

American Civil Liberties Union of West Virginia

West Virginia Attorney General

1900 Kanawha Blvd. East

Building 1, Room E-26

Charleston, WV 25305

Delivered by certified mail, return receipt requested

**Re: Notice of Intent to Sue Regarding the Unconstitutional Underfunding of
Lincoln County Schools**

To whom it may concern:

This correspondence serves as formal notice of a claim against you pursuant to the requirements set forth in West Virginia Code § 55-17-3. The American Civil Liberties Union of West Virginia intends to file suit on behalf of a putative class of Lincoln County residents, challenging the persistent and unconstitutional underfunding of the county's school system. This action seeks injunctive, declaratory, and mandamus relief, as well as any other relief that a court may deem proper.

It is no secret that school closures, teacher shortages, limited resources, and insufficient special education and remedial services plague West Virginia schools, but the effects of the State's persistent, and unconstitutional, underfunding are particularly dire in Lincoln County. Nearly fifty years ago, the school system was deemed unconstitutionally inadequate. Yet Lincoln County students today receive a worse education, across many metrics, than their parents and grandparents did before them.

The harm felt by West Virginia's children has a direct and clear cause: the State's neglect of its constitutional obligation to adequately fund public schools to provide a thorough and efficient education to West Virginia's students. While the problems that plague school funding have been articulated by many before us, we join the chorus in articulating the many failures of the State's funding system:

- The current state funding formula results in basic state aid that is wholly insufficient to provide an adequate education;
- Particularly in special education, the State provides only minimal funding, far less than the amounts previously deemed unconstitutional;
- Individual counties are left to bridge the gap, and their financial ability to do so is directly related to county property values;
- As a result, there are significant inequities between counties. Today, the difference in per-pupil spending between wealthy counties and poor counties is over three times larger than when that same condition was declared unconstitutional;

- The current staffing formula often results in fewer formula-paid staff per 1,000 students than was declared insufficient in 1982;
- Pupil-teacher ratios vary significantly between counties and are largely driven by wealth disparities; and
- The impact of these systemic failures on the part of the State is evidenced by chronic academic underachievement, despite the best efforts of administrators, teachers, staff, parents, students, and communities.

Each of these conditions has an outsized effect on Lincoln County, resulting in:

- Lincoln County shouldering a substantial burden of the school funding obligation, despite its limited tax base;
- Shortages of certified teachers, and difficulty hiring and retaining teachers with significant experience;
- Insufficient funding to support special education programs;
- Aging facilities; and
- Unnecessary school closures, among a host of other negative consequences.

In past litigation on this issue, West Virginia courts have identified parties who must be named as Defendants to this action, given their role in the funding or operation of schools. While the legal culpability for the systemic neglect of West Virginia's school system has yet to be determined, the moral culpability is clear, and it does not apportion equally among the named parties, some of whom have compellingly advocated for the State to meet its minimum required obligations.

Lincoln County students deserve the best possible education that can be provided for them, and they are constitutionally entitled to the funding that permits them a thorough and efficient education. In failing to provide this education, the parties identified in the service list below have violated, and continue to violate, Article XII, Section 1 and Article III, Sections 10 and 17 of the West Virginia Constitution.

This notice is provided on August 17, 2026.

Respectfully,



Aubrey Sparks
Legal Director

American Civil Liberties Union of West Virginia

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