed sections of schools, and inability to maintain insurance coverage
- Cuts to transportation services resulting in longer bus rides

The plaintiff districts, which are geographically spread across the state and demographically different from one another, are *exemplars* to illustrate to the court how the school finance system violates the rights of students to equal protection and uniformity.

In summary, the lawsuit seeks to show, through arguments, data, anecdotes, and explanation of school finance mechanics, that students in some districts do not have equal opportunities to access a sound basic education, as defined in state law (and guaranteed by the constitution), and that this is because the school finance system is not adequate.

This creates a scenario whereby not all school districts are able to offer the educational programs and resources that would enable their students to meet statutory benchmarks, violating constitutional guarantees of uniformity, equal protection, and free government.

The lawsuit does not seek a judicial fix to the school finance system to bring it into compliance with the constitution. Rather, **it asks the court to:**

1. Affirm that the school finance system is, in fact, deficient under the constitution, and
2. Hold the legislature to its constitutional obligations, as it is the role of the legislature to enact laws that satisfy the constitution

Should the legislature fail to establish new school finance provisions that address the named violations in a "timely fashion," the suit does ask the court to force the matter by "establish[ing] a schedule...to adopt and implement a new school finance system that meets all relevant state constitutional guarantees." Even if this came to pass, the court's version of a school finance system would be a temporary placeholder until the legislature adopted a new, constitutionally compliant school finance system.

The key takeaway for public education stakeholders is that the arguments and supporting data underlying this lawsuit align tightly with the school finance sustainability challenges and corresponding policy recommendations that K-12 stakeholders have been communicating to policymakers for decades, with minimal, if any, legislative resolution.

The plaintiffs in this lawsuit are asking the court to compel the legislature to fulfill its obligation and address these long-standing challenges.

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What is the lawsuit not asking for?

Vital to understanding what *Wisconsin PTA* seeks to do is ascertaining what it is not asking for.

Plaintiffs are not asking the court to do the legislature's job

The lawsuit is asking the court to decide whether the school finance system satisfies the constitution, which is not the same as asking the court to decide whether *all* of the laws that comprise the school finance system are unconstitutional. Should the court agree with the plaintiffs and declare the school finance system inadequate, that ruling will compel the legislature to fulfill its obligation to design and implement a school finance system that meets constitutional standards.

In this case, such a system would need to adequately account for and provide resources for the needs of students. The court cannot write the statute needed to bring that about, but it can provide parameters for the legislature to follow.

"The complaint points out that the concept of the state assuming two-thirds of the cost of education as a way to alleviate fiscal pressure on local communities is a principle that goes back to the state's founding and illustrates that providing for the needs of children and protecting taxpayers are complementary, not competing priorities."

The lawsuit is also not challenging any particular component of the school finance system, nor calling for specific changes to any of the structures that make up the system, including the equalization aid formula, revenue limits, the requirement to go to referendum to exceed revenue limits, etc. Similarly, the challenge does not ask for a specific amount of increased funding levels in total or for particular funding categories, nor for the court to determine that amount.

The complaint is not making an equity argument

As noted, plaintiffs are not claiming that the school finance system results in an inequitable distribution of state or local resources among school districts, as the *Vincent* case did. They also are not arguing that the state should ensure identical educational offerings or outcomes in every school district or for every student across the state.

To the contrary, the *Wisconsin PTA* complaint asserts that different students require **different** amounts and kinds of resources, based on their needs. It asks the court to decide whether the state is providing the minimal amount of resources that would be adequate for each child to have an equitable opportunity to a basic education, no matter where they live or go to school.

In other words, this case is not arguing for redistribution of resources among districts, but for allocation of additional resources, where needed, to enable districts and schools to ensure every student has access to a sound basic education.

This is not a challenge to Wisconsin's parental choice programs or independent charter schools

This case is not a constitutional challenge to school choice in any way. The complaint does not ask for any specific action from the court on school choice.

There is no dispute in the complaint about the legality of choice or independent charter schools, nor is there any call for change to choice/independent charter funding or program structure.

Moreover, no judgment from the court on this complaint would affect the fate of voucher schools, independent

charter schools, or their students/families, much less defund them. Changes to the choice programs, if any, would come only if the legislature chooses to enact them.

Mentions of voucher and independent charter school programs appear in the complaint as part of a detailed explanation of Wisconsin's historical and current school funding system, which includes the indisputable facts surrounding the mechanics of voucher and independent charter school funding.

This is not about raising property taxes

Throughout the complaint, plaintiffs make frequent reference to the increasing burden that Wisconsin's school finance system, as it functions today, has placed on local property taxpayers, especially to the extent that insufficient state funding has driven school districts increasingly to resort to operating referendums to supplement inadequate state resources.

The complaint points out that the concept of the state assuming two-thirds of the cost of education as a way to alleviate fiscal pressure on local communities is a principle that goes back to the state's founding and illustrates that providing for the needs of children and protecting taxpayers are complementary, not competing priorities.

Litigation has emerged as a last resort

Although a narrow majority of justices in *Vincent v. Voight* upheld the constitutionality of the school finance system of the time, dissenting justices voiced concerns about the decision. Justice Bablitch could have been describing conditions of today when he wrote, "Despite the historic and commendable efforts by the Governor and the legislature to support public education, after reading this record one is left with the overwhelming realization that, for too many of our children, those efforts have not satisfied even a minimal constitutional guarantee of an equal opportunity for an adequate education." [11]

However, over the past quarter century, whether leaders in the legislature or Governor's office have been Republicans or Democrats, K-12 leaders across the state have worked continuously to improve conditions through legislative advocacy. During this time, districts also have employed a full range of strategies to cut costs and streamline operations while still satisfying their constitutional and statutory requirements.

"The plaintiffs have on their side a settled body of research that "overwhelmingly support[s] a causal relationship between increased school spending and student outcomes."

Despite those efforts, policymakers on both sides of the aisle have failed to enact policy changes that adequately address the needs of districts, schools, and students. This has not been for a dearth of good ideas. Numerous proposals for meaningful improvement to Wisconsin's school finance policies have come and gone over the years with little legislative action to show for it.

For example, the 2019 list of recommendations from the bipartisan Blue Ribbon Commission on School Funding still stands as a model policy package that K-12 stakeholders advocate for today. Meanwhile, fiscal and educational conditions for school districts have deteriorated to put many on a path to financial and educational peril, if they have not arrived there already.

In the 26 years since *Vincent*, efforts to effect policy change through the legislature have proven insufficient to address these worsening conditions.

Consequently, **the lever of litigation has emerged as one of the only remaining viable avenues to establish that the current school finance system fails to meet constitutional requirements and to compel meaningful legislative response going forward.** District leaders from plaintiff districts have called this a moment of last resort.

In adjudicating this case, the courts will have to make a number of new legal determinations, such as whether

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[11] Wisconsin Supreme Court decision in *Vincent v. Voight*, paragraph 129

Is Wisconsin meeting its constitutional obligation to K-12 students?

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districts with disproportionate numbers of high need students are achieving the educational results (for example, reaching adequate proficiency levels) that satisfy the *Vincent* standard for a sound basic education. If not, the courts will have to decide whether that failure traces to the school finance system's failure to provide sufficient resources.

The plaintiffs have on their side a settled body of research that "overwhelmingly support[s] a causal relationship between increased school spending and student outcomes" such as academic performance (e.g., score improvements); improvements in educational attainment like high school graduation and college-going; and future earnings, especially for students in families with low incomes and students of color.[12] In other words, it has been established that money matters in education.

Bottom line, this case is asking the court to declare the school finance system inadequate under the constitution and to compel the legislature to enact newly designed policies that make sure school leaders in every single district and school have sufficient resources to serve their specific students' needs. It is asking that all Wisconsin children have what we as a state, according to the constitution, have always promised them, an equal opportunity to obtain a sound basic education.

"If the plaintiffs succeed, Wisconsin courts will declare the school finance system does not comply with the constitution's promises, and the court would order the legislature to amend the public school finance system to meet constitutional requirements."

What happens next?

What is the status of the case now, and how will it affect school districts? The initial complaint filed in February is the first step of a long litigation process.

- Republican defendants have filed a motion to dismiss the lawsuit. They argued that the current school finance system is not materially different than the one upheld in *Vincent v. Voight*.
- Democratic defendants on the Joint Finance Committee submitted an answer that agreed with the plaintiff's filing.
- Two groups of voucher proponents and, separately, an association of independent charter schools have filed requests to join the lawsuit as defendants because they believe that the lawsuit challenges Wisconsin's parental choice programs and independent charter schools.
- The motion to dismiss likely will be briefed this summer.

If the plaintiffs succeed, Wisconsin courts will declare the school finance system does not comply with the constitution's promises, and the court would order the legislature to amend the public school finance system to meet constitutional requirements.

If that happens, school finance experts and other K-12 education leaders will have a critical advocacy role to play, as the issue will shift from the legal process to the legislative arena. It will be incumbent on public education stakeholders and constituents to hold the legislature accountable for its constitutional obligations and to provide policymakers with credible, fact-driven policy recommendations that would effectively address the challenges schools face.

In the meantime, the primary role K-12 leaders can play is to continue to work to educate their families, communities, and legislators about how the school finance system works, the fiscal and educational challenges it creates, and the policy solutions that would allow them to fulfill the constitution's promise to Wisconsin's children.

[12] Jackson, Kirabo C. (December 2018) Does school spending matter? The new literature on an old question. NBER Working Paper 25368