

Wisconsin PTA, et al.,

Plaintiffs,

Case No. 2026-CV-103

v.

Wisconsin State Assembly, et al.,

Defendants.

**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE AS
DEFENDANTS ON BEHALF OF COLBEY DECKER, GREGORY GENTZ,
ANTHONY KLOSOWSKI, JR., NEIL LAKOMIAK, EMILIE AND MICHAEL
SEAMAN, SARAH AND CALEB STORMER, SCHOOL CHOICE WISCONSIN
ACTION, INC., IMPACT CHRISTIAN SCHOOLS, INC., GREEN BAY AREA
CATHOLIC EDUCATION, INC., CATHOLIC MEMORIAL HIGH SCHOOL
OF WAUKESHA, INC., SHORELAND LUTHERAN HIGH SCHOOL
FEDERATION, INC., AND ST. MARCUS EVANGELICAL LUTHERAN
CHURCH, INC.**

INTRODUCTION

In their complaint, the Plaintiffs allege that the entire legal system by which the state funds education in Wisconsin and all the laws that create that system are unconstitutional. The complaint also alleges that the amount of state funding for education must be increased by an amount to be decided by this Court and that the state's system of equalized state aid to public schools, categorical aids, revenue limits, and referenda must all be stricken from the books and replaced with something new to be decided upon and approved by this Court, along with this Court having to determine the future existence of school choice in this State.

The Plaintiffs' complaint asks this Court to adjudicate inherently political and policy-laden questions concerning the appropriate educational performance of state public schools and the amount, structure, and distribution of state funding for public education and for choice and charter schools.

The State's school funding laws were last litigated more than 25 years ago in *Vincent v. Voight*, 2000 WI 93, 236 Wis. 2d 588, 614 N.W.2d 388 (2000) and the laws were upheld as constitutional by the Supreme Court. In addition, the Legislature's decision to increase the educational opportunities for students in this state to obtain a sound basic education by providing financial support for parents for choice schools was upheld by the Supreme Court a decade before that *in Davis v. Grover*, 166 Wis. 2d 501, 480 N.W.2d 460 (1992) and *Jackson v. Benson*, 218 Wis. 2d 835, 578 N.W.2d 602 (1998).

In this case, those decisions by the Supreme Court, and the policies and programs that they upheld, are under attack by the Plaintiffs. Because of the public importance of the laws and policies that are at stake, this group of parents/taxpayers, choice schools, and associations seek to intervene to protect the continued existence of the laws and policies that they rely on and support and to show that they are constitutional. The Proposed Intervenors seek to present evidence and arguments to this Court that best protect their legal, educational, and practical interests in this dispute.

Proposed Intervenor-Defendants

Colbey Decker, Gregory Gentz, Anthony Klosowski Jr., Neil Lakomiak, Emilie and Michael Seaman, and Sarah and Caleb Stormer (the "Parents/Taxpayers") are

all parents of pre-K through high school students in the State of Wisconsin, as well as taxpayers. *See* Decls. Decker ¶¶4–5; Gentz ¶¶4–5; Klosowski ¶¶4–5; Lakomiak ¶¶4–5; Seaman ¶¶4–5; Stormer ¶¶4–5. Colbey Decker, Gregory Gentz, Neil Lakomiak, and Emilie and Michael Seaman have children enrolled in public schools. *See* Decls. Decker ¶4; Gentz ¶4; Lakomiak ¶4; Seaman ¶4. Anthony Klosowski, Sarah and Caleb Stormer, and Emilie and Michael Seaman have children enrolled in private schools which participate in a parental choice program. *See* Decls. Klosowski ¶4; Stormer ¶4; Seaman ¶4. All of the parents are taxpayers, and all pay state and local taxes which are used to support education in their local district and throughout the State. *See* Decls. Decker ¶¶5–6; Gentz ¶¶5–6; Klosowski ¶¶5–6; Lakomiak ¶¶5–6; Seaman ¶¶5–6; Stormer ¶¶5–6.

The Parents/Taxpayers support the existing laws that govern funding for public schools and funding for choice schools and will defend them as constitutional. *See* Decls. Decker ¶10; Gentz ¶10; Klosowski ¶10; Lakomiak, ¶10; Seaman ¶10; Stormer ¶10. They believe that changing the existing laws through the courts will result in a worse (not better) system than the system that exists today. *Id.*

Article X, Section 3 of the Wisconsin Constitution charges the Legislature with effectuating the constitutional mandate for tuition free public schools and Article X, Section 1 appoints the Superintendent of Public Instruction with the task of supervising public instruction in this State. The public policy questions at issue in this case are political questions for these other branches and this Court is poorly equipped to deal with them. More importantly, for the purposes of this motion to

intervene, the Parents/Taxpayers are allowed no role in the dispute in this Court unless they are allowed to intervene.

The Parents/Taxpayers further believe that they will be harmed as taxpayers because meeting the Plaintiffs' demands as set forth in the Complaint will increase the state (and potentially local) taxes that they pay and will harm the schools (public and choice) that their children attend. *See* Decs. Decker ¶¶8–9; Gentz ¶¶8–9; Klosowski ¶¶8–9, 12–14; Lakomiak ¶¶8–9; Seaman ¶¶8–9; Stormer ¶¶8–9, 12–13. They believe that parents should have a choice between their local public school and a school in one of the choice programs¹ and that by providing such a choice the state has increased the opportunities for a sound basic education for the students of this state. *See* Decs. Decker ¶12; Gentz ¶12; Klosowski ¶15; Lakomiak ¶12; Seaman ¶12; Stormer ¶14.

The Parents/Taxpayers believe that simply spending more money on public schools will not solve any existing problems that exist in public education, but rather schools that are not doing an effective job need better leadership, better teachers, different curriculum, different rules and more parental involvement. *See* Decs. Decker ¶14; Gentz ¶13; Klosowski ¶16; Lakomiak ¶13; Seaman ¶13; Stormer ¶15. They believe that the problems that exist at individual schools are best solved by an active citizenry, local leaders, the Superintendent of Public Instruction (as the

¹ Wisconsin law provides for several programs designed to give additional education options to Wisconsin students and their families. These include: the Milwaukee Parental Choice Program, the Racine Parental Choice Program, the Wisconsin Parental Choice Program and the Special Needs Scholarship Program. These programs are collectively referred to in this brief as the “Choice Programs.”

constitutional officer responsible for supervising public education in Wisconsin) and the Legislature, and not by a court. *See* Decls. Decker ¶15; Gentz ¶14; Klosowski ¶¶17, 19; Lakomiak ¶14; Seaman ¶14; Stormer ¶16.

The Parents/Taxpayers will show that their interests as taxpayers and parents of children currently in Wisconsin schools are the exact opposite of the individuals, Teacher’s Unions, and school districts that are the Plaintiffs in this action. As parents and taxpayers, the Parents/Taxpayers want control of their schools and school districts through the democratic process of local and state elections. As taxpayers, the Parents/Taxpayers want to maintain the system of revenue limits and related laws that control excessive spending by public school districts. *See* Decls. Decker ¶¶10–11; Gentz ¶¶10–11; Klosowski ¶¶10–11; Lakomiak ¶¶10–11; Seaman ¶¶10–11; Stormer ¶¶10–11. No other party in this case has the same interests as the Parents/Taxpayers. Not the Plaintiffs and not the Defendants.

School Choice Wisconsin Action (“SCWA”) is a membership-based association of schools which participate in one or more of the Wisconsin Choice Programs.² *See* Decl. Laabs ¶¶ 3, 8. SCWA seeks to intervene on behalf of itself and its member schools. *Id.* at ¶ 6. SCWA has dedicated substantial time and resources to educating the public about the value of the Choice Programs in Wisconsin. *Id.* at ¶¶ 4, 7, 10. SCWA’s members have built budgets, acquired facilities, enrolled students, hired

² The Choice Programs referred to herein are those created by Wis. Stat. Ann. § 119.23 (Milwaukee Parental Choice Program), Wis. Stat. Ann. § 118.60 (Racine and Wisconsin Parental Choice Programs), and Wis. Stat. § 115.7915 (Wisconsin Special Needs Scholarship Program).

staff, and made substantial investments based upon their ability to participate in these programs. *Id.* at ¶¶ 4, 7. SCWA’s school members could not continue to provide the education services that they currently provide without the existence of the Choice Programs that currently exist in this state. *Id.* at ¶ 9.

Impact Christian Schools, Inc. (“ICS”) is a network of Christian schools throughout the state, with a central administration that handles fiscal management, hires and trains faculty, and provides spiritual leadership to all schools in the network. *See* Decl. Moore ¶ 3. All the schools in the ICS network participate in one or more of Wisconsin’s Choice Programs and ICS and the schools in the network could not continue to provide the education services that they currently provide without the existence of the Choice Programs that currently exist in this state. *Id.* at ¶¶ 6–7, 15.

Green Bay Area Catholic Education, Inc. (“GRACE”) is a network of nine Catholic schools in the Green Bay area. *See* Decl. Desotell ¶ 3. GRACE schools have a rich tradition of Catholic education seamlessly melded with cutting-edge practices. GRACE’s commitment is to foster a high-achieving, faith-based environment with a steadfast focus on personalized learning. *Id.* at ¶ 4. Each of the nine GRACE schools participate in one or more of Wisconsin’s Choice Programs. *Id.* at ¶ 6. GRACE schools could not continue to provide the education services that they currently provide without the existence of the Choice Programs that currently exist in this state. *Id.* at ¶ 14.

Catholic Memorial High School of Waukesha, Inc. (“CMH”), Shoreland Lutheran High School Federation, Inc. (“Shoreland Lutheran”), and St. Marcus

Evangelical Lutheran Church, Inc. (“St. Marcus Lutheran School”) are all individual schools that participate in one or more of the state’s existing Choice Programs. *See* Decls. Bembenek ¶3; Scriver ¶ 3; Tyson ¶ 3. These schools are able to provide an enhanced level of education to their students and to educate more students because of the existence of the Choice Programs in Wisconsin. *See* Decls. Bembenek ¶¶10, 12; Scriver ¶¶ 7, 11; Tyson ¶¶ 9–10.

SCWA, ICS, GRACE and the individual schools listed above seek to defend Wisconsin’s Choice Programs from a new attack nearly 30 years after *Davis v. Grover*, 166 Wis. 2d 501 (1992) and *Jackson v. Benson*, 218 Wis. 2d 835 (1998). *See* Decls. Laabs ¶¶ 10–12; Moore ¶¶ 13–14, 16; Desotell ¶¶ 12–13, 15; Bembenek ¶¶ 11–15; Scriver ¶¶ 10–14; Tyson ¶¶10–14. They will be directly impacted by this action, possess highly relevant experience and knowledge of these issues, and seek to intervene to ensure that their vital interests are represented. Tens of thousands of children and their families will be significantly harmed if the choice programs are reduced or eliminated. *Id.* *See also* Decls. Laabs ¶ 8; Moore ¶ 10; Desotell ¶ 9; Bembenek ¶ 8; Scriver ¶ 8; Tyson ¶ 7.

Among other things, the Complaint alleges that it is unconstitutional for the State to provide any funding for any of the Choice Programs until the public schools are funded to the level demanded by the Plaintiffs (Compl., Dkt. 23, ¶ 25); and that public schools are harmed by the State’s investment in the Choice Programs because they allegedly pull money and students away from public school districts. (Dkt. 23. ¶¶ 193–196). But SCWA, ICS, GRACE, and the individual schools would show the

Court that the Choice Programs do not hurt public schools at all and instead give a choice to families who are dissatisfied with the current level of performance of public schools. They will also show that choice schools spend less per pupil than public schools and, overall, they do a better job educating students than public schools. In short, the Proposed Intervenors would show that the Choice Programs help the State provide a sound basic education to Wisconsin students and that they do so at a significant cost savings.

Moreover SCWA, ICS, GRACE, and the individual schools are better positioned than any existing party to: (1) dispute the Plaintiffs' mischaracterization of the Choice Programs, and (2) show that the modification or elimination of the Choice Programs places the very existence of SCWA members, the ICS network, the GRACE network and the individual schools at stake in this lawsuit.

For the better part of four decades, Wisconsin has allowed for Parental Choice in K12 education. These programs provide a cornerstone of educational freedom that empowers tens of thousands of low-income families throughout our state to select the school that best meets their individual child's unique educational requirements. Based on the Choice Programs, hundreds of schools around Wisconsin have opened their doors, hired teachers and staff, invested in facilities and specialized programming, and delivered high-quality educational outcomes to tens of thousands of students throughout our state. This litigation puts their continued existence, and their very ability to continue to serve these families, in question.

The existing Defendants in this action, lawmakers sued for allegedly failing to devote additional resources to public school districts, cannot be counted on to defend the interests of these parents, taxpayers, and schools in the same way as the Proposed Intervenors would do themselves. Their interests are not the same as the Proposed Intervenors'. As a result, the Proposed Intervenors seek intervention as a matter of right pursuant to Wis. Stat. § 803.09(1), or in the alternative, permissive intervention under Wis. Stat. § 803.09(2).

ARGUMENT

I. The Proposed-Intervenors are entitled to intervene as of right

There are four well known requirements for a party to intervene as a matter of right in Wisconsin: (a) their motion must be timely; (b) they must have an interest sufficiently related to the subject of the action; (c) they must show that disposition of the action may, as a practical matter, impair or impede their ability to protect that interest; and (d) the existing parties do not adequately represent the proposed intervenor's interests. *Helgeland v. Wisconsin Municipalities*, 2008 WI 9, ¶ 38, 307 Wis. 2d 1, 745 N.W.2d 1 (footnotes omitted); Wis. Stat. § 803.09(1). Both Wisconsin and federal case law may be used to apply these four factors because § 803.09(1) is modeled after Federal Rule of Civil Procedure 24(a)(2). *Helgeland*, 2008 WI 9, ¶ 37. The Proposed Intervenors satisfy all four requirements to intervene as of right.

A. This motion is timely

This motion is timely. A motion is considered timely if “in view of all the circumstances the proposed intervenor acted promptly.” *State ex rel. Bilder v. Delavan Twp.*, 112 Wis. 2d 539, 550, 334 N.W.2d 252 (1983). A key consideration is

whether the proposed intervenor acted quickly enough to prevent the existing parties from being prejudiced by an undue delay. *Id.*

This action was filed on February 23, 2026. Dkt. 23. It was served upon some of the defendants on February 25, 2026, and the rest thereafter. Dkt. 45. The earliest that Defendants' responsive pleading is due would be on April 13, 2026. The Proposed Intervenor is filing this motion to intervene on the same day that Defendants' responsive pleading is due and issue is joined. They have acted promptly, and this motion is timely.

B. Movants have multiple interests in this action

Movants have multiple, independently sufficient interests in this action. Wisconsin courts assess whether a movant's interests are "sufficiently related" to an action by employing a "pragmatic, policy-based approach" that views the asserted interest[s] "practically, rather than technically." *Bilder*, 112 Wis. 2d at 547–48. In other words, judicial efficiency matters, and a movant's asserted interests function "primarily [as] a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with ... due process." *Id.* at 548–49 (citation omitted). While there must be some "sense in which the interest is 'of such direct and immediate character that the intervenor will either gain or lose by the direct operation of the judgment,'" *Helgeland*, 2008 WI 9, ¶ 45, the movant's interest does not have to be "judicially enforceable' in a separate proceeding." *Wolff v. Town of Jamestown*, 229 Wis. 2d 738, 744, 601 N.W.2d 301 (Ct. App. 1999). Additionally, an interest that is "special, personal, or unique" weighs in favor of intervention. *Helgeland*, 2008 WI 9, ¶ 116.

1. Parents/Taxpayers Interests

The Parents/Taxpayers who seek to intervene have multiple interests in this action. First, they are similarly situated to the individual Wisconsin residents who are Plaintiffs. (Dkt. 23, ¶¶ 59–64). Just like the individual plaintiffs, they are residents in their respective school districts, they are parents of students, and they are taxpayers. *See* Decls. Decker ¶3–5; Gentz ¶3–5; Klosowski ¶3–5; Lakomiak ¶3–5; Seaman ¶3–5; Stormer ¶3–5. The only difference is that based on those interests, the Parents/Taxpayers are seeking to intervene to advocate for precisely the opposite result as the individual Plaintiffs. It would be the height of injustice if one group of Wisconsin residents, parents, and taxpayers were heard by this Court, but an opposing group of similarly situated Wisconsin residents, parents, and taxpayers were barred from being heard.

Second, the Parents/Taxpayers who seek to intervene are all individual property, sales, and income taxpayers in the State of Wisconsin. Their state and local tax dollars support all the education programs at the state level, including public education and Wisconsin's Choice Programs. Put simply, the Plaintiffs want taxpayers to be required to pay more money to support their own local school districts as well as other school districts (through their state taxes).

As taxpayers, the Parents/Taxpayers who seek to intervene are interested in a result that does not take and spend their tax dollars in ways that are not approved by the Legislature and not required under the Wisconsin Constitution. As residents of their particular school districts, they have an interest in making sure that their school districts obtain the best possible result under the state funding laws, and,

because they mostly reside in different school districts than the individual plaintiffs, they are interested in different results than the individual plaintiffs. As parents, they are interested in improving low performing school districts but in meaningful ways. They do not think that money is the best and only answer, and they believe that democratically decided and local reforms resulting in new leadership, better staff, different curriculum, different rules, and more parental involvement are the preferable solutions. Those are all different interests than those of the educational establishment represented by the individuals, Teachers Unions, and School Districts who are the Plaintiffs. Moreover, the Defendants sued in their capacities as legislators do not have these same interests.

2. SCWA, ICS, GRACE and Individual School Interests

SCWA, ICS, GRACE and the individual schools (the “Choice School Intervenors”) who seek to intervene also have multiple interests in this action. They exist for the purpose of providing a sound basic education to tens of thousands of Wisconsin school children but can only do so through the continued existence of, and their ability to participate in, the Choice Programs.

The Choice School Intervenors are now a cornerstone of education in this State and empower tens of thousands of low-income families throughout our state to select the school that best meets their individual child’s unique educational requirements.

The Choice School Intervenors will show that they do not harm public schools and, in fact, coexist well with them. They provide competition that leads to better performance by public schools, and they educate children at a lower cost than public schools.

But the Plaintiffs do not agree that public schools and the Choice School Intervenor can coexist. The Plaintiffs seek the reduction or elimination of Wisconsin's Choice Programs and the reduction or elimination of parental choice everywhere in the state. The Choice Schools are in the best position to show that the Plaintiffs' allegations about the Choice Programs are false and to provide positive evidence about the benefits provided by the Choice School Intervenor and their ability to co-exist and even help public schools.

In addition, based upon the multi-decade history of the Choice Programs, the Choice School Intervenor will show that hundreds of schools around Wisconsin have opened their doors, hired teachers and staff, invested in facilities and specialized programming, and delivered high quality educational outcomes to tens of thousands of students. This litigation puts their continued existence and their ability to continue to serve these families in question. They have a strong interest in showing this Court the devastation that would be caused by the elimination of school choice in this state.

C. Disposition of this action may, as a practical matter, impair or impede the Proposed Intervenor's ability to protect their interests

Disposition of this action in favor of Plaintiffs will, as a practical matter, impede the Proposed Intervenor's ability to protect their stated interests. As with the interest component, Wisconsin courts assess this factor by taking a "pragmatic approach" that "focus[es] on the facts of [the] case and the policies underlying the intervention statute." *Helgeland*, 2008 WI 9, ¶ 79. In addition, two particular factors are considered: (1) "the extent to which an adverse holding in the action would apply to the movant's particular circumstances" and (2) "the extent to which the action into

which the movant seeks to intervene will result in a novel holding of law.” *Id.* ¶¶ 80–81.

With respect to this requirement, the Proposed Intervenors satisfy both factors. As the Answer simultaneously filed by the Proposed Intervenors explains, they disagree with many of the facts alleged by the Plaintiffs. They also disagree with the legal claims asserted by the Plaintiffs. They also disagree with the relief sought by the Plaintiffs. If the Plaintiffs prevail and their requested relief is granted, then the interests of the Parents/Taxpayers will be interfered with and denied. The amount they pay in taxes will be increased and misspent. Their schools will be treated differently and worse than they are now. The education of their children is at risk. The laws they support will be stricken and replaced.

The interests of the Choice School Intervenors will be similarly impaired. Their schools could be defunded and their ability to educate their students destroyed. The laws that allow them to offer the opportunity for a sound basic education to tens of thousands of Wisconsin students could be impaired or revoked.

But not only will the interests of the Proposed Intervenors be impaired (satisfying the first factor), the Plaintiffs certainly seek a novel holding of law and a novel result (satisfying the second factor). The Plaintiffs seek to have this Court overturn and replace the entire legal system by which the state funds education in Wisconsin and ask the Court to rule that all the laws that create that system are unconstitutional. The complaint also alleges that the amount of state funding for education must be increased in an amount to be decided by this Court and that the

state's system of equalized state aid to public schools, categorical aids, revenue limits, and referenda must all be stricken from the books and replaced with something new to be decided upon and approved by this Court. Likewise, the complaint alleges that the laws creating Wisconsin's Choice Programs must be eliminated and funding to choice schools denied. The holdings that they request are so novel that they have never been granted in this State, and the previous times that they were tried they were rejected.

If this Court is to hear the arguments from the Plaintiff Teachers Unions, school districts, and individuals that will lead to these results, the Court should also hear from the Proposed Intervenor taxpayers, parents, and schools that seek to present the other side.

D. The existing parties do not adequately represent movants' interests

The existing parties in this case do not adequately represent the interests of the Proposed Intervenors. While adequate representation is presumed when a "movant and an existing party have the same ultimate objective" or when "the putative representative is a governmental body or officer charged by law with representing the interests of the absentee," these presumptions are not applicable here, and even if they were, they are rebuttable. *Helgeland*, 2008 WI 9, ¶¶ 90–91.

Here, the existing Defendants are all sued solely in their capacity as lawmakers. The Democratic legislators and the Republican legislators who are Defendants are being separately represented in this action based on their political affiliations (meaning that the Democratic legislators have different attorneys than

the Republican legislators), showing that the interests of even the existing Defendants are not aligned. Neither the Democratic nor the Republican legislators are charged with representing the interests of the Proposed Intervenors. They may agree with the Proposed Intervenors on some of the facts and issues and may disagree with them about others. They may agree with some of their constituents who are parents, taxpayers, or operate public or choice schools about the issues in this case, but that just means that they disagree with other of their constituents who hold different views. But importantly for purposes of this motion, none of them are charged with defending the interests of the taxpayers, parents, and choice schools who seek to intervene in this case.

The existing Defendants are named in this case solely because of their role as lawmakers. With all respect to them as duly elected legislators, they do not have the same knowledge, concerns, legal interests, or practical interests as the Proposed Intervenors. In order for this Court to be fully advised of the relevant facts and the appropriate legal arguments, allowing the Proposed Intervenors to participate will provide the Court with points of view that would not otherwise be present in this case.

School funding cases like this one have been litigated around the country, and a variety of proposed parties have been allowed to intervene to defend an established funding program or formula. In *Morath v. The Texas Taxpayer and Student Fairness Coalition*, 490 S.W.3d 826 (Tex. 2016), the most recent round of Texas school finance litigation, school districts, parents and the Texas Association of Business were

permitted to intervene to argue that the system's defects lay not in inadequate funding but in “wasteful spending resulting from inefficient rules and policies,” placing them in opposition to the school district plaintiffs who claimed underfunding. *Id.* at 840.

In *Lara v. Faulkenberry*, 2025 Ark. 205, 725 S.W.3d 26 (2025), the Arkansas Supreme Court reversed a trial court's denial of intervention and held that supporters of the state’s school choice program were entitled to intervene as of right. The court found that the proposed intervenors’ financial interest in the program's continuation was not adequately represented by the state actors defending the suit, and that their participation would provide the court with valuable evidence for adjudicating the dispute. *Id.*, 725 S.W.3d at 29.

Similarly, in *Campbell County School Dist. v. State*, 907 P.2d 1238 (Wyo. 1995), the beneficiary districts of an existing funding formula were permitted to intervene to defend it against constitutional attack by districts that were attacking the formula. *Id.* at 1244. *See also N. Carolina State Bd. of Educ. v. N. Carolina Learns, Inc.*, 231 N.C. App. 270, 279–82, 751 S.E.2d 625 (2013) (upheld the intervention of entities that faced imminent economic injury through loss of school funding if ordered by the court); *League of Women Voters of Washington v. State*, 184 Wash. 2d 393, 355 P.3d 1131 (2015) (2015) (six charter school supporters were granted intervenor status as respondents to defend the constitutionality of Washington's Charter School Act).

The Proposed Intervenors satisfy all four requirements for intervention as of right and this Court should grant their motion to allow the Proposed Intervenors to participate in this case as parties.

II. In the alternative, the Proposed Intervenors should be granted permissive intervention

Alternatively, this Court should grant the Proposed Intervenors' motion on a permissive basis. Permissive intervention may be granted if the Proposed Intervenors satisfy three elements: (1) filing a timely motion; (2) asserting a claim or defense that has a question of law or fact in common with the main action; and (3) granting intervention will not "unduly delay or prejudice the adjudication of the rights of the original parties." *Helgeland*, 2008 WI 9, ¶¶119–120; Wis. Stat. § 803.09(2). The Proposed Intervenors satisfy all three elements.

First, as already discussed herein, the Proposed Intervenors' motion is timely filed.

Second, the Proposed Intervenors assert defenses that have a question of law or fact in common with the main action herein: they seek to ensure that this litigation does not needlessly harm Wisconsin's successful and longstanding parental choice programs, improperly impact taxpayers, or harm the schools where the Parent Intervenors send their children.

Third, the Proposed Intervenors' involvement in this action will not unduly delay or prejudice the adjudication of the rights of the original parties. They seek party status at the beginning of this litigation, on the earliest date that a responsive

pleading is due to be filed, and will ensure they can meet any and all deadlines or scheduling orders established by the Court.

For these reasons, if the Court does not grant the Proposed Intervenors' motion to intervene as of right, then they request that the Court grant their motion for permissive intervention.

CONCLUSION

For the foregoing reasons, the Court should grant Movants' motion to intervene.

Dated April 13, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE
FOR LAW & LIBERTY

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