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## MEMORANDUM

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To: Interested Parties

From: Public Interest Law Center and Education Law Center

Date: June 21, 2023

Subject: Compliance with the school funding decision requires funding *public schools*

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In *William Penn School District et al. v. Pa. Dept. of Education et al.*, Commonwealth Court determined that the state's system of funding public education is unconstitutional. It directed the General Assembly to ensure that *public schools* have sufficient funding to provide all students with access to a comprehensive, effective, and contemporary public education, and to provide sufficient resources to low-wealth school districts whose students have not been afforded this opportunity. **Suggestions that this duty can be met by funding private schools ignore the plain language of the Constitution and this ruling.**

The case largely concerned the Education Clause of Pennsylvania's Constitution, which requires the General Assembly to "provide for the maintenance and support of a thorough and efficient system of *public education* to serve the needs of the Commonwealth." Pa. Const. Art III, § 14 (emphasis added). The Court was clear on what this means in practical terms. First, the clause requires the General Assembly to ensure that "every student is receiving a meaningful opportunity to succeed academically, socially, and civically." Opinion (Op.) 634. And second, that opportunity is meaningful only when "all students have access to a comprehensive, effective, and contemporary system of *public education*." *Id.* (emphasis added).

Again,<sup>1</sup> and again,<sup>2</sup> and again<sup>3</sup>, the Court made it plain: the "requirement ... imposed by the Constitution, is that every student receives a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of *public education*." Op. 776-77 (emphasis added).

Funding private schools<sup>4</sup> will not move the Commonwealth a single dollar closer to its constitutional mandate, because that mandate is clear: The General Assembly must support and maintain a contemporary, effective *public education* system that is available to every child in the Commonwealth, regardless of their school district's local wealth.

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<sup>1</sup> Op. 646.

<sup>2</sup> Op. 709.

<sup>3</sup> Op. 773.

<sup>4</sup> The merits of vouchers were irrelevant to Commonwealth Court's decision and therefore never discussed in the opinion. But on those merits, research is conclusive that vouchers cause catastrophic harm akin to COVID-19's learning loss. See, e.g., Abdulkadiroğlu, Atila, Parag A. Pathak, and Christopher R. Walters. 2018. "Free to Choose: Can School Choice Reduce Student Achievement?" *American Economic Journal: Applied Economics*, 10 (1): 175-206.