

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

HAMILTON COUNTY BOARD)
OF EDUCATION, et al.,)
)
Plaintiffs,)
)
v.)
)
WILLIAM HASLAM, in his official)
capacity as the GOVERNOR OF)
TENNESSEE, et al.,)
)
)
Defendants.)

Case No. 15-355-I

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO DISMISS

The Defendants, State officials from both the Executive branch and the Legislative branch of the government of Tennessee, sued in their official capacities only, have moved that the Complaint in this action be dismissed in its entirety, pursuant to Rule 12.02 of the Tennessee Rules of Civil Procedure, on the grounds of lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted (Tenn.R.Civ.P. 12.02(1) and (6)). As discussed below, the Complaint is based upon a profoundly flawed interpretation of the three (3) Small Schools cases, *Tennessee Small School Systems, et al. v. McWherter, et al.*, 851 S.W. 2d 139 (Tenn. 1993) (“Small Schools I”); *Tennessee Small School Systems, et al. v. McWherter, et al.*, 894 S.W.2d 734 (Tenn. 1995) (“Small Schools II”); and *Tennessee Small School Systems, et al. v. McWherter, et al.*, 91 S.W.3d 232 (Tenn. 2002) (“Small Schools III), upon which the Complaint purports to rely in seeking the relief requested. The Complaint is further based upon a misreading of Tennessee education financing law, claiming that the State violates certain allegedly mandatory funding levels when, in fact, Tennessee education funding statutes grant the Legislature considerable

leeway in funding state K-12 education from year to year. The Plaintiffs also misapprehend Article II, section 24 of the Tennessee Constitution in claiming that alleged “unfunded mandates” run afoul of that provision. Finally, this Court lacks jurisdiction over the Legislative Defendants to grant portions of the relief requested, insofar as the injunctive relief sought by the Plaintiffs would violate the Separation of Powers doctrine set forth in Article II, sections 1 and 2 of the Tennessee Constitution.

INTRODUCTION

The Complaint

Styled a “Complaint for Declaratory and Injunctive Relief,” the Complaint in this action is brought by seven (7) county boards of education and purports to sue not only on behalf of the seven boards of education themselves, but also on behalf of “the teachers whom it employs, and the students whom it educates.” (Complaint, ¶ 1). No individual student, parent, or teacher, however, is a plaintiff in this action. The Plaintiff school boards include boards that would be considered (in terms of numbers of students) “large” school districts such as Hamilton County, and “small” school districts such as Grundy and Polk Counties. The Complaint invokes the Declaratory Judgments Act, Tenn. Code Ann. § 29-14-101, *et seq.*, and alleges that the State has breached its duty under Article XI, section 12 of the Tennessee Constitution,¹ to provide Tennessee students with a system of free public education. (Complaint, ¶ 3 and “Count One,” ¶¶ 25 - 27).

¹ Article XI, Section 12 of the Tennessee Constitution provides as follows: “The State of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly may establish and support such postsecondary educational institutions, including public institutions of higher learning, as it determines.”

It is further alleged that the State's system of financing public education violates the Equal Protection clauses of the Tennessee Constitution (Article I, section 8,² and Article XI, section 8³), "inasmuch as the State has not provided a free education to students, compelling schools in comparatively more affluent communities to shift these costs to students and their parents and schools in less affluent communities to cut services or do without educational opportunities" (*Id.* and "Count Two" ¶¶ 28 - 33). The Complaint also claims that the State is violating Tenn. Code Ann. § 49-1-102(a) by failing to provide for "an equitable level of educational funding across the State." (*Id.* and "Count Three," ¶¶ 34 - 37). Finally, the Plaintiffs allege that the State has violated Article II, section 24⁴ of the Tennessee Constitution "by imposing a series of unfunded mandates upon the communities of this State" (*Id.* and "Count Four," ¶¶ 38 - 40).

The relief sought by the Plaintiff school boards ("Prayer for Relief") includes:

(1) a finding by this Court that the ". . . General Assembly's present system of funding education violates Article XI, section 12 of the Tennessee Constitution inasmuch as it does not provide Tennesseans with a free public education" (Complaint at p. 14);

² Article I, Section 8 of the Tennessee Constitution states: "That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land."

³ Article XI, section 8 of the Tennessee Constitution provides: "The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law. No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, which laws may, at any time, be altered or repealed and no such alteration or repeal shall interfere with or divest rights which have become vested."

⁴ The relevant portion of Article II, Section 24 of the Tennessee Constitution states: "No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost."

(2) a finding by this Court that “. . . the General Assembly’s failure to identify and fund the true cost of educating students in Tennessee fails to provide Tennesseans with substantially equal educational opportunities,” (Complaint at p. 15);

(3) that this Court “. . . direct the General Assembly to appropriate sufficient funds to implement the recommendations of the BEP Review Committee dated November 1, 2014, with all deliberate speed” (Complaint at p. 15); and

(4) that this Court, “. . . recognizing that the General Assembly has failed to account for the costs associated with pursuing these high education standards, direct the General Assembly to include the cost components associated with pursuing these measures in the BEP formula” (Complaint at p. 15).

As will be more fully demonstrated below, all four counts of the Complaint are fatally flawed and should be dismissed.

The Small Schools Cases

Because the Complaint purports to rely so heavily upon the three *Small Schools* cases, it is appropriate to examine these cases at the outset, with a focus upon what they hold and, more importantly, what they do not hold.

In the first of the *Small Schools* cases, *Tennessee Small School Systems, et al. v. McWhorter, et al.*, 851 S.W.2d 139 (Tenn. 1993) (“*Small Schools I*”), the Tennessee Supreme Court held that Article XI, section 12 of the Tennessee Constitution guaranteed a free public education and placed upon the General Assembly the duty to “maintain and support a system of free public schools that provides, at least, the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.” *Small*

Schools I, 851 S.W.2d at 150-51. Crucially for the instant case, however, the Court did not find the educational funding system existing at the time unconstitutional on the basis of the education clause (Article XI, section 12) of the Tennessee Constitution. *Id.*, at 152. See *City of Humboldt v. McKnight*, 2005 WL 2051284 at 11 (Tenn. Ct. App. 2005), perm. app. denied (February 21, 2006)(noting that the Supreme Court held in *Small Schools I* that the extent to which the system did not comport with the education clause need not be determined).

Rather, *Small Schools I* found that the then existing funding system was unconstitutional because it violated the equal protection clauses (Article I, section 8 and Article XI, section 8) of the Tennessee Constitution.⁵ As stated in *City of Humboldt*,

The Court found that the record demonstrated substantial disparities in the educational opportunities afforded students across the state and that those disparities were caused principally by the statutory funding scheme. 851 S.W.2d at 156. The Court also held that the proof failed to show a legitimate state interest “justifying the granting to some citizens educational opportunities that are denied to other citizens similarly situated.” *Id.* Consequently, the statutory funding scheme failed the rational basis test.

City of Humboldt, Id., at *12.

It is important, for purposes of the instant case, to understand the extent of disparities in education funding that existed from county to county when *Small Schools I* was decided. For example, the Court noted in its “Finding of Facts” that, in 1987, funds available per pupil varied from \$1,823 to \$3,669, depending on the county. *Small Schools I*, 851 S.W. 2d at 143, 145. Thus, some counties’ educational funds were more than double those available to other counties. It is revealing that the Complaint in this case is silent on current figures regarding available funding

⁵ See footnotes 2 and 3 above.

from county to county. Contemporary county education funding figures are easily available on the Department of Education's website, however.

The "adequacy of funding" issue in *Small Schools I* is confined to a discussion of the inadequate funding available to the small rural counties as a result of the disparities stemming from the funding system existing at that time. The *Small Schools I* Court therefore explicitly declined to determine a list of "minimum requirements," or to enunciate "the precise level of education mandated by Article XI, section 12, and the extent, if any, to which the system does not comport with the education clause" *Small Schools I*, 851 S.W.2d, at 152. The Court concluded by recognizing that the task of fashioning both the contours of the State educational system, and the funding methods supporting that system, belongs to the General Assembly and not the courts:

The power of the General Assembly is extensive. The constitution contemplates that the power granted to the General Assembly will be exercised to accomplish the mandated result, a public school system that provides substantially equal educational opportunities to the school children of Tennessee. The means whereby the result is accomplished is, within constitutional limits, a legislative prerogative. Consequently, the trial court's holding that the appropriate remedy should be fashioned by the General Assembly is affirmed.

Id., 851 S.W.2d at 156.

Small Schools II and *III* both concerned elements of the state funding structure created by the General Assembly to replace the "Tennessee Foundation Program" whose flaws gave rise to the *Small Schools* cases. The Court found that the funding system newly created by the General Assembly, the "Basic Education Program" ("BEP"), passed constitutional muster, with the exception of one element: the funding equalization formula did not include the cost of teacher salaries. "The cost of teachers' compensation and benefits is the major item in every education budget. The failure to provide for the equalization of teachers' salaries according to the BEP

formula, puts the entire plan at risk functionally and, therefore, legally.” *Small Schools II*, 894 S.W.2d at 738.

Small Schools III again dealt with teachers’ salaries. Following the decision in *Small Schools II*, the General Assembly enacted a salary equity plan which, on a one-time basis, attempted to equalize teachers’ salaries in those school districts where the average salary was below \$28,094 as of 1993, but did not include teachers’ salaries as a component of the BEP. Nor did the new plan include provisions for annual review or cost determination of teachers’ salaries under the BEP. *Small Schools III*, 91 S.W.3d at 237. The Court therefore held that “the State has not complied with the unambiguous finding in *Small Schools II* that a constitutional plan ‘must include equalization of teachers’ salaries according to the BEP formula.’ ” *Id.* at 240.

The Court again recognized, however, that it was concerned in all three *Small Schools* cases with “substantially equal educational opportunities” rather than with specific funding levels or dollar amounts because “[t]he objective of teacher salary equalization is to provide substantially equal opportunities for students, not teachers.” *Id.* at 243.

In reaching the conclusion that the salary equity plan is constitutionally deficient, we are mindful that teachers’ salaries will not be identical in every school district. We also stress that our opinion does not hinge upon the adequacy of the average salary relied upon by the legislature, i.e., “\$28,094,” which the plaintiffs characterize variously as an “inadequate floor,” “artificial,” “erroneous,” and “extremely outdated.” It is not the business of the courts to decide how salaries are funded or at what level teachers should be compensated, for it is the legislature who “speaks for the people on matters of public policy” such as these. [Citation omitted]. In addition, nothing in the law prevents a local school system from supplanting teachers’ salaries from its own local non-BEP funds when such funds are in addition to its local BEP contribution. As such, some disparities in teachers’ salaries from school district to school district will exist. **In short, determining how to fund teachers’ salaries and the appropriate level of those salaries are choices for the legislature to make, assuming of course that the legislature discharges its powers in a manner that comports with the Constitution.**

Id. at 242-43 (emphasis added).

ARGUMENT

Standard of Review

The standards by which our courts should assess a Rule 12.02(6) motion to dismiss are well-established. See *Phillips v. Montgomery Cnty.*, 442 S.W.3d 233, 237 (Tenn. 2014); *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011). As stated by the Supreme Court in *Phillips v. Montgomery Cnty.*,

A motion to dismiss based upon Tennessee Rule of Civil Procedure 12.02(6) requires a court to determine if the pleadings state a claim upon which relief may be granted. Tenn. R. Civ. P. 12.02(6); *Cullum v. McCool*, 432 S.W.3d 829, 832 (Tenn. 2013). A Rule 12.02(6) motion challenges “only the legal sufficiency of the complaint, not the strength of the plaintiff’s proof or evidence.” *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011). A defendant filing a motion to dismiss “admits the truth of all the relevant and material allegations contained in the complaint, but ... asserts that the allegations fail to establish a cause of action.” *Id.* (quoting *Brown v. Tenn. Title Loans, Inc.*, 328 S.W.3d 850, 854 (Tenn. 2010)) (alteration in original) (internal quotation marks omitted). The resolution of such a motion is determined by examining the pleadings alone. *Id.*

In adjudicating such motions, courts “must construe the complaint liberally, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences.” *Id.* (quoting *Tigg v. Pirelli Tire Corp.*, 232 S.W.3d 28, 31–32 (Tenn. 2007)); *Cullum*, 432 S.W.3d at 832. A motion to dismiss should be granted only if it appears that “the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.” *Webb*, 346 S.W.3d at 426 (quoting *Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002)).

Phillips, 442 S.W.3d at 237.

In *Northland Ins. Co. v. State*, 33 S.W.3d 727, 729 (Tenn. 2000), the Tennessee Supreme Court set forth the standard of review for reviewing a motion to dismiss based on lack of subject matter jurisdiction. The Court stated:

A motion to dismiss for lack of subject matter jurisdiction falls under Tennessee Rule of Civil Procedure 12.02(1). The concept of subject matter jurisdiction involves a court’s lawful authority to adjudicate a controversy brought before it. See

Meighan v. U.S. Sprint Communications Co., 924 S.W.2d 632, 639 (Tenn.1996); *Standard Sur. & Casualty Co. v. Sloan*, 180 Tenn. 220, 230, 173 S.W.2d 436, 440 (1943). Subject matter jurisdiction involves the nature of the cause of action and the relief sought, see *Landers v. Jones*, 872 S.W.2d 674, 675 (Tenn. 1994), and can only be conferred on a court by constitutional or legislative act. See *Kane v. Kane*, 547 S.W.2d 559, 560 (Tenn.1977); *Computer Shoppe, Inc. v. State*, 780 S.W.2d 729, 734 (Tenn.Ct.App.1989). Since a determination of whether subject matter jurisdiction exists is a question of law, [an appellate court's] standard of review is de novo, without a presumption of correctness. See *Nelson v. Wal-Mart Stores, Inc.*, 8 S.W.3d 625, 628 (Tenn.1999).

Northland Ins. Co., 33 S.W.3d at 729.

Count I – Adequacy

The Plaintiff school boards contend that Article XI, section 12 of the Tennessee Constitution requires a specific, although undetermined, level of education funding by the General Assembly. While the Plaintiff school boards claim to rely upon the *Small Schools* cases in support of this position, a cursory reading of the three *Small Schools* cases, and in particular the above-quoted portion of *Small Schools III*, conclusively demonstrates that the Tennessee Supreme Court has consistently taken the contrary position. The *Small Schools* cases specifically declined to dictate either the specific level of instruction or the amount of funding required by the Education Clause of the Tennessee Constitution. *Small Schools I*, 851 S.W.2d at 156. Yet now, when public education is indisputably far better funded than during the *Small Schools* era, the Plaintiff school boards ask this Court to do so.

Count I features broad and conclusory allegations that the General Assembly has failed to provide a system of free public education. (Complaint, ¶¶ 25-27). The Plaintiff school boards cite the fact that in some “more affluent communities,” parents are often expected to pay hundreds of dollars in fees as part of enrolling their children in nominally free public schools, and that parents “may be expected to participate in fundraising activities or to solicit donations from local

foundations.” (Complaint, ¶ 23). What is left out of this account is that the State does not require parents to pay extra fees or participate in local fundraising activities – local schools, school organizations, and school boards may or may not do so. And while the General Assembly has recognized the value of such efforts on the part of schools, students, teachers, and parents, there is no State statute or rule requiring these activities. There are, however, statutes that *regulate* these activities. *See e.g.*, the “School Support Organization Financial Accountability Act,” Tenn. Code Ann. §§ 49-2-601 – 612; Tenn. Code Ann. § 49-2-110 (governing student activity funds⁶). Although the Complaint considers such statutes “a tacit admission that some schools have become dependent upon fundraising,” there is nothing illegitimate in ensuring that fundraising is conducted in a financially responsible manner. Nor does the existence of fundraising activities indicate in any way that Tennessee schools are inadequately funded -- school fundraising has no probative value on the question of whether the funding of public education in Tennessee meets constitutional standards.

Count I also alleges that “less affluent communities” have insufficient funds to operate schools. All of the Plaintiff school boards operate schools and educate children. While it is one matter to point out that more funding for educational purposes would be useful and would doubtless improve educational conditions for students, teachers, and administrators, far more is required to establish that alleged underfunding of public education is of *constitutional* dimension. In the face of far more woeful anecdotal evidence in *Small Schools I*, the Tennessee Supreme Court still declined to hold that any particular funding or educational level is constitutionally mandated.

⁶ Tenn. Code Ann. § 49-2-110(c), in particular, provides, “The school shall not require any student to pay a fee to the school for any purpose, except as authorized by the board of education, and no fees or tuitions shall be required of any student as a condition to attending the public school or using its equipment while receiving educational training.”

The clear thrust of the *Small Schools* cases is therefore that the Plaintiff school boards' concerns are properly addressed to the General Assembly, and not the courts of Tennessee.

The Plaintiff school boards' adequacy argument essentially seeks to install this Court as a permanent monitor overseeing the General Assembly's annual funding of education. Thus, for example, the school boards urge this Court to order the General Assembly to make certain changes recommended by the BEP Review Committee in its November 1, 2014, Annual Report.⁷ (Complaint, ¶¶ 11-16). The BEP Review Committee was created by the State Board of Education pursuant to Tenn. Code Ann. § 49-1-302(a), which requires the State Board to *inter alia*, “[s]tudy programs of instruction in public schools, kindergarten through grade twelve (K-12),” “analyze the needs of such public schools,” “study the use of public funds for such public schools,” and to “include the conclusions of the studies and analyses in its annual recommendations to the governor and general assembly for the funding of public education.” Tenn. Code Ann. § 49-1-302(a)(1)(A) – (D). *See also* Tenn. Code Ann. § 49-1-302(a)(4)(A). As part of this mission, Tenn. Code Ann. § 49-1-302(a)(4)(B) directs the State Board to establish a BEP Review Committee:

The board shall establish a review committee for the Tennessee basic education program (BEP). The committee shall include the executive director of the state board of education, the commissioner of education, the commissioner of finance and administration, the comptroller of the treasury, the director of the Tennessee advisory commission on intergovernmental relations, the chairs of the standing committees on education of the senate and house of representatives, and the director of the office of legislative budget analysis, or their designees. The board shall appoint at least one (1) member from each of the following groups: teachers, school boards, directors of schools, county governments, municipal governments that operate LEAs, finance directors of urban school systems, finance directors of suburban school systems and finance directors of rural school systems. The BEP review committee shall meet at least four (4) times a year and shall regularly review the BEP components, as well as identify needed revisions, additions or deletions to the formula. The committee shall annually review the BEP instructional positions

⁷ The complete 153-page Report is available for viewing and printing at the State Board of Education's website: http://www.tn.gov/sbe/BEP/2014%20BEP/FINAL_BEP_November_1_2014_Report.pdf .

component, taking into consideration factors including, but not limited to, total instructional salary disparity among LEAs, differences in benefits and other compensation among LEAs, inflation, and instructional salaries in states in the southeast and other regions. The committee shall prepare an annual report on the BEP and shall provide the report on or before November 1 of each year, to the governor, the state board of education, the education committee of the senate and the education committee of the house of representatives. This report shall include recommendations on needed revisions, additions and deletions to the formula, as well as an analysis of instructional salary disparity among LEAs, including an analysis of disparity in benefits and other compensation among LEAs;

The BEP Review Committee is therefore an advisory body only – it makes recommendations to the General Assembly and identifies areas of need but it has no policy-making power or authority. The relief sought by the school boards, however, asks this Court to convert the Committee into a body with legislative powers. Indeed, the Plaintiff school boards effectively ask this Court to establish BEP Review Committee recommendations as constitutional decrees with supra-legislative authority. There is clearly no precedent or authority for such a prayer for relief, and the *Small Schools* cases stand for nothing of the sort. In light of the school boards' meager allegations of funding inadequacy, this Court lacks subject matter jurisdiction over a clearly legislative matter that lies within the General Assembly's authority. Accordingly, given the allegations of the Complaint, granting the school boards' relief would violate the Separation of Powers Doctrine set forth in Article II, sections 1 and 2 of the Tennessee Constitution.

The Plaintiff school boards do a difficult job in overseeing and conducting the day-to-day education of schoolchildren in their districts. Nothing in this Memorandum of Law should therefore be interpreted as, in any way, making light of the Plaintiffs' allegations regarding areas of need for additional funding. But these pleas for more funding are not properly directed to the courts of Tennessee – they must be directed to the General Assembly. Neither the Tennessee Constitution nor Tennessee law countenance the school boards' instant cause of action.

Count II – Equal Protection

In *Small Schools I* the Court said that “[t]he concept of equal protection espoused by the federal and of our state constitutions guarantees that ‘all persons similarly circumstanced shall be treated alike.’ ” (quoting *F.S. Royster Guano Co. v. Commonwealth Virginia*, 253 U.S. 412, 415 (1920)). Things which are different in fact or opinion are not required by either Constitution to be treated the same. *Small Schools I*, at 153 (citing, *Plyler v. Doe*, 457 U.S. 202, 216, 102 S.Ct. 2382, 2394, 72 L.Ed.2d 786). In this regard:

The initial discretion to determine what is ‘different’ and what is ‘the same’ resides in the legislatures of the States, and legislatures are given considerable latitude in determining what groups are different and what groups are the same.... In most instances the judicial inquiry into the legislative choice is limited to whether the classifications have a reasonable relationship to a legitimate state interest....

Id. (citations omitted).

The Tennessee Supreme Court has consistently followed the framework developed by the United States Supreme Court, which, depending on the nature of the right asserted or a class of persons affected, applies one of three standards of scrutiny: (1) strict scrutiny, (2) heightened scrutiny, and (3) reduced scrutiny or the rational basis test. *Newton v. Cox*, 878 S.W.2d 105, 109 (Tenn. 1994). Strict scrutiny analysis is required “only when [a legislative] classification interferes with the exercise of a ‘fundamental right’ or operates to the peculiar disadvantage of a ‘suspect class.’ ” *Id.*

In *Small Schools I* the Court found the rational basis test applicable to the question of whether the education funding system existing at the time violated the Equal Protection clauses of the Tennessee Constitution. *Id.* Under the rational basis test, “[i]f some reasonable basis can be

found for the classification [in the statute] or if any state of facts may reasonably be conceived to justify it, the classification will be upheld.” *Id.* See also *Newton v. Cox*, 878 S.W.2d at 110. The rational basis test imposes upon those challenging the constitutionality of a statute the greatest burden of proof. *Small Schools I*, 851 S.W.2d at 153. The test has been described as follows:

The concept of equal protection espoused by the federal and our state constitutions guarantees that ‘all persons similarly circumstanced shall be treated alike.’ Conversely, things which are different in fact or opinion are not required by either constitution to be treated the same. The initial discretion to determine what is ‘different’ and what is ‘the same’ resides in the legislatures of the States, and legislatures are given considerable latitude in determining what groups are different and what groups are the same. In most instances the judicial inquiry into the legislative choice is limited to *whether the classifications have a reasonable relationship to a legitimate state interest.*

State v. Tester, 879 S.W.2d at 823, 828 (Tenn. 1994)(quoting *Small Schools I* at 153)(emphasis in original). Thus, if a reasonable basis exists for the difference in treatment under the statute, or if any set of facts can reasonably be conceived to justify it, the statute is constitutional. *Id.*; see also *Newton v. Cox*, 878 S.W.2d at 110. Equal protection does not require absolute equality. Nor does it mandate that everyone receive the same advantages. *Small Schools I, Id.* (“If [the different treatment] has a rational basis, it is not unconstitutional merely because it results in some inequality.”) (quoting *Harrison v. Schrader*, 569 S.W.2d 822, 825 (Tenn.1978)); see also *Genesco, Inc., v. Woods*, 578 S.W.2d 639, 641 (Tenn.1979). Unless the individual challenging the statutes can establish that the differences are unreasonable, the statute must be upheld. *Small Schools I*, at 154 (quoting *Harrison v. Schrader*, 569 S.W.2d at 826).

At the outset, it must be noted that the seven (7) Plaintiff school boards include Hamilton County’s Board of Education, one of the largest districts in the State in terms of number of students

enrolled, and some of the smallest in terms of student population.⁸ See Appendix. The Plaintiff school boards had the following student and teacher populations, and per-pupil expenditures for school year 2013-2014:

SCHOOL	STUDENTS	TEACHERS	PER-PUPIL EXPENDITURE
Bradley County:	10,455	651	\$8,466.80
Coffee County	4,588	311	\$9,160.50
Grundy County	2,275	172	\$9,279.70
Hamilton County	43,531	3,107	\$9,752.30
Marion County	4,330	270	\$8,686.70
McMinn County	5,929	341	\$8,293.90
Polk County	2,629	166	\$8,555.40

It is therefore somewhat surprising that every one of the 7 Plaintiff school boards complains of disparities in funding under the holdings in the *Small Schools* cases. The Plaintiff school boards have the burden of demonstrating that they are being treated unequally. Yet the Complaint contains no allegation that these 7 school boards are being treated unequally compared to any other

⁸ Attached as Appendix 1 is basic “Profile” information regarding the 7 Plaintiff school boards, taken from the Department of Education’s “Report Card” web site which can be found at:

http://www.tn.gov/education/data/report_card/index.shtml .

Reference to information from this publicly available source should not convert the instant Motion to Dismiss into a Motion for Summary Judgment. The Tennessee Court of Appeals has held that certain matters outside the Complaint such as items subject to judicial notice and matters of public records may be considered without converting motions to dismiss into motions for summary judgment. *Singer v. Highway 46 Properties, LLC*, No. M2013-02682-COA-R3-CV, 2014 WL 4725247, at *2-3 (Tenn. Ct. App. Sept. 23, 2014); *Western Express, Inc. v. Brentwood Services, Inc.*, No. M2008-02227-COA-R3-CV, 2009 WL 3448747, at *3 (Tenn. Ct. App. Oct. 26, 2009) citing *Indiana State Council of Laborers v. Brukaradt*, No. M2007-02271-COA-R3-CV, 2009 WL 426237, at *8 (Tenn. Ct. App. Feb. 19, 2009) (perm. app. denied Aug. 24, 2009). In addition, the “Report Card” data is from the same public source as the “BEP Blue Book” and the “BEP Committee Annual Report” referred to and incorporated in the Complaint.

Tennessee school board that is similarly situated. In the *Small Schools* litigation, Hamilton County was one of the “large” urban school systems that intervened in defense of the existing funding scheme and in opposition to the small school systems’ claims. *Small Schools I*, 851 S.W.2d at 141.

Yet here, Hamilton County’s school board puts forth the same claims of unequal treatment as 6 other school boards that are much smaller in size. The Complaint is silent, however, on the questions of how the Plaintiff are being treated unequally, and to whom their treatment is unequal. Instead of carrying their legal burden to state a *prima facie* case under the Equal Protection clauses, the Complaint merely makes the conclusory allegation that schools in some communities “with the resources and desire to absorb these [educational reform] costs have done so whereas schools in other communities, sometimes within the same county, have had to do without basic services.” (Complaint, ¶ 31). The mere allegation of the existence of different problems faced by school boards in different Counties fails to state a constitutional claim.

As previously discussed, the *Small Schools* cases consistently held that the constitutional interest at issue is substantial equality of educational opportunities. *See e.g., Small Schools III*, 91 S.W.3d at 243 (“the educational funding structure [must] be geared toward achieving equality in educational opportunities for students, not necessarily ‘sameness’ in teacher compensation.”). Without more, neither the existence of disparities in funding between and among the Plaintiff school boards, nor the comparative funding challenges facing the Plaintiff school boards, state a claim under the *Small Schools* cases. Furthermore, the alleged funding differences among the 7 Plaintiff school boards are insignificant when compared to the enormous disparities (as noted above, more than double in some instances) that gave rise to the Equal Protection claims in *Small Schools I*. The funding differences alleged in the Complaint here therefore also fail to rise to a constitutional level.

While the Defendants are aware of the low standard to be applied when a court reviews the allegations of a Complaint in the face of a Motion to Dismiss, even viewing the allegations of the Complaint in the best possible light, those allegations fall short of stating a claim under the Tennessee Constitution. This is particularly true where the Complaint purports to rely so heavily upon case law -- the *Small Schools* cases -- that runs contrary to its own claims. Accordingly, the Complaint, even when read in a light most favorable to the Plaintiff school boards, fails to state an Equal Protection claim under the Tennessee constitution.

Count III – Violation of Tenn. Code Ann. § 49-1-102(a)

Tennessee Code Annotated § 49-1-102(a) provides that “the system of public education in the State shall be governed in accordance with law enacted by the general assembly and under policies, standards, and guidelines adopted by the state board of education that are necessary for the proper operation of public education in kindergarten through grade twelve.” Plaintiff school boards allege the State is in violation of this provision because it has failed to follow its own laws. Specifically, Plaintiffs allege the State has failed to comply with both (a) and (b) of Tenn. Code Ann. § 49-3-307.

Tenn. Code Ann. § 49-3-307 states, in its entirety:

(a) Notwithstanding § 49-1-302, § 49-3-351, or any other law or rule to the contrary, effective with fiscal year 2007-2008, the Tennessee BEP shall be calculated using the following criteria:

- (1) BEP appropriations to LEAs for the 2006-2007 school year, plus appropriations to LEAs generated for annual BEP component cost adjustments based on the 2006-2007 school year, shall constitute a base amount of funding;
- (2) The state shall provide seventy-five percent (75%) of the funds generated for instructional positions within the classroom component;

(3) The dollar value of the BEP instructional positions component shall be thirty-eight thousand dollars (\$38,000) for fiscal year 2007-2008, and shall be adjusted in subsequent fiscal years in accordance with the general appropriations act;

(4) The cost differential factor (CDF) shall be eliminated from the formula;

(5)(A) The formula shall provide one hundred percent (100%) funding for at-risk students in kindergarten through grade twelve (K-12).

(B) "At-risk student" means a student who is eligible for free or reduced price lunch pursuant to 42 U.S.C. §§ 1751-1769;

(6) The formula shall provide funding for English language learner students at a ratio of one to twenty (1:20) and one to two hundred (1:200) for teachers and translators, respectively;

(7) The formula shall recognize the ability of local jurisdictions to raise local revenues by measuring the ability to generate local revenues from property tax and local option sales tax. This calculation shall be based on applying the statewide average property tax rate for education and the statewide average local option sales tax rate for education to the respective tax bases of each local jurisdiction. No reduction shall be made in any calculation of a local jurisdiction's ability to raise local revenues from property taxes for agreements entered into by the local jurisdiction that result in payments in lieu of taxes being made to the local jurisdiction;

(8) Each LEA shall receive no less than a twenty-five percent (25%) state share in the nonclassroom components;

(9) No LEA's measurement of ability to raise local revenue shall be adjusted more than forty percent (40%) within the BEP formula in any single year; and

(10) The formula shall provide fifty percent (50%) funding for medical insurance premiums for instructional positions.

(b) Notwithstanding §§ 49-1-302, 49-3-351 and any other law to the contrary, the changes in components or factors of the BEP implemented under chapter 369 of the Public Acts of 2007 shall be phased in, in accordance with funding as made available each fiscal year through the general appropriations act.

Subsection (a) provides that BEP funding is to include various "cost components."

(Complaint, ¶ 35) One such component is found in Tenn. Code Ann. § 49-3-307(a)(2). Plaintiffs allege that (a)(2) requires the State to provide seventy-five percent of the funding for "classroom costs" but that the State is only funding seventy percent of the classroom costs. (Complaint, ¶ 35) A plain reading of the statute, however, establishes that this is a mischaracterization. Tenn. Code Ann. § 49-3-307(a)(2) provides that the State is to fund seventy-five percent of only the

“*instructional positions within the classroom component.*” Plaintiffs do not allege that the State has failed to fund seventy-five percent of the instructional positions. Thus, they fail to state a claim that the State has violated Tenn. Code Ann. § 49-1-102.

Subsection (b) requires “the changes in components or factors of the BEP implemented under chapter 369 of the Public Acts of 2007 [to be] phased in.” The school boards allege that “[t]o date, [the State] has taken no steps to phase in these components, *resulting in additional funding shortfalls of approximately \$600 million.*” (Complaint, ¶ 36) (emphasis in original). Even assuming this allegation to be true, Plaintiffs nevertheless fail to state a claim because the same subsection further states that the phase-in is to be done “in accordance with funding *as made available* each fiscal year through the general appropriations act.” Tenn. Code Ann. § 49-3-307(b) (emphasis added). In fact, when read in conjunction with other provisions of the chapter, it is clear that the General Assembly intended to condition funding the BEP on the monies it appropriated annually. *See State v. Alford*, 970 S.W.2d 944, 946 (Tenn. 1998) (Component parts of a statute are to be construed, if possible, consistently and reasonably); *Faust v. Metro. Gov't of Nashville*, 206 S.W.3d 475, 492 (Tenn. Ct. App. 2006) (“Words of a statute, if inconsistent with its clear purpose, must yield to the legislative will as found from a consideration of the whole act.”).

Two other sections of the same education funding chapter in the Tennessee Code explicitly state that the funding levels provided for in the chapter are subject to the funds being appropriated by the Legislature. *See* Tenn. Code Ann. § 49-3-304 (“Notwithstanding any other provision of this title to the contrary, the only procedure for funding of education . . . shall be as provided in this part and to the extent that funds are appropriated for such purpose by the general assembly.”); Tenn. Code Ann. § 49-3-351(b) (“Notwithstanding any other law to the contrary . . . the only

procedure for the funding of the BEP . . . shall be as provided in the formula prescribed in this section, and to the extent that funds are appropriated for that purpose by the general assembly.”).

Furthermore, Tenn. Code Ann. § 49-3-354 specifically contemplates situations in which the legislature has failed to make funds available sufficient to meet the LEA’s entitlements. It provides that the Commissioner of Education “shall apply a pro rata reduction to the amount for which each system is eligible.” Tenn. Code Ann. § 49-3-354(e). It even goes so far as to allow the Commissioner, with the approval of the State Board of Education, to “waive any requirements prescribed by law, rule, regulation, or otherwise until the state provides the required funding.” Tenn. Code Ann. § 49-3-354(g); *see also*, Tenn. Code Ann. § 49-3-359(d) (authorizing the Commissioner to reduce amounts for teachers’ supplies, duty-free lunch periods, school nurses, and reading coordinators on a pro rata basis during any year in which the BEP appropriation is insufficient to fully fund the program).

Thus, it is evident that the General Assembly is not statutorily required to fully fund every component of the BEP. In order to state a claim for failure to comply with Tenn. Code Ann. § 49-3-307, Plaintiffs would need to allege both that the legislature has appropriated funds sufficient to fund the phase-in and that TDOE has failed to subsequently provide the funding associated with implementation of the phase-in. Plaintiffs make no such allegations. Therefore, Plaintiffs’ claim must be dismissed.

Count IV – Unfunded Mandates

Count IV of the Complaint alleges that the State has violated Article II, section 24 of the Tennessee Constitution by “adopting increasingly rigorous academic standards for Tennessee’s students and accountability measures for local boards of education” while “failing to make

sufficient provision for the cost of its education reforms . . .” This, the allegation continues, “is fundamentally unfair to local communities . . .” (Complaint, at ¶¶ 38-40).

The fourth paragraph of Article II, section 24, provides that “[n]o law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.” According to the Tennessee Court of Appeals, “the Legislature is constitutionally empowered to elect what the share of the State shall be in the subject expenses.” *Morris v. Snodgrass*, 886 S.W.2d 761, 763 (Tenn. Ct. App. 1994) (*no app. for perm. to app. filed*). In fact, the Tennessee Supreme Court has recognized that “Article II, section 24, the State Spending Clause, gives the General Assembly the widest discretion in assigning the relative shares of responsibility of the state and local governments for funding state mandated services.” *Small Schools I*, 851 S.W.2d at 156.

Article II, section 24, has been construed to apply only to laws of general application which *directly or expressly* require counties and cities to make expenditures. See *Swafford v. City of Chattanooga*, 743 S.W.2d 174, 178 (Tenn. Ct. App. 1987). In *Swafford*, the Court discussed a challenge under Article II, section 24, to the Legislature’s amendment of the Governmental Tort Liability Act, raising the cap on damages:

The City also raises the issue of the constitutionality of the General Assembly's having increased the limits of liability under the Governmental Tort Liability Act by Chapter 950 of the Public Acts of 1982. Article 2, Section 24, of the Constitution of Tennessee directs that “no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the State share in the cost.” The City argues that the General Assembly's having raised the liability limits from \$20,000 to \$40,000 imposes increased expenditure requirements on Chattanooga without the General Assembly's providing that the State share in the cost. We do not agree. The General Assembly's having raised the liability limits indicates a legislative intent to provide a greater remedy to the citizens of this State and others who are injured at the hands of negligent local governments. This, however, is not an “increased expenditure

requirement” imposed on the cities or counties of this State. The only “expenditure requirements” would be those that result solely from the negligent acts or omissions of a city or county itself; the Act does not require cities and counties to commit those negligent acts or omissions. The increased limits of liability of T.C.A. § 29-20-403(a), (c) do not conflict with Article 2, Section 24, of the State Constitution.

Id.

There is no allegation in the instant Complaint that the General Assembly has directly or expressly imposed additional expenditures on the Plaintiff school boards, only that standards and instructional methods have been adjusted.

Even more applicable to the instant case is *Knox County v. City of Knoxville*, 1987 WL 31640 at *6, affirmed and modified on other grounds, *Knox County v. City of Knoxville*, 786 S.W.2d 936 (Tenn. 1990), in which the Court of Appeals addressed a challenge under Article II, section 24, to an education statute, Tenn. Code Ann. § 49-5-203. This statute requires that the rights and privileges of existing teachers “shall continue without impairment, interruption or diminution” when a school system undergoes “annexation, unification, consolidation, abolition, reorganization, or transfer of the control and operation” of the system to a different type structure. Tenn. Code Ann. § 49-5-203(a). Section (c) of the statute provides that “rights and privileges” include “salary, pension or retirement benefits, sick leave accumulation, tenure status and contract rights . . .” As in *Swafford*, the *Knox County* Court held Article II, section 24 to apply only to legislation that directly or expressly requires expenditures:

The County asserts that the statute violates Article II, Section 24, of the Tennessee Constitution, which in pertinent part dictates that “[n]o law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.” The statute clearly is a law of general application, but we are not convinced that the statute imposes increased expenditure requirements on the County. The statute is a remedial one, enacted in order to ensure that no rights of the former teachers of one

school system would be diminished by the transfer of that system to another. *See, Wagner v. Elizabethton City Board of Education*, 496 S.W.2d 468, 471 (Tenn. 1973). Any increased expenditures incurred by a city or county as a result of the operation of the statute are too indirect and speculative to trigger the state-share mechanism of Article II, Section 24. The statute does not require that cities and counties abolish, transfer, or reorganize their school systems, and absent a local system's taking such a step, the statute imposes *no* expenditure requirements, direct or indirect, on a city or county.

Id. at 6.

The Court then went further, emphasizing that, in any event, the substantial funding provided to local school boards by the State government satisfied any concerns under Article II, section 24:

Even if we were to hold that Article II, Section 24, applied to the indirect consequences of the General Assembly's having adopted the statute, we believe that the state cost share requirement would be adequately met by the additional ADA funds provided because of the County School System's increased enrollment. The constitution mandates only that there be a state share; it does not mandate the size or proportion of that share.

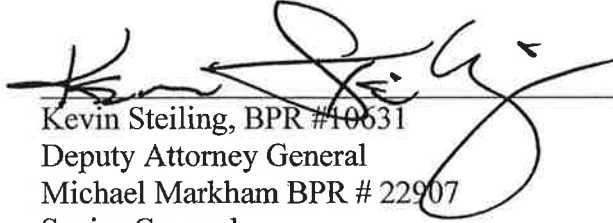
Id. As in *City of Knoxville*, the State in the instant case already shares substantially in the local educational budgets of all of the Plaintiff school boards. Indeed, the Complaint itself acknowledges this. Accordingly, Count IV of the Complaint also fails to state a claim upon which relief can be granted and should be dismissed.

CONCLUSION

For the reasons set forth above, the Defendants respectfully request that the Complaint in this matter be dismissed in its entirety.

Respectfully submitted,

HERBERT H. SLATERY III
ATTORNEY GENERAL AND REPORTER



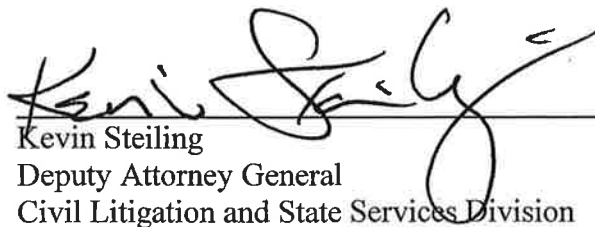
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Deputy Attorney General
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Michael.Markham@ag.tn.gov
Attorneys for Defendants

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and exact copy of the foregoing has been forwarded via Federal Express overnight delivery service, to

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MARY C. DECAMP
LEITNER, WILLIAMS, DOOLEY & NAPOLITAN, PLLC
Attorneys for Plaintiffs
Tallan Building,
Suite 500
200 West M.L. King Blvd.
Chattanooga, TN. 37402

on this 23rd day of April, 2015.



Kevin Steiling
Deputy Attorney General
Civil Litigation and State Services Division

APPENDIX

Profile

School Year
2013-2014

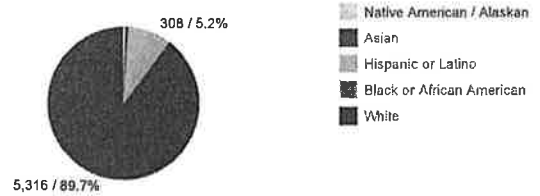
District Name
McMinn County

School Name
All Schools

McMinn County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	McMinn County
District Director	Mr. Mickey Blevins
District Grades Served	PK-12
District Address 1	3 South Hill ST
District City, ST ZIP	Alhens, TN 37303
Safe School Schools	All Schools Safe 9

Student Ethnicity: McMinn County, All Schools



Values reflect October 1 enrollment data

Students & Teachers: McMinn County, All Schools

Teachers	341
Administrators	32
Students	5,929
English Learner Students	41
English Learner Student Percent	0.7%
Economically Disadvantaged Student Percent	62.6%
Students with Disabilities	742
Students with Disabilities Percent	12.5%
Per-Pupil Expenditure	\$8,293.90

TVAAS Composites: McMinn County, All Schools

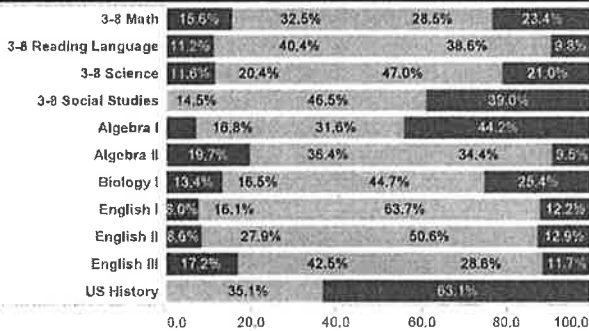


The Tennessee Value-Added Assessment System (TVAAS) is a statistical analysis used to measure the impact of districts, schools and teachers on the academic progress rates of groups of students from year-to-year. The TVAAS Composites listed here are scores that assess growth at the school or district level based on student performance on statewide assessments across all available subjects and grades. For districts that opted to test students in grades K-2 in years in which they are available, those scores are included in the composite. This file available at the below link indicates which districts had early grades data included in their composites each year <http://www.k-12.state.tn.us/assessment/other/early-grades-tvaas-091010.xls>

TVAAS Composites are reported on a 1-5 scale and are one-year scores. Levels 4 and 5 indicate that a district or school is exceeding the expected growth, Level 3 indicates that they are making about the expected growth, and Levels 1 and 2 indicate that they are making less than the expected growth. The Overall TVAAS Composite includes all available data from the K-2 (SAT-10) assessment and from all applicable TCAP and EQC tests. The TVAAS Literacy Composite includes all literacy-focused tests included in the Overall TVAAS Composite. The TVAAS Numeracy Composite includes all numeracy-focused tests included in the Overall TVAAS Composite. The TVAAS Literacy and Numeracy Composite includes all tests included in the Literacy Composite and the Numeracy composite. More detailed TVAAS data can be viewed on the Public TVAAS Site <https://tvaas.tn.gov/website.html>.

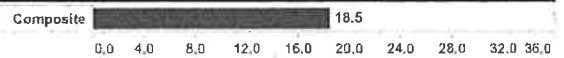
■ % Below Basic ■ % Basic ■ % Proficient ■ % Advanced

Achievement: McMinn County, All Schools



The Tennessee Comprehensive Assessment Program, or TCAP, is a set of statewide assessments given in Tennessee to measure students' skills and progress. Students in grades 3-8 take the Achievement Test, and high school students take End of Course exams for various subjects. Student results are categorized as below basic, basic, proficient or advanced. Students that are proficient or advanced are commonly considered to be at or above grade level. Subjects with fewer than 10 valid tests and/or subjects with at least 99 percent or less than 1 percent of students scoring in any one proficiency category are suppressed in accordance with federal privacy laws.

Average ACT Composite: McMinn County, All Schools



ACT is a national college admissions exam that includes subject level tests in English, Math, Reading and Science. Students receive scores that range from 1 to 36 on each subject and an overall Composite score. All Tennessee students are required to take the ACT in 11th grade.

Graduation Rate: McMinn County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer, out of those students that entered the ninth grade four years earlier.

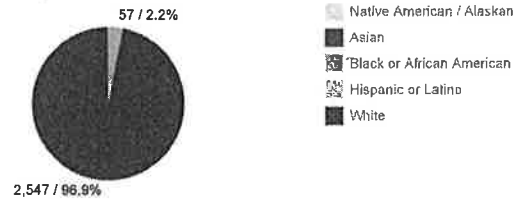
Profile

School Year: 2013-2014
 District Name: Polk County
 School Name: All Schools

Polk County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	Polk County
District Director	Mr. James Jones
District Grades Served	PK-12
District Address 1	131 Stephens ST
District City, ST ZIP	Benton, TN 37307
Safe School Schools	All Schools Safe Schools 6

Student Ethnicity: Polk County, All Schools



Values reflect October 1 enrollment data

Students & Teachers: Polk County, All Schools

Teachers	166
Administrators	12
Students	2,629
Economically Disadvantaged Student Percent	65.0%
Students with Disabilities	351
Students with Disabilities Percent	13.4%
Per-Pupil Expenditure	\$8,555.40

TVAAS Composites: Polk County, All Schools



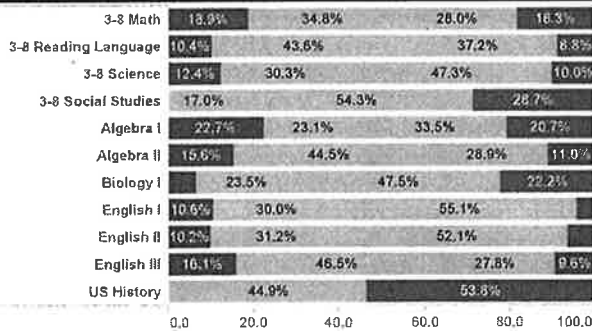
The Tennessee Value-Added Assessment System (TVAAS) is a statistical analysis used to measure the impact of districts, schools and teachers on the academic progress rates of groups of students from year-to-year. The TVAAS Composites listed here are scores that assess growth at the school or district level based on student performance on statewide assessments across all available subjects and grades. For districts that opted to test students in grades K-2 in years in which they are available, those scores are included in the composite.

The file available at the below link indicates which districts had early grades data included in their composites each year: <http://www.tn.gov/state/tns/unidata/other/early-grades-TVAAS-092014.xlsx>

TVAAS Composites are reported on a 1-5 scale and are one-year scores. Levels 4 and 5 indicate that a district or school is exceeding the expected growth, Level 3 indicates that they are making about the expected growth, and Levels 1 and 2 indicate that they are making less than the expected growth. The Overall TVAAS Composite includes all available data from the K-2 (SAT-10) assessment and from all applicable TCAP and ECO tests. The TVAAS Literacy Composite includes all literacy-focused tests included in the Overall TVAAS Composite. The TVAAS Numeracy Composite includes all numeracy-focused tests included in the Overall TVAAS Composite. The TVAAS Literacy and Numeracy Composite includes all tests included in the Literacy Composite and the Numeracy composite. More detailed TVAAS data can be viewed on the Public TVAAS Site (<http://tvaas.tn.gov>).

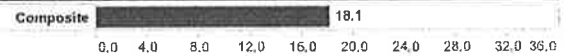
Legend: % Below Basic, % Basic, % Proficient, % Advanced

Achievement: Polk County, All Schools



The Tennessee Comprehensive Assessment Program, or TCAP, is a set of statewide assessments given in Tennessee to measure students' skills and progress. Students in grades 3-8 take the Achievement Test, and high school students take End of Course exams for various subjects. Student results are categorized as below basic, basic, proficient or advanced. Students that are proficient or advanced are commonly considered to be at or above grade level. Subjects with fewer than 10 valid tests and/or subjects with at least 99 percent or less than 1 percent of students scoring in any one proficiency category are suppressed in accordance with federal privacy laws.

Average ACT Composite: Polk County, All Schools



ACT is a national college admissions exam that includes subject level tests in English, Math, Reading and Science. Students receive scores that range from 1 to 36 on each subject and an overall Composite score. All Tennessee students are required to take the ACT in 11th grade.

Graduation Rate: Polk County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer out of those students that entered the ninth grade four years earlier.

Profile

School Year
2013-2014

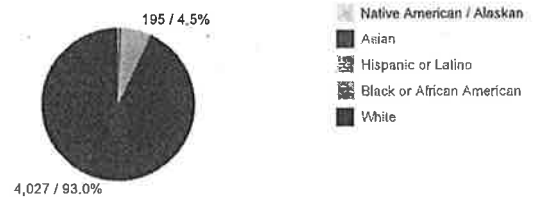
District Name
Marion County

School Name
All Schools

Marion County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	Marion County
District Director	Mark Griffith
District Grades Served	PK-12
District Address 1	204 Betsy Pack DR
District City, ST ZIP	Jasper, TN 37347
Safe School	All Schools Safe
Schools	10

Student Ethnicity: Marion County, All Schools



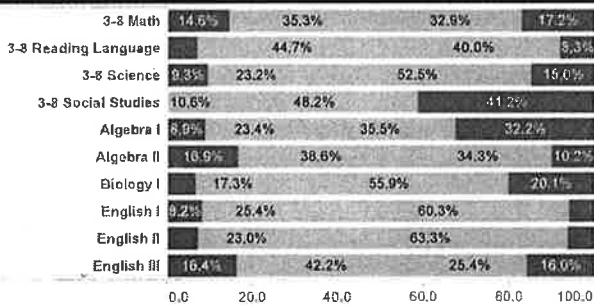
Values reflect October 1 enrollment data

Students & Teachers: Marion County, All Schools

Teachers	270
Administrators	26
Students	4,330
English Learner Students	43
English Learner Student Percent	1.0%
Economically Disadvantaged Student Percent	72.6%
Students with Disabilities	628
Students with Disabilities Percent	14.5%
Per-Pupil Expenditure	\$8,686.70

■ % Below Basic ■ % Basic ■ % Proficient ■ % Advanced

Achievement: Marion County, All Schools



The Tennessee Comprehensive Assessment Program, or TCAP, is a set of statewide assessments given in Tennessee to measure students' skills and progress. Students in grades 3-8 take the Achievement Test, and high school students take End of Course exams for various subjects. Student results are categorized as below basic, basic, proficient or advanced. Students that are proficient or advanced are commonly considered to be at or above grade level. Subjects with fewer than 10 valid tests and/or subjects with at least 99 percent or less than 1 percent of students scoring in any one proficiency category are suppressed in accordance with federal privacy laws.

TVAAS Composites: Marion County, All Schools



The Tennessee Value-Added Assessment System (TVAAS) is a statistical analysis used to measure the impact of districts, schools and teachers on the academic progress rates of groups of students from year-to-year. The TVAAS Composites listed here are scores that assess growth at the school or district level based on student performance on statewide assessments across all available subjects and grades. For districts that opted to test students in grades K-2 in years in which they are available, those scores are included in the composite. The file available at the below link indicates which districts had early grades data included in their composites each year. <http://www.k-12.state.tn.us/assessment/assessment/grades-TVAAS-districts.xlsx>

TVAAS Composites are reported on a 1-5 scale and are one-year scores. Levels 4 and 5 indicate that a district or school is exceeding the expected growth, Level 3 indicates that they are making about the expected growth, and Levels 1 and 2 indicate that they are making less than the expected growth. The Overall TVAAS Composite includes all available data from the K-2 (SAT-10) assessment and from all applicable TCAP and EOC tests. The TVAAS Literacy Composite includes all literacy-focused tests included in the Overall TVAAS Composite. The TVAAS Numeracy Composite includes all numeracy-focused tests included in the Overall TVAAS Composite. The TVAAS Literacy and Numeracy Composite includes all tests included in the Literacy Composite and the Numeracy Composite. More detailed TVAAS data can be viewed on the Public TVAAS Site (<http://tvaas.sos.tn.gov/actna.html>).

Average ACT Composite: Marion County, All Schools



ACT is a national college admissions exam that includes subject level tests in English, Math, Reading and Science. Students receive scores that range from 1 to 36 on each subject and an overall Composite score. All Tennessee students are required to take the ACT in 11th grade.

Graduation Rate: Marion County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer out of those students that entered the ninth grade four years earlier.

Profile

School Year
2013-2014

District Name
Coffee County

School Name
All Schools

Coffee County, All Schools

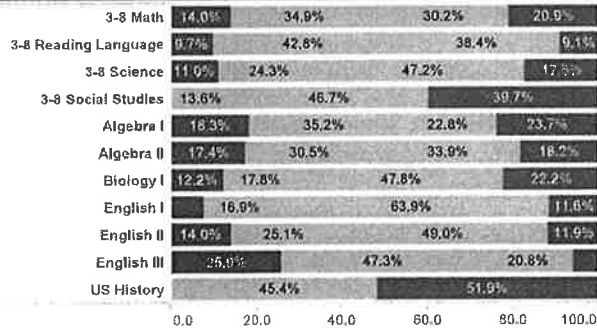
Education Commissioner	Mr. Kevin Huffman
District Name	Coffee County
District Director	Dr. LaDonna McFall
District Grades Served	PK-12
District Address 1	1343 McArthur ST
District City, ST ZIP	Manchester, TN 37355
Safe School Schools	All Schools Safe 9

Students & Teachers: Coffee County, All Schools

Teachers	311
Administrators	32
Students	4,588
English Learner Students	78
English Learner Student Percent	1.7%
Economically Disadvantaged Student Percent	59.1%
Students with Disabilities	616
Students with Disabilities Percent	13.4%
Per-Pupil Expenditure	\$9,100.50

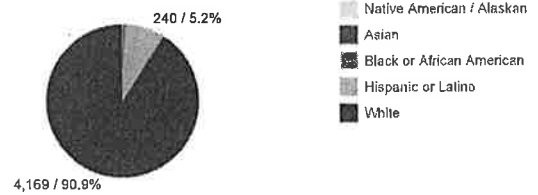
■ % Below Basic ■ % Basic ■ % Proficient ■ % Advanced

Achievement: Coffee County, All Schools



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Student Ethnicity: Coffee County, All Schools



Values reflect October 1 enrollment data

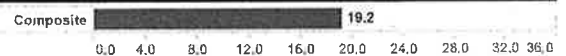
TVAAS Composites: Coffee County, All Schools



The Tennessee Value-Added Assessment System (TVAAS) is a statistical analysis used to measure the impact of districts, schools and teachers on the academic progress rates of groups of students from year-to-year. The TVAAS Composites listed here are scores that assess growth at the school or district level based on student performance on state-wide assessments across all available subjects and grades. For districts that opted to test students in grades K-2 in years in which they are available, those scores are included in the composite. The file available at the below link indicates which districts had early grades data included in their composites each year: <http://www.tn.gov/state/education/early-grades-tvaas-composite.xls>

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Average ACT Composite: Coffee County, All Schools



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Graduation Rate: Coffee County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer out of those students that entered the ninth grade four years earlier.

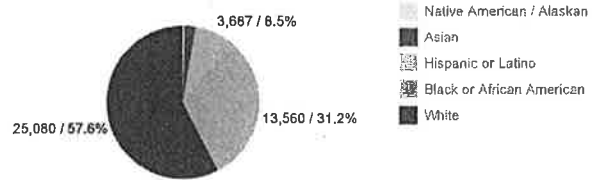
Profile

School Year 2013-2014 District Name Hamilton County School Name All Schools

Hamilton County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	Hamilton County
District Director	Rick Smith
District Grades Served	PK-12
District Address 1	3074 Hickory Valley RD
District City, ST ZIP	Chattanooga, TN 37421-1255
Safe School Schools	All Schools Safe 78

Student Ethnicity: Hamilton County, All Schools



Values reflect October 1 enrollment data

Students & Teachers: Hamilton County, All Schools

Teachers	3,107
Administrators	187
Students	43,531
English Learner Students	1,942
English Learner Student Percent	4.5%
Economically Disadvantaged Student Percent	58.7%
Students with Disabilities	5,729
Students with Disabilities Percent	13.2%
Per-Pupil Expenditure	\$9,752.30

TVAAS Composites: Hamilton County, All Schools

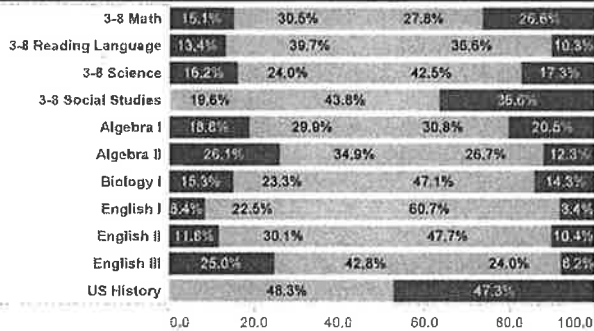


The Tennessee Value-Added Assessment System (TVAAS) is a statistical analysis used to measure the impact of districts, schools and teachers on the academic progress rates of groups of students from year-to-year. The TVAAS Composites listed here are scores that assess growth at the school or district level based on student performance on statewide assessments across all available subjects and grades. For districts that opted to test students in grades K-2 in years in which they are available, those scores are included in the composite. The file available at the below link indicates which districts had early grades data included in their composites each year <http://www.k-12.state.tn.us/data/ahwd/ahwd-by-grades-TVAAS-districts.xls>

TVAAS Composites are reported on a 1-5 scale and are one-year scores. Levels 4 and 5 indicate that a district or school is exceeding the expected growth, Level 3 indicates that they are making about the expected growth, and Levels 1 and 2 indicate that they are making less than the expected growth. The Overall TVAAS Composite includes all available data from the K-2 (SAT-10) assessment and from all applicable TCAP and EOC tests. The TVAAS Literacy Composite includes all literacy-focused tests included in the Overall TVAAS Composite. The TVAAS Numeracy Composite includes all numeracy-focused tests included in the Overall TVAAS Composite. The TVAAS Literacy and Numeracy Composite includes all tests included in the Literacy Composite and the Numeracy composite. More detailed TVAAS data can be viewed on the Public TVAAS Site (<http://www.tn.gov/education/booms.html>).

■ % Below Basic ■ % Basic ■ % Proficient ■ % Advanced

Achievement: Hamilton County, All Schools



The Tennessee Comprehensive Assessment Program, or TCAP, is a set of statewide assessments given in Tennessee to measure students' skills and progress. Students in grades 3-8 take the Achievement Test, and high school students take End of Course exams for various subjects. Student results are categorized as below basic, basic, proficient or advanced. Students that are proficient or advanced are commonly considered to be at or above grade level. Subjects with fewer than 10 valid tests and/or subjects with at least 99 percent or less than 1 percent of students scoring in any one proficiency category are suppressed in accordance with federal privacy laws.

Average ACT Composite: Hamilton County, All Schools



ACT is a national college admissions exam that includes subject level tests in English, Math, Reading and Science. Students receive scores that range from 1 to 36 on each subject and an overall Composite score. All Tennessee students are required to take the ACT in 11th grade.

Graduation Rate: Hamilton County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer out of those students that entered the ninth grade four years earlier.

Profile

School Year
2013-2014

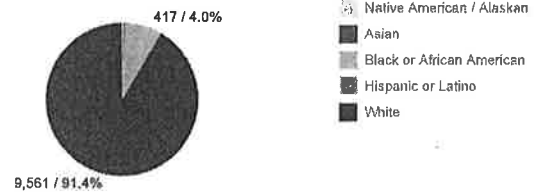
District Name
Bradley County

School Name
All Schools

Bradley County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	Bradley County
District Director	Johnny McDaniel
District Grades Served	PK-12
District Address 1	800 South Lee HW
District City, ST ZIP	Cleveland, TN 37311
Safe School Schools	All Schools Safe 18

Student Ethnicity: Bradley County, All Schools

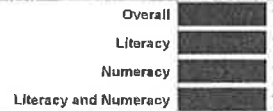


Values reflect October 1 enrollment data

Students & Teachers: Bradley County, All Schools

Teachers	651
Administrators	30
Students	10,455
English Learner Students	165
English Learner Student Percent	1.5%
Economically Disadvantaged Student Percent	55.2%
Students with Disabilities	1,172
Students with Disabilities Percent	11.2%
Per-Pupil Expenditure	\$8,466.80

TVAAS Composites: Bradley County, All Schools

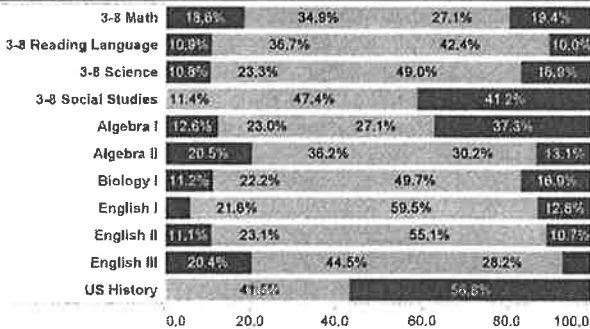


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Achievement: Bradley County, All Schools



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Graduation Rate: Bradley County, All Schools



The Graduation Rate measures the percentage of students who graduated from high school within four years and a summer out of those students that entered the ninth grade four years earlier.

Profile

School Year
2013-2014

District Name
Grundy County

School Name
All Schools

Grundy County, All Schools

Education Commissioner	Mr. Kevin Huffman
District Name	Grundy County
District Director	Mr. David Dickerson
District Grades Served	PK-12
District Address 1	1376 Main ST
District City, ST ZIP	Altamont, TN 37301-0097
Safe School	All Schools Safe
Schools	8

Student Ethnicity: Grundy County, All Schools

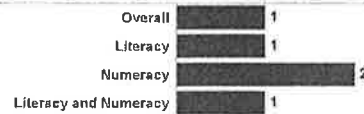


Values reflect October 1 enrollment data

Students & Teachers: Grundy County, All Schools

Teachers	172
Administrators	9
Students	2,275
Economically Disadvantaged Student Percent	81.8%
Students with Disabilities	453
Students with Disabilities Percent	19.9%
Per-Pupil Expenditure	\$9,279.70

TVAAS Composites: Grundy County, All Schools

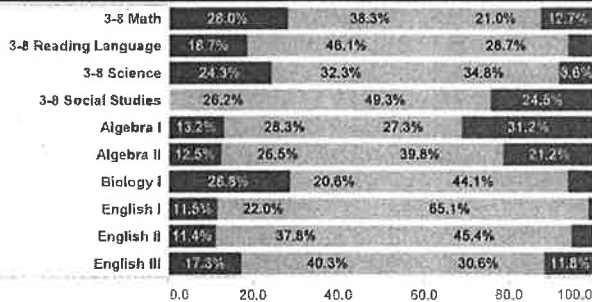


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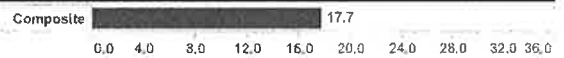
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Achievement: Grundy County, All Schools



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