STATE OF WYOMING	)	IN THE DISTRICT COURT
	) SS.	
COUNTY OF LARAMIE	)	FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION, a Wyoming Nonprofit Membership Corporation,	)	
Plaintiff,	)	Docket No. 200-788
vs.	)	
STATE OF WYOMING,	)	
Defendant.	)	

ORDER ON STATE'S MOTION TO DISMISS

This matter is before the Court on Defendant State of Wyoming's *Motion to Dismiss* (Motion) and *Memorandum in Support of Its Motion to Dismiss* (Brief), filed on September 12, 2022. Plaintiff Wyoming Education Association (WEA) filed its *Response in Opposition to Defendant's Motion to Dismiss* (Response) on October 3, 2022. The State filed its *Reply in Support of Motion to Dismiss* (Reply) on October 18, 2022. The Court held an in-person hearing on the Motion, Brief, Response, and Reply on November 7, 2022. The Court has reviewed the file, Motion, Brief, Response, Reply, arguments made at the hearing, and is fully informed in the premises. For the following reasons, Defendant's *Motion to Dismiss* is **GRANTED** in part and **DENIED** in part.

I. FACTS ALLEGED IN COMPLAINT

WEA is a non-profit membership corporation with approximately 6,000 members. [Comp. ¶ 1] The members are educators and support personnel in Wyoming's public schools, and some

are parents of students who attend a public school in Wyoming. [Id.] WEA's purpose is to further public education and the educational profession in Wyoming, and it has been an advocate for education for over 100 years. [Id.] WEA regularly appears before boards and agencies on behalf of students and education issues. [Id.]

The issue at the heart of this case has a complex litigation history, with both parties involved in those prior cases. The cases most relevant to this action are a set of four cases referred to as the *Campbell* cases. WEA was an intervening plaintiff in all four cases, joining various school districts in suing the State for not adequately funding public education. The *Campbell* cases resulted in the Wyoming Supreme Court creating guidelines and standards for the State to follow when funding public education.

WEA brings the current action under the Wyoming Uniform Declaratory Judgement Act (the Act). [Id. at ¶ 4] WEA alleges the Wyoming Supreme Court gave the legislature two duties: every two years it must adjust the amount of funding to reflect the effects of inflation (called "external cost adjustment" or "ECA"), and every five years it must review the components of a quality education and update the funding model and its funding levels to reflect actual, current costs as well as to provide funding for any innovations or changes in the nature of what constitutes a quality education. [Id. at ¶¶ 12, 16] WEA claims the legislature failed to comply with both duties, leaving education underfunded, which resulted in the funding model being unconstitutional. [Id. at ¶¶ 16, 18] It claims the legislature has commissioned consultants to determine what the funding amount should be but has ignored the consultants' suggestions and has continued to fund education at the same amount. [Id. at ¶¶ 20-22] Under the Act, WTE seeks to have the legislature perform both duties, as well as requesting punitive damages and attorney's fees. [Id. at pg. 66-71]

II. STANDARD OF REVIEW AND LEGAL PRINCIPLES

A. Motion to Dismiss

When a party moves to dismiss a complaint under Rule 12(b)(6) for failure to state a claim upon which relief may be granted, this Court construes the facts alleged in the complaint to be true and views them in the light most favorable to the plaintiff. *The Tavern, LLC v. Town of Alpine*, 2017 WY 56, ¶ 21, 395 P.3d 167, 173 (Wyo. 2017). To prevail, the movant must show that "from the face of the complaint [] the plaintiff cannot assert any facts which would entitle him to relief." *Hill v. Stubson*, 2018 WY 70, ¶ 11, 420 P.3d 732, 737 (Wyo. 2018) (citation omitted). However, because dismissal is a drastic remedy, it "should be granted sparingly." *Whitham v. Feller*, 2018 WY 43, ¶ 13, 415 P.3d 1264, 1267 (Wyo. 2018). "That said, the lens through which we look and our liberal construction of pleadings 'does not excuse an omission of that which is material and necessary in order to entitle one to relief.'" *The Tavern, LLC*, 2017 WY 56, ¶ 21, 395 P.3d at 173 (citation omitted).

B. Standing

When a party lacks standing to sue under a statute at issue – statutory standing, his or her "claim should be dismissed for failure to state a claim upon which relief can be granted" pursuant to Rule 12(b)(6), W.R.C.P. *Craft v. State ex rel. Wyo. Dep't of Health*, 2020 WY 70, ¶ 12, 465 P.3d 395, 400 (Wyo. 2020) (citation omitted). The question of whether a party has prudential standing is not jurisdictional but is jurisprudential. *In re L-MHB*, 2018 WY 140, ¶ 19, 431 P.3d 560, 567 (Wyo. 2018). In reviewing a motion to dismiss based upon a party not having prudential standing, a court should use the same standards applied to a motion to dismiss pursuant to Rule 12(b)(6), W.R.C.P. *See, Allred v. Bebout*, 2018 WY 8, ¶ 29, 409 P.3d 260, 268 (Wyo. 2018).

III. ANALYSIS

Article 1, Section 23 of the Wyoming Constitution establishes education as a right for the citizens of Wyoming. Article 7 explains how education must be implemented and funded. "The legislature shall make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state..." Wyo. Con. Art. 7, § 9.

WEA seeks to enforce this constitutional right under the Act. Wyoming Statutes §§ 1-37-101 through 1-37-115 make up the Act. "Courts of record within their respective jurisdictions may declare rights, status and other legal relations whether or not further relief is or could be claimed." Wyo. Stat. Ann. § 1-37-102. The Act gives any person "whose rights, status or other legal relations are affected by the Wyoming constitution" a right to bring action. Wyo. Stat. Ann. § 1-37-103. In order for a court to have jurisdiction, the right must fall under the Act and the plaintiff must be an interested person. *William F. West Ranch, LLC v. Tyrell*, 2009 WY 62, ¶ 11, 206 P.3d 722, 727 (Wyo. 2009).

> The "requirement of an 'interest' captures the basic doctrine that there must be a justiciable controversy before relief will be granted." *Barber v. City of Douglas*, 931 P.2d 948, 951 (Wyo. 1997). Generically, a justiciable controversy is defined as a controversy fit for judicial resolution. *Reiman Corp. v. City or Cheyenne*, 838 P.2d 1182, 1186 (Wyo. 1992). Many doctrines are encompassed within the concept of justiciability including standing, ripeness, and mootness. *Id.*

Id. (citation omitted).

The State argues WEA's claims should be dismissed because there is not a justiciable controversy. Specifically, it argues WEA lacks standing. It also argues WEA failed to state a claim upon which relief can be granted, and its claims for punitive damages and attorney's fees should be dismissed. Each argument will be addressed in turn.

A. Standing

The State argues there is no justiciable controversy because WEA is not an interested person. It argues WEA lacks standing to bring a claim. It contends WEA is not asserting any rights that it or its members hold. It asserts the right to education is exclusively held by students[1] and their guardians, and because WEA does not have members as students, it cannot assert a right to education. WEA counters by arguing it has standing because the district court and Wyoming Supreme Court have previously held that it had standing in similar cases.

The Wyoming Supreme Court has developed a four-part test to determine whether there is a justiciable controversy, named the *Brimmer* test:

> 1. The parties have existing and genuine, as distinguished from theoretical, rights or interests.
>
> 2. The controversy must be one upon which the judgment of the court may effectively operate, as distinguished from a debate or argument evoking a purely political, administrative, philosophical or academic conclusion.
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> 3. It must be a controversy the judicial determination of which will have the force and effect of a final judgment in law or decree in equity upon the rights, status or other legal relationships of one or more of the real parities in interest, or, wanting these qualities to be of such great and overriding public moment as to constitute the legal equivalent of all of them.
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> 4. The proceedings must be genuinely adversary in character and not a mere disputation, but advanced with sufficient militancy to engender a thorough research and analysis of the major issues.

Weldon v. Gordon, 2022 WY 115, ¶ 10, 517 P.3d 550, 553 (Wyo. 2022) (citation omitted). The

[1] In the State's brief, it repeatedly asserts the constitutional right to education is "held exclusively by students." That assertion is not supported by the Wyoming Constitution or Wyoming Supreme Court precedent. Article 1, Section 23 of the Wyoming Constitution expressly refers to "citizens" right to education, and Article 1, Section 34 is not limited to the equal protection of just students. The fundamental right to education includes the State's obligation to equip Wyoming's students for their future roles as citizens and participants in the political system. *Campbell County School Dist. v. State*, 907 P.2d 1238, 1259 (Wyo. 1995). "Our constitution, as we shall see, plainly expresses the commitment of a free people to the value of a thorough education." *Washakie County School Dist. No.1 v. Herschler*, 606 P.2d 310, 317 (Wyo. 1980). In other words, the fundamental right to an education exists to benefit not just students but all Wyoming citizens through education of its youth.

first two elements establish standing and require a plaintiff to allege they have "a tangible interest which has been harmed and that a judicial decision in their favor will effectively remedy the harm." *Village Road Coal. v. Teton Cnty Housing Auth.*, 2013 WY 38, ¶ 14, 298 P.3d 163, 168 (Wyo. 2013) (citation omitted).

The State primarily argues WEA's Complaint fails to establish the first two elements of the *Brimmer* test, and therefore WEA does not have standing. The State claims WEA's Complaint fails to satisfy the first element because WEA does not have an existing and genuine right. It argues the right to education is held exclusively by students and their legal guardians, not WEA. The State also claims WEA fails to meet the second element because WEA's claim is not one upon which the judgment of the court may effectively operate. It argues since WEA has no right at stake, a judicial decision cannot remedy a nonexistent harm. Alternatively, the State argues even if WEA does have a right, the second element still cannot be met because WEA's claim is purely political. It says a judicial decision would have no impact on WEA's rights. Further, it argues the remedy WEA seeks would violate the separation of powers between the judicial and legislative branches, as granting the remedy would be a direct invasion of the legislature's appropriations power.

WEA counters by arguing they have standing because the issue has been decided before. It cites to a 1998 order by Judge Kalokathis in the first *Campbell* case and argues this Court should follow that precedent, as it came from the First Judicial District Court. WEA also cites to the *Campbell* opinions and *Merbanco* opinion and argues since the Wyoming Supreme Court allowed WEA to be an intervening plaintiff in those cases, it has standing to be a plaintiff in this case.

The Court finds that WEA's Complaint satisfies the *Brimmer* test and it has standing to bring the claim. This Court must accept as true what WEA alleges in its Complaint. *The Tavern, LLC*, 2017 WY 56, ¶ 21, 395 P.3d at 173. WEA alleges: (1) WEA regularly appears before boards,

commissions, state agencies and other entities on behalf of public school students and concerning public education issues; (2) WEA seeks to protect the rights of its members as educators, parents, and taxpayers; (3) WEA members are in a unique position to have direct knowledge, insight, and commitment to providing quality education for all Wyoming school children; (4) WEA members will be directly impacted by any decision in this case in their personal safety, their livelihoods, and their ability to effectively meet the educational needs of the school children they serve; (5) the State has not complied with the Wyoming Supreme Court's mandates arising from the *Campbell* cases by failing to properly perform the ECA, failing to assure Wyoming public school employees' compensation is competitive; failing to properly evaluate the components of a public education, and failing to assure that all school facilities are safe, efficient, and educationally suitable; and (6) those failures violate numerous Wyoming Constitutional provisions. WEA generally requests the Court: declare the State's failures to properly perform the ECA, to assure Wyoming public school employees' compensation is competitive, to properly evaluate the components of a public education, to assure that all school facilities are safe, efficient, and educationally suitable violate several different Wyoming Constitutional provisions, including the equal protection provision. To remedy those violations, WEA requests the Court order the State to: properly apply the ECA to the funding model and adjust the model regularly for inflation; evaluate the professional employee salary schedule to determine if it maintains the required competitive advantage and upgrade the salary schedule if necessary; properly evaluate the necessary components of a public education and fully fund the necessary components; and properly evaluate the safety, efficiency, and educational suitability of public school facilities and fully fund school facilities which are not safe, efficient, and educationally suitable.

As to the first *Brimmer* prong, the Court concludes WEA's allegations that its members

are educators and parents of students in the Wyoming public school system indicates they and WEA have a tangible interest in the outcome of the dispute. As educators and parents of students, WEA and its members would directly benefit from application of the ECA, a competitive salary study, additional or different components being included in public education, safe, efficient, and suitable school facilities, and any funding provided resulting from those actions.

As to the second *Brimmer* element, if the Court were to grant the relief requested such relief would have a practical effect on the WEA and its members. If the Court declares the State's actions and inactions to have violated the Wyoming Constitution by not properly applying the ECA to the funding model, by not maintaining competitive advantage in professional salaries, not including all the components of a public education, not maintaining suitable, safe, and efficient school facilities, WEA and its members would be directly impacted. As educators and parents of public school students, WEA and its members could receive higher salaries, better professional educators, a more complete and suitable education for students, and safer, more efficient, and suitable facilities to provide and receive a public education.

This Court disagrees with the State's arguments that WEA's claim is purely political, that the remedies WEA seeks would violate the separation of powers between the judicial and legislative branches and remedy would be a direct invasion of the legislature's appropriations power. Although the Court acknowledges an inherent tension between the judicial and legislative powers the Wyoming Supreme Court previously indicated:

> Constitutional provisions imposing an affirmative mandatory duty upon the legislature are judicially enforceable in protecting individual rights, such as educational rights. *Seattle Sch. Dist. No. 1 of King Cty. v. State,* 90 Wash.2d 476, 585 P.2d 71, 86–87 (1978). Although this court has said the judiciary will not encroach into the legislative field of policy making, as the final authority on constitutional questions the judiciary has the constitutional duty to declare unconstitutional that which transgresses the state constitution. *Washakie,* 606 P.2d at 319; *Bulova Watch Co. v. Zale Jewelry Co. of Cheyenne,* 371 P.2d 409, 419

(Wyo.1962). When the legislature's transgression is a failure to act, our duty to protect individual rights includes compelling legislative action required by the constitution.

In school reform litigation, defenders of the funding scheme routinely advance the argument that the judiciary's determination of the nature and extent of the constitutional right to a quality education violates the separation of powers doctrine. That argument was aptly answered by the Kentucky Supreme Court:

> The judiciary has the ultimate power, and the duty, to apply, interpret, define, construe all words, phrases, sentences and sections of the Kentucky Constitution as necessitated by the controversies before it. It is *solely* the function of the judiciary to so do. This duty must be exercised even when such action serves as a check on the activities of another branch of government or when the court's view of the constitution is contrary to that of other branches, or even that of the public.

Rose v. Council For Better Educ. Inc., 790 S.W.2d 186, 209 (Ky.1989). Our proper role is interpreting the meaning of the language of §§ 1 and 9 of Art. 7 in order to determine the duties those provisions impose upon the legislature.

Campbell County School District v. State, 907 P.2d 1238, 1264 (Wyo. 1995)(footnote omitted).

Regarding the third prong of the *Brimmer* test, the Court concludes a judicial determination that the State's actions and inactions in applying the ECA, performing a competitive salary study, determining whether additional or different components should be included in public education, and determining whether safe, efficient, and suitable school facilities exist are constitutional will have the force and effect of a final judgment. That final judgment could affect the rights, status and legal relationships of WEA and its members. *See Allred*, 2018WY 8, ¶¶ 52-53, 409 P.3d at 275-76 (the judicial determination must have the force and effect of a final judgment upon the rights, status, or other legal relationships of the real parties in interest).

In addition, the Court finds WEA has standing in this case because the Wyoming Supreme Court previously ruled it had standing in *Merbanco* on the basis that it had an interest in the funding of education. The Wyoming Supreme Court clearly held that WEA had standing in *Director of Office of State Lands and Investments v. Merbanco*, 2003 WY 73, 70 P.3d 241 (Wyo. 2003). The

dispute in that case arose when the state sought to exchange school trust land without a public auction. *Id.* at ¶ 2, 244. Merbanco brought an action seeking a declaration that exchanging state school trust lands for private lands without a public auction violated the Wyoming Constitution. *Id.* at ¶ 5, 245. WEA intervened as a plaintiff. *Id.* at ¶ 3. One of the issues on appeal was whether WEA had standing. The Wyoming Supreme Court held that it did, explaining:

> Educating the youth of our state is an important function performed by our state government. Our constitution, as we shall see, plainly expresses the commitment of a free people to the value of a thorough education. The school districts and the members of school boards are charged with the responsibility of providing education to the children of Wyoming and are tangibly injured if the statutes which guide their hands disenable them from so providing. Parents are keenly concerned and suffer tangible injury if their children do not receive a proper education. The children themselves are, obviously, tangibly injured if they do not uniformly receive the best education that tax resources can provide. With these considerations in mind, we hold that each of the named appellants has standing to sue under the circumstances of this case. [*Washakie County School District Number One v. Herschler*, 606 P.2d 310, 317 (Wyo. 1980).]
>
> A similar analysis and result are appropriate when considering the standing of WEA, an organization of persons involved and interested in public education. Although we have held that the nature of the interests of school children and their parents may meet the standing requirement in matters relating to equality in funding public schools, we still must consider whether the potential impact of less funding on WEA's members and the Johnstons is sufficient to create standing. While revenues from school lands are constitutionally and statutorily dedicated to support education, those funds provide a relatively small portion of the total funds provided for public schools. No showing was made that the funding provided by the legislature for schools would be inadequate without the interest from the permanent school fund. Furthermore, given the statutory requirement that any exchange must be on a "value for value basis," Wyo. Stat. Ann. § 36–1–111(a) (LexisNexis 2001), it seems unlikely that an exchange of lands would negatively impact the funds available for the support of education in any significant amount. However, WEA argues the significance of the impact on the permanent fund is obvious because a bid of $36.48 million was to be paid upon transfer of the land. We believe evaluating the impact on the permanent fund is the appropriate approach and concur with the standing analysis employed in *Branson School District RE–82 v. Romer*, 958 F.Supp. 1501, 1509–11 (D. Colo. 1997), which concluded similar plaintiffs had standing to challenge a constitutional amendment affecting the administration of the permanent school fund in Colorado.

Id. at ¶¶ 17-18, 248.

The Wyoming Supreme Court confirmed this holding as recently as 2018. In *Allred*, it referenced *Merbanco*, saying:

> In *Merbanco*, we determined that parents, schoolchildren, and the Wyoming Education Association (WEA) had standing to challenge a land exchange without public auction because the children would be "tangibly injured if they do not uniformly receive the best education that tax resources can provide," *Id.* at ¶ 17, 70 P.3d at 248, and because the WEA members and parents would also be injured by reduced funding for schools. *Id.* at ¶ 18, 70 P.3d at 248. We found these parties had a tangible interest that had been harmed "[b]ecause parents have an interest in their children receiving a proper education, and the failure to auction the land would directly affect the revenue available to enable their children's education ...." *Village Road Coalition*, 2013 WY 38, ¶ 15, 298 P.3d at 169 (citing *Merbanco*, 2003 WY 73, ¶¶ 15-18, 70 P.3d at 248)

2018 WY 8, ¶ 32, 409 P.3d at 269.

The State attempts to distinguish *Merbanco* from the case at hand. It argues the analysis in *Merbanco* focused on the fact that all the plaintiffs had a need for certainty and clarity regarding the challenged aspect of the management of state lands. It contends the case was about the process of revenue generation from state lands and not increasing appropriations for education. It says unlike this case, WEA was not seeking an entitlement to a specific allotment of state funds, but rather clarity in the law regarding the management of revenue sources available for education. The State also argues the federal case the Wyoming Supreme Court cited as the basis for finding that WEA standing is at odds with current precedent allowing for standing in declaratory actions, so there is no basis in current Wyoming law.

The Court disagrees with these arguments. The *Merbanco* Court made it clear that its job was to "consider whether **the potential impact of less funding** on WEA's members" was sufficient to establish standing. *Merbanco*, 2003 WY 8, ¶ 18, 70 P.3d at 248 (emphasis added). Standing was not found merely because WEA was seeking to clarify a question of law, but because the outcome of the case could have impacted funding. If WEA was found to have standing in that

case on the basis that the outcome could have meant less funding for education, then it must have standing in this case when it alleges education has not been properly funded. Additionally, paragraph 17 of *Merbanco* explains that parents, students, school districts, and school board members have standing because they would be tangibly injured if they do not receive "the best education that tax resources can provide." *Id.* ¶ 17. The next paragraph begins with, "A similar analysis and result are appropriate when considering the standing of WEA." *Id.* at ¶ 18. This suggests that WEA would also be tangibly injured by a lack of funding for education, thus giving it standing in this case. The Court also disagrees with the State's argument that the cited federal case was the only basis for finding WEA had standing in *Merbanco*. In *Allred*, the Wyoming Supreme Court cited to *Merbanco* in rejecting the plaintiff's argument that *Merbanco* stood for the proposition that a party could have taxpayer standing. *Allred*, 2018 WY 8, ¶ 32, 409 P.3d at 269. The Wyoming Supreme Court explained WEA had standing in *Merbanco* because it had a tangible interest that could be harmed if education was not properly funded. *Id.* Thus, the Wyoming Supreme Court's holding that WEA had standing in *Merbanco* was not based solely on the underlying federal case.

B. Failure to State a Claim

The State argues even if there is a justiciable controversy, WEA fails to state a claim upon which relief can be granted, and thus the case should be dismissed. It claims the state is not required to provide an ECA. It says *Campbell II* required the state to perform an ECA as long as the education model relies upon historic costs. It contends the state has departed from this model and has not used a model that relies upon historic costs since 2005, thus an ECA is no longer required. It argues because an ECA is not legally required, WEA has failed to state a claim. The State also argues the relief WEA seeks, such as increasing salaries to create a competitive advantage or

funding for security personnel, is a policy wish list. It contends the state is not legally required to provide funding for these things and can be granted at the legislature's discretion.

The Court finds the State's argument about the ECA inappropriate in a motion to dismiss. In a motion to dismiss, the Court takes the facts alleged in WEA's complaint as true and views them in the light most favorable to WEA. *The Tavern, LLC*, 2017 WY 56, ¶ 21, 395 P.3d at 173. The State must show that "from the face of the complaint [WEA] cannot assert any facts which would entitle [it] to relief." *Hill*, 2018 WY 70, ¶ 11, 420 P.3d at 737. The State has not done this. To succeed on this argument, the State would at least need to submit evidence showing that the State has departed from the old model. In other words, the State's arguments about the current state of the funding model would require the Court to consider facts not alleged in the Complaint and outside the face of the Complaint.

WEA's Complaint includes, generally, just one cause of action or claim, which is for declaratory relief under the Act. WEA's Complaint has properly plead a claim under the Act. The specific requested forms of relief included in WEA's Complaint are simply suggestions and not separate claims or causes of action. W.R.C.P. 12(b)(6) expressly allows a motion on a failure to state a "claim," not for a failure to state specific allowable "relief." While WEA would like funding for these items, it is not seeking to have the legislature fund these specific items. What WEA actually seeks is to have the legislature perform an ECA and review the components of a quality education and update the funding model and its funding levels to reflect actual, current costs as well as to provide funding for any innovations or changes in the nature of what constitutes a quality education. The items the State points out are suggestions for what constitutes a quality education. The Court finds WEA has sufficiently stated a claim under the Act.

C. Punitive Damages and Attorney's Fees

WEA makes a claim for punitive damages to discourage the legislature from underfunding education in the future, as well as attorney's fees. However, WEA conceded at the hearing that it was prohibited from seeking punitive damages. The Wyoming Governmental Claims Act expressly states, "No judgment against a governmental entity shall include an award for exemplary or punitive damages, for interest prior to judgments or for attorney's fees." Wyo. Stat. 1-38-118(d). Therefore, any claim for punitive damages is dismissed.

The Court also finds that WEA does not have a claim for attorney's fees. WEA asked for attorney's fees in *Campbell IV* and the Wyoming Supreme Court denied the request, saying it was contrary to the American rule. *Campbell County School District v. State*, 2008 WY 2, ¶ 89, 181 P.3d 43, 70 (Wyo. 2008). "[T]he American rule will be applied when punitive damages [are] not awarded and no contract or statute provides for such fees." *Id.* (citing *Wells Fargo Bank Wyoming, NA v. Hodder*, 2006 WY 128, ¶ 59, 144 P.3d 401, 420 (Wyo. 2006)). WEA does not cite to any authority that would allow the Court to award attorney's fees. Therefore, WEA's claim for attorney's fees must be dismissed.

IV. CONCLUSION

For the reasons stated above, the Court finds and concludes the State's *Motion to Dismiss* is denied in part and granted in part. The Court finds WEA has standing to bring a claim. WEA's Complaint sufficiently alleges WEA and its members have a tangible interest in the outcome of the dispute. If the Court were to grant the relief requested, then the relief would have a practical effect on the WEA and its members. In addition, the Wyoming Supreme Court has previously found WEA had standing in *Merbanco* on the basis that funding for education could have been impacted. The crux of this case involves funding for education as well, so WEA has standing for

the same reason. The Court also finds WEA sufficiently stated a claim upon which relief can be granted. Finally, the Court finds WEA cannot maintain claims for punitive damages or attorney's fees.

IT IS ORDERED that the State's *Motion to Dismiss* is **GRANTED** regarding WEA's claims for punitive damages and attorney's fees, and any claim for either is **DISMISSED**.

IT IS FURTHER ORDERED that the State's *Motion to Dismiss* is **DENIED** regarding WEA's standing and for failure to state a claim.

Dated this 6th day of December, 2022.

HON. PETER H. FROELICHER
DISTRICT COURT JUDGE
First Judicial District Court

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STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE
I Diane Sanchez, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date
Witness my hand and seal of said court this 7 day of Dec 20 22
DIANE SANCHEZ
Clerk of District Court
By _____ Deputy

I hereby certify that I distributed a true and correct copy of the foregoing this 7th day of December 2022, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]

Deputy Clerk