

IF NOT PARENTS, THEN WHO: STANDING IN STATE COURTS AND THE PUBLIC SUBSIDIZATION OF NON-PUBLIC SCHOOLS

*Khytavia Fleming**

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* J.D. Candidate, The University of Mississippi School of Law, May 2026.

INTRODUCTION

Minimal funding and resources equate to damaged desks, outdated books, teacher shortages, and a lengthy list of other unchecked boxes, placing many public schools at a disadvantage compared to non-public schools.¹ This reality is far from recent, and its continuance is intentional.²

Prior to the U.S. Supreme Court ruling that “separate but equal” was unconstitutional,³ most well-funded public schools, specifically in the South, were predominantly white.⁴ Integrating public schools signified that black students could receive a similar, if not the same, education as their white counterparts.⁵ For many white Southerners, uneasiness grew at the thought of integration.⁶ To combat these impending changes, non-public schools rapidly popped up across the South.⁷ While waves of black students entered these once segregated institutions, most white students (along with public-school resources) transferred to non-public schools.⁸ Barriers, such as tuition, were imposed to deter mainly low-income black students from attending, resembling an unfortunate reality before integration.⁹

Federal agencies, such as the Internal Revenue Service (“IRS”), also furthered these facially neutral, yet covert discriminatory, practices by granting some discriminatory private

¹ See Sarah Carr, *Private Academies Keep Students Separate and Unequal 40 Years Later*, THE HECHINGER REP. (Dec. 13, 2012), <https://hechingerreport.org/private-academies-keep-students-separate-and-unequal-40-years-later/> [https://perma.cc/LR2W-ZYRS].

² *Id.*

³ *Brown v. Bd. of Educ. (Brown I)*, 347 U.S. 483, 495 (1954).

⁴ Madeline Will, *65 Years After ‘Brown v. Board,’ Where Are All the Black Educators?*, EDUC. WK. (May 14, 2019), <https://www.edweek.org/policy-politics/65-years-after-brown-v-board-where-are-all-the-black-educators/2019/05> [https://perma.cc/9VHX-FGHT].

⁵ See generally *School Segregation and Integration*, LIBR. OF CONG., <https://www.loc.gov/collections/civil-rights-history-project/articles-and-essays/school-segregation-and-integration/> [https://perma.cc/ZM6N-J54Q] (last visited Nov. 19, 2025).

⁶ See *A History of Private School and Race in the American South*, S. EDUC. FOUND. (2016), <https://southerneducation.org/publications/history-of-private-schools-and-race-in-the-american-south/> [https://perma.cc/4GDM-XDR8].

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

schools tax-exempt status.¹⁰ Yet, under the Internal Revenue Code, racially discriminatory private schools were to be denied.¹¹ Several black parents brought a class action lawsuit, claiming that the IRS's insufficient enforcement of the policy harmed them.¹² One harm being that the policy's weak application "constitutes tangible federal financial aid and other support for racially segregated educational institutions."¹³ Secondly, the policy "fosters and encourages the organization, operation[,] and expansion of institutions providing racially segregated educational opportunities for white children . . . thereby interfer[ing] with the efforts of . . . [mandatory desegregation]."¹⁴ However, the Supreme Court denied the parents standing, contending that the first claim did not "constitute [a] judicially cognizable injury" and that the second claim could not be reasonably traced to the IRS's unlawful conduct.¹⁵ Consequently, non-public schools continued receiving tax-exempt federal funds,¹⁶ while funding for once thriving public schools dwindled.

Seventy years later, the unconstitutionality of "separate but equal" remains.¹⁷ Also remaining is the grave disparity between the state of public schools in comparison to private schools.¹⁸ Across the nation, non-public schools far outpace public schools academically.¹⁹ Inner-city public school districts deal with spotty internet²⁰ and increased school consolidation.²¹ While just a short

¹⁰ *Allen v. Wright*, 468 U.S. 737, 743-45 (1984); Mark D. Robins, Note, *The Modern Schools of Jurisprudence and Standing to Sue the Government for Failure to Act Against a Third Party: Dissecting Allen v. Wright*, 11 B.C. THIRD WORLD L.J. 165, 174-75 (1991).

¹¹ *Allen*, 468 U.S. at 739-40; 26 U.S.C. § 170(a)(1), (c)(2).

¹² *Allen*, 468 U.S. at 743-46.

¹³ *Id.* at 745.

¹⁴ *Id.*

¹⁵ *Id.* at 753.

¹⁶ *Id.* at 764-66.

¹⁷ *Brown I*, 347 U.S. 483, 495 (1954).

¹⁸ See Carr, *supra* note 1.

¹⁹ Cole Claybourn, *Private School vs. Public School*, U.S. NEWS (Aug. 19, 2025, at 09:04 CT), <https://www.usnews.com/education/k12/articles/private-school-vs-public-school> [<https://perma.cc/UPC3-HNQE>].

²⁰ Joshua Bleiberg, *Are Slow Internet Connections Holding Back American Schools?*, BROOKINGS (Sep. 16, 2019), <https://www.brookings.edu/articles/are-slow-internet-connections-holding-back-american-schools/> [<https://perma.cc/G3VL-6RDT>].

²¹ Jackie Mader, *Is Consolidation the Answer for Mississippi's Struggling Schools?*, THE HECHINGER REP. (Sep. 13, 2015), <https://hechingerreport.org/is-consolidation-the->

distance away, non-public schools announce new programs²² and more state funding.²³ To transfer, public school students face higher tuition costs, high GPA and academic excellence standards, and difficulty in obtaining recommendations from public school officials trying to retain their student population.²⁴ While state and federal funding are present, public schools have not been properly funded by these systems in decades.²⁵ Some states have even repeatedly attempted to implement non-public school incentives, such as voucher programs, to place a band-aid on public school issues, but end up promoting the alternative option.²⁶ In contrast, other states ignore these issues and openly provide public funds to non-public schools with state judicial approval.²⁷ These state legislative and judicial acts contribute to the generational, public-education curse many low-income minority households struggle from and ultimately fail to overcome.²⁸

Plaintiff's claims that are difficult to obtain standing not only surround education but also range from voting rights and gerrymandering to the environment and minority communities.²⁹

answer-for-mississippi-struggling-schools/ [https://perma.cc/E3ZX-PSDA] (“Since 2012, nearly a dozen Mississippi [school] districts have been ordered to merge, many of them small and low-performing.”).

²² See, e.g., *Clinton Christian Academy Begins New Program*, THE CLINTON DAILY DEMOCRAT (Jun. 14, 2023, at 13:00 CT), <https://clintondailydemocrat.com/stories/clinton-christian-academy-begins-new-program,41141> [https://perma.cc/Q8ND-TCTF]; *Introducing Merge EDU: A New Frontier in STEM Education at Oak Hill Academy*, OAK HILL ACAD. (Oct. 11, 2024), <https://oakhillacademy.com/news/introducing-merge-edu-a-new-frontier-in-stem-education-at-oak-hill-academy/> [https://perma.cc/BB3K-J76G].

²³ *House Votes to Send Public Money to Private Schools*, PARENTS' CAMPAIGN (Mar. 26, 2024), <https://msparentscampaign.org/house-votes-to-send-public-money-to-private-schools/> [https://perma.cc/9ZD4-ZVWE].

²⁴ Carr, *supra* note 1.

²⁵ *Education Funding*, PARENTS' CAMPAIGN, <https://msparentscampaign.org/education-funding-2/> [https://perma.cc/TWG6-T4MB] (last visited Nov. 19, 2025) (noting that Mississippi public schools missed out on 3.5 billion dollars due to sixteen consecutive years of underfunding).

²⁶ See *Zelman v. Simmons-Harris*, 536 U.S. 639, 662-63 (2002).

²⁷ See *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1233 (Miss. 2024).

²⁸ *Id.* at 1235 (King, P.J., dissenting).

²⁹ See, e.g., *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 647 (2021); *Rucho v. Common Cause*, 588 U.S. 684, 684-85 (2019); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 555 (1992); *Friends of George's, Inc. v. Mulroy*, 108 F.4th 431, 431 (6th Cir. 2024).

Moreover, numerous scholars have examined how the judiciary system utilizes standing to deny controversial civil rights claims. Legal scholar Gillian Hadfield opines that courts' use of standing excludes public interests groups and prevents courts from learning how their rulings affect the most vulnerable.³⁰ Tyler Jameson asserts that the standing doctrine is "confusing," leading to judicial courts inconsistently applying the doctrine.³¹ Minorities with civil rights claims often receive the short end of the stick in these situations.³² Robert J. Pushaw Jr. echoes in agreement, stating that elements of federal standing are "malleable" and judges can easily manipulate them depending on whether they "wish[] to reach the merits."³³ Helen Hershkoff contends that state courts are not bound by Article III and that some state judicial practices differ greatly from the federal standing model.³⁴

In comparison, scholars like Calvin Massey assert that there is an asymmetry problem between state and federal courts regarding federal issues.³⁵ Massey contends that states apply

³⁰ Gillian K. Hadfield, *Bias in the Evolution of Legal Rules*, 80 GEO. L.J. 583, 607 (1992); see also Douglas Coonfield, Note, *Standing in the Way of Justice: How the Standing Doctrine Perpetuates Injustice in Civil Rights Cases*, 37 REV. LITIG. 101, 122 (2018) (noting that federal standing doctrine has historically denied plaintiffs' "constitutionally guaranteed rights").

³¹ Tyler C. Jameson, Note, *No Standing, No Backlash: How Federal Courts Use Standing to Avoid Deciding Controversial Cases Involving Religious and Political Displays*, 12 WAKE FOREST J.L. & POL'Y 359, 361 (2022); Note, *Standing in The Way: The Courts' Escalating Interference in Federal Policymaking*, 136 HARV. L. REV. 1222, 1223 (2023); William A. Fletcher, *The Structure of Standing*, 98 YALE L.J. 221, 223 (1988).

³² Jameson, *supra* note 31, at 379; Robert J. Pushaw, Jr., *The Court Continues to Confuse Standing: The Pitfalls of Faux Article III "Originalism"*, 31 GEO. MASON L. REV. 893, 894 (2024).

³³ Pushaw, *supra* note 32, at 894.

³⁴ Helen Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function*, 114 HARV. L. REV. 1833, 1836 (2001); see also Hans A. Linde, Response, *State Constitutions Are Not Common Law: Comments on Gardner's Failed Discourse*, 24 RUTGERS L.J. 927, 933 (1993).

³⁵ Calvin Massey, *Standing in State Courts, State Law, and Federal Review*, 53 DUQ. L. REV. 401, 407 (2015); see also John M. Greabe, Essay, *The Asymmetry Problem: Reflections on Calvin Massey's Standing in State Courts, State Law, and Federal Review*, 15 U.N.H. L. REV. 273, 274-75 (2017); Ashutosh Bhagwat, *Crossing Doctrines: Conflating Standing and the Merits Under the Establishment Clause*, 97 WASH. U. L. REV. 1729, 1733 (2020).

Article III more broadly than federal courts, which creates issues when a state case reaches a federal court.³⁶

This Comment contributes to standing literature by filling a research gap—state courts’ utilization of federal standing doctrine as it pertains to state issues. Various scholars discuss federal courts’ usage of standing to limit the number of civil rights claims. There are also a number of legal writers who home in on state courts’ usage of federal standing regarding federal issues. Then, there are scholars who dedicate a sentence or two, simply stating that state courts should not rely on federal standing doctrine, before returning to the realm of standing and federal issues in their scholarship. Within this Comment, the analysis differs by acknowledging state courts’ increasing use of the federal standing doctrine for state issues.

This Comment argues that federal standing requirements limit the number of civil rights claims heard in courts and also that state courts inappropriately rely on this federal doctrine. In May 2024, the Mississippi Supreme Court ruled in *Midsouth Association of Independent Schools v. Parents for Public Schools* (“*Midsouth*”) that Parents for Public Schools (“PPS”) lacked standing to bring suit because the parents the organization represented did not have individual standing.³⁷ The Mississippi Supreme Court’s reliance on the federal standing doctrine to dismiss PPS’ claims in *Midsouth* is part of a larger pattern of courts relying on standing to dismiss civil rights claims.³⁸ State courts should not rely on federal standing when said doctrine is inconsistent with their state constitutions.

Part I discusses the establishment of predominantly white, non-public schools with associational ties to Midsouth Association of Independent Schools (“MAIS”). Part I further divulges into the efforts parents have made to advocate for public school investments and the increasing focus to provide public funds to non-public schools. Part II asserts that the use of standing

³⁶ Massey, *supra* note 35, at 409; Greabe, *supra* note 35, at 277-78; Bhagwat, *supra* note 35, at 1733.

³⁷ *Midsouth Ass’n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1230 (Miss. 2024).

³⁸ See Adam Flaherty & Isaiah W. Ogren, Note, *The New Standing Doctrine, Judicial Federalism, and the Problem of Forumless Claims*, 134 YALE L.J. 1008, 1020-21 (2025).

eliminates and undermines individuals' civil rights claims. In addition, Part III contends that state courts' reliance on the federal standing doctrine is inappropriate, because it is not bound by Article III of the United States Constitution, in the way that federal courts are.³⁹ Part IV proposes solutions both for limiting access to public funding for non-public schools and how plaintiffs can challenge the current broad access.

I. BACKGROUND

A. *Predominantly White Non-Public Schools Synonymous to Segregation Academies*

Non-public schools receiving public funds originated from segregation academies, which initially obtained "financial support from state funds under newly-enacted tuition grant statutes."⁴⁰ Since white parents helped form associations, like the White Citizens' Council, segregation academies were all-white private schools established to avoid integration.⁴¹ These academies were "expanded and supported to preserve the Southern tradition of racial segregation in the face of the federal courts' dismantling of 'separate but equal'" in *Brown v. Board of Education*.⁴²

In the 1960s, a group of men formed the Mississippi Private School Association (the future MAIS) following "Supreme Court decisions, federal legislation, and world events combined to foster

³⁹ U.S. CONST. art. III, § 1.

⁴⁰ Jennifer Berry Hawes & Mollie Simon, *Segregation Academies in Mississippi Are Benefiting From Public Dollars, as They Did in the 1960s*, PROPUBLICA (Nov. 22, 2024, at 06:00 CT), <https://www.propublica.org/article/mississippi-segregation-academies-taxpayer-dollars-1960s> [<https://perma.cc/UP5Y-MXJ9>] (citing STEVE SUITS, OVERTURNING BROWN: THE SEGREGATIONIST LEGACY OF THE MODERN SCHOOL CHOICE MOVEMENT (2020)); Mark I. Silberblatt, Comment, *Denial of Tax Exempt Status to Southern Segregation Academies*, 6 HARV. C.R.-C.L. L. REV. 179, 179 (1970) (noting that *Green v. Kennedy* contributed to the demise of this "Mississippi tuition grant system").

⁴¹ *Brown 60 Years Later: Segregation Academies in the Deep South*, CONG. BLACK CAUCUS FOUND. (May 15, 2014), <https://www.cbcfinc.org/blog/brown-60-years-later-segregation-academies-in-the-deep-south/> [<https://perma.cc/X4N6-YJMT>]; *First White Citizens' Council Forms to Oppose School Integration*, EQUAL JUST. INITIATIVE, <https://calendar.eji.org/racial-injustice/jul/11> [<https://perma.cc/YGT9-P67K>] (last visited Dec. 21, 2025).

⁴² *A History of Private Schools and Race in the American South*, S. EDUC. FOUND. (2016), <https://southerneducation.org/publications/history-of-private-schools-and-race-in-the-american-south/> [<https://perma.cc/T7JK-TYL5>].

significant cultural change.”⁴³ These Supreme Court decisions included *Brown v. Board of Education* (I & II), *Swann v. Charlotte-Mecklenburg Board of Education*, and other prominent cases, outlawing segregated schools that organizations like MAIS sought to continue.⁴⁴ The federal legislation that MAIS’s official website refers to is the Civil Rights Act of 1964.⁴⁵ Additionally, world events equate specifically to the Civil Rights Movement, which took the nation by storm, demanding desegregation in all forms.⁴⁶ Not to mention, MAIS’s clever use of cultural change covertly calls attention to judicial rulings for mandatory school integration.⁴⁷

Between the Mississippi Private School Association’s second and third annual meetings, non-public schools in attendance skyrocketed from twenty-six to sixty-one in the South alone.⁴⁸ Now known as the Midsouth Association of Independent Schools, the association explained that its growth was due to the “freedom of choice” ending.⁴⁹ Prior to this change, parents possessed the right “to choose a school for their child and receive [government] financial support.”⁵⁰ Segregationists manipulated this right in an attempt to avoid mandatory public school integration.⁵¹ However, the Supreme Court denied a voucher plan, asserting “that a ‘freedom of choice’ plan could not be ‘accepted as a sufficient step to ‘effectuate a transition’ to a unitary [educational] system.’”⁵²

⁴³ MIDSOUTH ASS’N OF INDEP. SCHS., THE HISTORY OF MAIS 8 (n.d.).

⁴⁴ See, e.g., *Brown I*, 347 U.S. 483, 483 (1954); *Brown v. Bd. of Educ. (Brown II)*, 349 U.S. 294, 301 (1955); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 501 F.2d 383, 384 (1974).

⁴⁵ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241.

⁴⁶ *The Civil Rights Movement*, LIBR. OF CONG., <https://www.loc.gov/classroom-materials/united-states-history-primary-source-timeline/post-war-united-states-1945-1968/civil-rights-movement/> [<https://perma.cc/2LK4-V7MR>] (last visited Nov. 19, 2025).

⁴⁷ See *Brown I*, 347 U.S. at 483; *Supreme Court Decision Sparks Massive White Resistance to School Integration*, EQUAL JUST. INITIATIVE, <https://calendar.eji.org/racial-injustice/may/17> [<https://perma.cc/T8D2-AKL9>] (last visited Nov. 19, 2025).

⁴⁸ MIDSOUTH ASS’N OF INDEP. SCHS., *supra* note 43, at 9-10.

⁴⁹ *Id.* at 10.

⁵⁰ Angela Slate Rawls, *Eliminating Options Through Choice: Another Look at Private School Vouchers*, 50 EMORY L.J. 363, 364 (2001).

⁵¹ Tim Walker, *A ‘Choice’ Grounded in Exclusion and Inequality*, NEATODAY (Aug. 19, 2021), <https://www.nea.org/nea-today/all-news-articles/choice-grounded-exclusion-and-inequality> [<https://perma.cc/8V4S-E9EY>].

⁵² Rawls, *supra* note 50, at 366; *Green v. County Sch. Bd.*, 391 U.S. 430, 441 (1968).

Other scholars point to white individuals' fears of racial integration leading to the mass exodus of white students from public schools toward "segregation academies" across the South.⁵³

Today, MAIS is a network of 130 non-public schools throughout several Southern states, including: Mississippi, Arkansas, Tennessee, and Louisiana.⁵⁴ Most of these schools are predominantly white, while nearby underfunded public schools are overwhelmingly black.⁵⁵ In the Mississippi Delta, one of the poorest regions in the nation, "black and white students there are still learning in classrooms that often look like *Brown v. Board of Education* never happened."⁵⁶ Similar can be said about the state's capital, with an over 80% black population,⁵⁷ and several surrounding suburban towns that are over 70% white.⁵⁸

Jackson's public schools face temporary closures at any instance because of a lack of funding to fix water issues.⁵⁹ For

⁵³ Bracey Harris, *Reckoning with Mississippi's 'Segregation Academies'*, THE HECHINGER REP. (Nov. 29, 2019), <https://hechingerreport.org/reckoning-with-mississippi-segregation-academies/> [<https://perma.cc/BL2T-WSY3>]; Silberblatt, *supra* note 40, at 179; Marilyn Grady & Sharon C. Hoffman, *Segregation Academies Then and School Choice Configurations Today in Deep South States*, 2 CONTEMP. ISSUES IN EDUC. LEADERSHIP 1, 3, 5-6 (2018).

⁵⁴ *Welcome From the Executive Director*, MIDSOUTH ASS'N OF INDEP. SCHS., <https://home.msais.org/test2/index.php> [<https://perma.cc/WF5F-LFJA>] (last visited Nov. 19, 2025).

⁵⁵ See, e.g., Harris, *supra* note 53; *River Oaks School*, U.S. NEWS, <https://www.usnews.com/education/k12/louisiana/river-oaks-school-308205> [<https://perma.cc/KW4W-LWFX>] (last visited Dec. 21, 2025) (providing that River Oaks, an MAIS member located in Louisiana, has a White student population of "83.6%"); *Richwood High School*, U.S. NEWS, <https://www.usnews.com/education/k12/louisiana/richwood-high-school-8700> [<https://perma.cc/MAW8-MF9M>] (last visited 21, 2025) (providing that Richwood, a Louisiana public school, has a Black student population of "97.7%").

⁵⁶ *Id.*

⁵⁷ *Jackson, MS*, DATAUSA, <https://datausa.io/profile/geo/jackson-ms> [<https://perma.cc/L5JY-99SS>] (last visited Oct. 24, 2025).

⁵⁸ See, e.g., *Richland, MS*, DATAUSA, <https://datausa.io/profile/geo/richland-ms> [<https://perma.cc/584L-3X4W>] (last visited Oct. 24, 2025); *Brandon, MS*, DATAUSA, <https://datausa.io/profile/geo/brandon-ms> [<https://perma.cc/AK5X-8AH5>] (last visited Oct. 24, 2025); *Madison, MS*, DATAUSA, <https://datausa.io/profile/geo/madison-ms> [<https://perma.cc/4HHR-VUMA>] (last visited Oct. 24, 2025).

⁵⁹ Kayla Jimenez, *Jackson, Mississippi, Water Crisis Closed School Campuses (Again). What Is the Path Forward?*, USA TODAY (Jan. 13, 2023, at 10:54 ET), <https://www.usatoday.com/story/news/education/2023/01/13/jackson-water-crisis-shuttered-schools-experts-warn-learning-loss/11002945002/> [<https://perma.cc/C2D7-JW84>].

example, in January 2024, Jackson schools were forced into virtual learning after two days of no school caused by water challenges that prevented boiler heaters from operating properly.⁶⁰ Similar water dilemmas occurred in 2023 following a partial water system collapse in 2022.⁶¹ These infrastructure issues have lingered for decades, not only affecting public schools but also the general Jackson public.⁶² Some businesses are even closing because they lack “the capital to weather” when pipes and infrastructure repeatedly weaken under pressures that well-funded areas do not experience.⁶³

In contrast, private schools that bear the city’s name have funding to provide freshmen with individualized “roadmap[s] to college,” an assortment of extracurriculars, and to send students to study abroad.⁶⁴ Non-public institutions throughout the country produce mayors and other leaders in government, business, law, medicine, and politics. Yet, for the 2023-2024 academic year, some predominantly black public school districts’ graduation rates fell below the state average: Jackson (83.7%), Greenwood (85.0%), Greenville (70.2%), and Leland (75.7%).⁶⁵ Not to mention, over half of the bottom ten districts with the highest dropout rates were located in the Mississippi Delta.⁶⁶ Black public school

⁶⁰ *Jackson Public Schools Go to Virtual Learning on Friday Amid Latest Water Crisis*, CLARION LEDGER (Jan. 18, 2024, at 19:20 CT), <https://www.clarionledger.com/story/news/2024/01/18/ms-weather-school-closures-jackson-public-schools-go-remote-on-friday/72275681007/> [https://perma.cc/PWZ5-Y5QR].

⁶¹ Mark Strassmann, *Water Crisis Forces Closures in Jackson, Mississippi: “Full Recovery Will Take Many Years”*, CBS NEWS (Jan. 5, 2023, at 19:34 ET), <https://www.cbsnews.com/news/jackson-mississippi-boil-water-school-business-closures/> [https://perma.cc/8LH4-9BDX].

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *College Counseling*, JACKSON PREP, <https://www.jacksonprep.net/academics/college-counseling> [https://perma.cc/54AZ-WKDM] (last visited Oct. 24, 2025); *Clubs and Organizations*, JACKSON PREP, <https://www.jacksonprep.net/student-life/clubs-and-organizations> [https://perma.cc/VDQ5-WZJB] (last visited Oct. 24, 2025); *Beyond the Classroom*, JACKSON PREP, <https://www.jacksonprep.net/student-life/beyond-the-classroom> [https://perma.cc/E7U5-6A4A] (last visited Oct. 24, 2025).

⁶⁵ PAULA VANDERFORD, MISS. DEP’T OF EDUC., 4-YEAR GRADUATION RATES 13-14 (2024).

⁶⁶ *See id.* at 8.

students in these particular areas, or similar areas, often only have a hope of leaving for better and more equal opportunities.⁶⁷

B. Parents for Public Schools' Nationwide Efforts

Aware of their students' sentiments in receiving the short end of the educational funding stick, twenty parents began gathering in Mississippi, and eventually, the National Office of Parents for Public Schools was created.⁶⁸ PPS created a movement "[b]y enrolling their children in local public schools and demanding higher standards and better resources for all students."⁶⁹ Now with chapters in several states, PPS represents parents of all backgrounds, asserting that every child deserves a proper, quality education.⁷⁰ States across the nation have long failed to adequately fund public schools.⁷¹ As a founding member states, PPS is "no longer waiting around for . . . [federal, state, and local governments] to solve the problems in our public schools."⁷²

Chapters nationwide advocate for greater investments in public schools with three areas of focus: Membership and Leadership Development, Education and Information, and Advocacy and Organizing.⁷³ For instance, to assess public education issues "for use in the [d]istrict's policy decision," PPS of Pitt County, North Carolina hosted community discussions.⁷⁴ PPS of Syracuse, New York advocated and contributed to more students receiving "safe transportation to school."⁷⁵ PPS of San

⁶⁷ See Carr, *supra* note 1.

⁶⁸ History, PARENTS FOR PUB. SCHS., <https://parents4publicschools.org/history/> [<https://perma.cc/J8CL-BKTQ>] (last visited Oct. 24, 2025).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Carr, *supra* note 1; Hilary Wething & Josh Bivens, *U.S. Investment in Public Education Is at Risk*, ECON. POL'Y INST. (Aug. 21, 2025), <https://www.epi.org/publication/u-s-investment-in-public-education-is-at-risk-vouchers-state-budget-austerity-and-federal-attacks-on-the-department-of-education-threaten-childrens-futures/#full-report> [<https://perma.cc/6536-WSS5>] (last visited Dec. 21, 2025).

⁷² PARENTS FOR PUB. SCHS., *supra* note 68 (quoting Charlie Olson, attorney and founding member of PPS Waco & former PPS National board member).

⁷³ About Chapters, PARENTS FOR PUB. SCHS., <https://parents4publicschools.org/about/> [<https://perma.cc/QW2W-XB8S>] (last visited Nov. 19, 2025).

⁷⁴ *Id.*

⁷⁵ *Id.*

Francisco, California is currently tackling selective enrollment and media bias.⁷⁶ In addition, one of PPS's most recent efforts to take charge was filing the lawsuit that led to the decision in *Midsouth Association of Independent Schools v. Parents for Public Schools*.⁷⁷

C. Context

In 2021, President Biden signed the American Rescue Plan Act ("ARPA").⁷⁸ The ARPA allocated federal funds "to aid public health and economic recovery from the COVID-19 pandemic."⁷⁹ Approximately \$350 billion of the \$1.9 trillion plan went to the Coronavirus State and Local Recovery Fund, which provided money to state, local, and territorial governments.⁸⁰ Funding stipulations required states to use the ARPA funding by December 31, 2024, toward one or more of the four paraphrased categories:

- [1] respond to the COVID-19 emergency or its negative impacts, including assistance to households, small businesses, and nonprofits or aid to impacted industries such as tourism, travel, and hospitality;
- [2] provide premium pay to essential workers or provide grants to employers of essential workers during the COVID-19 emergency;
- [3] provide government services to the extent of the reduction in revenue of such state, territory, or tribal government due to the COVID-19 emergency; or
- [4] make necessary investments in water, sewer, or broadband infrastructure.⁸¹

Given Mississippi's continued water issues, especially in Jackson, the state's capital,⁸² Mississippi directed its ARPA funds

⁷⁶ *Id.*

⁷⁷ See *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1228 (Miss. 2024).

⁷⁸ American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. (2021).

⁷⁹ *Id.*; *ARPA State Fiscal Recovery Fund Allocations Database*, NAT'L CONF. OF STATE LEGISLATURES (Jan. 2, 2025), <https://www.ncsl.org/fiscal/arpa-state-fiscal-recovery-fund-allocations> [<https://perma.cc/YC5C-SYA6>].

⁸⁰ NAT'L CONF. OF STATE LEGISLATURES, *supra* note 79.

⁸¹ American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9901 (2021).

⁸² *Jackson Water Crisis*, NAACP, <https://naacp.org/campaigns/jackson-water-crisis> [<https://perma.cc/QKE8-36TQ>] (last visited Nov. 19, 2025).

toward category four: water, sewer, and broadband infrastructure.⁸³ From Jackson (central Mississippi) having consistent boil water alerts, to portions of the Delta (northwest Mississippi) having brown and oily water, the state is no stranger to inadequate water infrastructures.⁸⁴ This unfortunate reality disrupts many Mississippians' daily lives to a point of forced adaptation.⁸⁵ Yet, the Mississippi Legislature's enactment of Senate Bills 2780 and 3064 makes it appear that the state's water complications only affect private institutions.⁸⁶

Senate Bill 2780 Section 12 "established the Independent Schools Infrastructure Grant Program" ("ISIGP"), allowing independent schools to apply for this grant to make needed investments toward category four.⁸⁷ Additionally, Senate Bill 3064 Section 2 "appropriated . . . any money in the Coronavirus State Fiscal Recovery Fund not otherwise appropriated to the [Division] of Finance and Administration for the purpose of funding the [ISIGP] established in Senate Bill No. 2780."⁸⁸ In other words, the Mississippi Legislature allocated \$10 million toward nonpublic schools through the passage of Senate Bills 2780 and 3064.⁸⁹

⁸³ *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1228 (Miss. 2024).

⁸⁴ See Alex Rozier, *Jackson Is Issuing a New Boil Water Notice Every Other Day*, MISS. TODAY (Jan. 26, 2023), <https://mississippitoday.org/2023/01/26/jackson-boil-water-notice-every-other-day/> [<https://perma.cc/RXV6-RYTT>]; Stephan Bisaha, *How One Utility in the Mississippi Delta Is Using Teamwork to Keep Faucets Flowing*, WWNO (June 1, 2021, at 10:30 CT), <https://www.wwno.org/2021-06-01/how-one-utility-in-the-mississippi-delta-is-using-teamwork-to-keep-faucets-flowing> [<https://perma.cc/T7K2-B2QN>]; *Boil-Water Notices*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/23,0,148.html> [<https://perma.cc/PC5Y-SLQL>] (last visited Nov. 30, 2025).

⁸⁵ Bisaha, *supra* note 84.

⁸⁶ See S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); see also S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

⁸⁷ *Midsouth Ass'n of Indep. Schs.*, 384 So. 3d at 1228; S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

⁸⁸ *Midsouth Ass'n of Indep. Schs.*, 384 So. 3d at 1228; S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

⁸⁹ S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

Consequently, PPS challenged that the two bills violated Article VIII, Section 208 of the Mississippi Constitution:⁹⁰

No religious or other sect or sects shall ever control any part of the school or other educational funds of this state; nor shall any funds be appropriated toward the support of any sectarian school, or to any school that at the time of receiving such appropriation is not conducted as a free school.⁹¹

The trial court ruled in favor of PPS, holding “that Senate Bills 2780 and 3064 violate the constitutional prohibition against the appropriation of public funds for private school recipients.”⁹²

On appeal, the Mississippi Supreme Court denied PPS associational standing, reasoning that the parents PPS represented did not have individual standing.⁹³ The Court asserted that the money mentioned in Bill 3064 were federal funds, not state funds.⁹⁴ The majority further stated that “the [Mississippi treasury] is a mere custodian or conduit” of the ARPA funding.⁹⁵ Referencing Article VIII, Section 208, the Court noted that only state funds cannot go to non-public schools.⁹⁶ The Court indirectly contended that PPS would have been allowed to challenge the two bills (along with proving standing) if Senate Bill 3064 was composed of state educational funds.⁹⁷ However, making an argument that the state caused the plaintiffs harm regarding ARPA funds (not earmarked as educational funding or “commingled with state education funds”) was not a sufficient injury to the Court.⁹⁸ Consequently, private citizens could not challenge where the state chose to allocate ARPA funds.⁹⁹ As a

⁹⁰ S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); *Parents for Pub. Schs. v. Miss. Dep’t of Fin. & Admin.*, No. G2022-705-M, 2022 WL 10965489, at *6 (Ch. Miss. Oct. 13, 2022).

⁹¹ MISS. CONST. art. VIII, § 208.

⁹² *Parents for Pub. Schs.*, 2022 WL 10965489, at *13.

⁹³ *Midsouth Ass’n of Indep. Schs.*, 384 So. 3d at 1230.

⁹⁴ *Id.* at 1231.

⁹⁵ *Id.* at 1233.

⁹⁶ *Id.* at 1231.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

result, federal public funds can subsidize Mississippi's non-public schools.¹⁰⁰

D. State Courts' Denial Analysis: Midsouth

1. Sufficient Harm Done

Analyzing the case's discussion, the Court further agreed with MAIS that ARPA funds were never earmarked for educational purposes.¹⁰¹ Still, the creation of Senate Bills 2780 and 3064 signified that ARPA funds were allocated toward education.¹⁰² Therefore, public school children's parents did suffer sufficient harm for PPS to qualify for associational standing.

In addition, the Court asserted that the state allocated ARPA funds to its Division of Finance and Administration ("DFA") to administer.¹⁰³ The Court reasoned the funds at issue that private schools would directly receive were not from the state.¹⁰⁴ The DFA is a state agency.¹⁰⁵ As current Mississippi Governor Tate Reeves states, "[t]he Mississippi [DFA] plays a critical role in my administration's mission to implement a more efficient and effective government for all Mississippians."¹⁰⁶ Though the state is not directly administering funds, the DFA is still an agent acting under the state's supervision, which means the state distributed ARPA funds.¹⁰⁷

2. Taxpayer Standing

The Court reasoned that the injuries of the parents PPS represented were injuries of a general taxpayer.¹⁰⁸ To the contrary, Senate Bills 2780 and 3064 only harmed a specific group: public schools and their students. These two bills do not

¹⁰⁰ *Id.* at 1233-34.

¹⁰¹ *Id.* at 1231.

¹⁰² *Id.* at 1228.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 1232-33.

¹⁰⁵ MISS. CODE ANN. § 27-104-1 (1982).

¹⁰⁶ MISS. DEP'T OF FIN. AND ADMIN., <https://www.dfa.ms.gov> [<https://perma.cc/XAL3-KYY8>] (last visited Nov. 30, 2025).

¹⁰⁷ *Id.*

¹⁰⁸ *Midsouth Ass'n of Indep. Schs.*, 384 So. 3d at 1232.

harm the parents of independent school children—even though these individuals are taxpayers—because the bills grant funding to these particular schools.¹⁰⁹ If anything, Senate Bills 2780 and 3064, are an “investment”¹¹⁰ into private schools’ education.

Additionally, since the state geared ARPA funds toward private education,¹¹¹ public schools were harmed by being placed at a greater disadvantage than private schools. Students are minors, Rule 17 of the Federal Rules of Civil Procedure allows for parents to be representatives in this case.¹¹² More so, these parents’ property taxes are helping to fund the schools that their children attend.¹¹³ If taxpayers’ children are being injured through not receiving public funding that parents contributed to through taxes, then said parents have a right to sue as taxpayers.

Furthermore, the chancery court judge discussed the significant water issues Jackson faces that hinder its children’s education.¹¹⁴ Public schools rely on state funding,¹¹⁵ yet the Mississippi Adequate Education Program (the former funding formula of the *Midsouth’s* ruling) had not been fully funded in nearly twenty years.¹¹⁶ PPS had sufficient injuries to bring this complaint forward.

The Court asserts that it has “quite liberal” standards for hearing cases but that PPS does not meet these standards.¹¹⁷ The Court is correct in that it has heard a number of varying cases.¹¹⁸

¹⁰⁹ *Id.* at 1228.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² FED. R. CIV. P. 17(c)(1).

¹¹³ *Mississippi, LINCOLN INST. OF LAND POL’Y.*, https://www.lincolninst.edu/app/uploads/legacy-files/ms_june_2021.pdf [<https://perma.cc/7D3D-EB59>] (last visited Nov. 30, 2025).

¹¹⁴ *Parents for Pub. Schs. v. Miss. Dep’t of Fin. and Admin.*, No. G2022-705-M, 2022 WL 10965489, at *12-13 (Ch. Miss. Oct. 13, 2022).

¹¹⁵ *How Is K-12 Education Funded?*, PETER G. PETERSON FOUND. (July 22, 2025), <https://www.pgpf.org/budget-basics/how-is-k-12-education-funded> [<https://perma.cc/DG2K-FS6R>].

¹¹⁶ Jack Brister, *Mississippi’s Underfunded Education Program*, HARV. ECON. REV. (Aug. 17, 2020), <https://www.economicsreview.org/post/mississippi-s-underfunded-education-program> [<https://perma.cc/DG2K-FS6R>]; H.B. 4130, 2024 Gen. Assemb., Reg. Sess. (Miss. 2024) (enacted). The Mississippi Student Funding Formula became the successor of the Mississippi Adequate Education Program in 2024. *Id.*

¹¹⁷ *Midsouth Ass’n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1230-32 (Miss. 2024).

¹¹⁸ *Id.* at 1230.

Nonetheless, for the Court to deny PPS standing simply because the ARPA is federally funded and not state funded¹¹⁹ signifies that the Mississippi Supreme Court's position does not take into account the fact that, under federal law, ARPA funds are public funds. The Court allowed federal standards to creep into its state jurisdiction without properly explaining why it would incorporate federal standing standards where these standards are inconsistent with the broad grant of jurisdiction provided in the state constitution.¹²⁰ Therefore, in accordance with Article VIII, Section 208 of the Mississippi Constitution,¹²¹ the Mississippi Supreme Court should have granted PPS associational standing.

E. A Tree Within a Forest

Though *Midsouth* is a Mississippi case that challenges senate bills allocating public monies to private schools,¹²² these components are puzzle pieces within a larger picture of the injustices occurring in the judicial system regarding standing. The Mississippi Supreme Court represents a number of state high courts' improper reliance on Article III's standing doctrine to deny and limit plaintiffs' civil rights claims.¹²³ MAIS symbolizes defendants who benefit from state courts' hesitation to decide on controversial and political cases.¹²⁴ Most of all, PPS embodies public interest groups and injured private citizens who cannot obtain standing in part due to state courts nationwide applying a doctrine they are not bound by.

II. ARGUMENT

Standing is “[a] party’s right to make a legal claim or seek judicial enforcement of a duty or right based on the party’s having a sufficient interest in a justiciable controversy.”¹²⁵ While this

¹¹⁹ *Id.* at 1233.

¹²⁰ *See* MISS. CONST. art. III, § 25.

¹²¹ MISS. CONST. art. VIII, § 208.

¹²² *See Midsouth Ass’n of Indep. Schs.*, 384 So. 3d at 1228.

¹²³ *See* Flaherty & Ogren, *supra* note 38, at 1020-21.

¹²⁴ ALICIA BANNON, BRENNAN CTR. FOR JUST., RETHINKING JUDICIAL SELECTION IN STATE COURTS 2 (2016) (“[J]ob security – in both elective and appointive systems – impact[s] how judges decide cases.”).

¹²⁵ *Standing*, BLACK’S LAW DICTIONARY (12th ed. 2024).

definition is universal within the legal realm, the requirements to meet standing are not.¹²⁶ Federal courts are bound by Article III of the United States Constitution:

The judicial Power shall extend to all Cases . . . affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.¹²⁷

In contrast, state courts have free range in deciding standing standards.¹²⁸ State courts are courts of general jurisdiction, while federal courts are courts of limited jurisdiction.¹²⁹ Consequently, state courts can hear more types of cases than federal courts.¹³⁰

There has been a growing trend of state courts denying plaintiffs standing.¹³¹ These cases tend to involve civil rights claims that state high courts are reluctant to decide on;¹³² therefore, standing is used as an easy way out. The same can be said for the Mississippi Supreme Court in ruling that PPS did not have associational standing in *Midsouth*.¹³³ More importantly, the Court erred in its ruling for two primary reasons: 1) standing eliminates and undermines civil rights claims and 2) state courts'

¹²⁶ 13A WRIGHT & MILLER'S FEDERAL PRACTICE & PROCEDURE § 3531.1 (3d ed. 2024); U.S. CONST. art. III, § 1.

¹²⁷ U.S. CONST. art. III, § 2, cl. 1.

¹²⁸ *ArtIII.S1.6.3 Doctrine on Federal and State Courts*, CONST. ANNOTATED, https://constitution.congress.gov/browse/essay/artIII-S1-6-3/ALDE_00013231/ [<https://perma.cc/E4EB-8KAC>] (last visited Nov. 3, 2025).

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Hershkoff, *supra* note 34, at 1838; *see* Friends of George's, Inc. v. Mulroy, 108 F.4th 431 (6th Cir. 2024).

¹³² Jameson, *supra* note 31, at 379; *see generally, e.g.*, Spokeo, Inc. v. Robins, 578 U.S. 330 (2016) (plaintiff challenged a website operating was in violation of the FCRA, but the Supreme Court denied standing); TransUnion LLC v. Ramirez, 594 U.S. 413 (2021) (another FCRA claim where the Supreme Court asserted some plaintiffs lacked standing).

¹³³ *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1233 (Miss. 2024).

reliance on the federal standing doctrine is inappropriate because only federal courts are restricted to the contents of Article III's standing requirements.¹³⁴

A. Standing: Eliminating and Undermining Civil Rights Claims

To bring suit in federal court, plaintiffs must have standing.¹³⁵ Adequate standing involves three elements: “(1) injury in fact, (2) causation, and (3) redressability.”¹³⁶ Nevertheless, applying these three elements, as it pertains to “Cases” and “Controversies,” leaves many confused.¹³⁷ The United States Supreme Court has even “conceded that ‘standing has not been defined with complete consistency.’”¹³⁸ Prior to taking the bench, former U.S. Supreme Court Justice Antonin Scalia wrote a law review article in which he opined that standing is essential to the separation of powers.¹³⁹ Maxwell Stearns rebuts, stating that courts use federal standing “to dismiss cases deemed too controversial to decide on the merits.”¹⁴⁰ As a result, minorities’ civil rights claims across the nation are undermined and denied.¹⁴¹

Similar to *Midsouth*, many of these claims are brought forth asserting taxpayer injury status.¹⁴² For example, in *Flast v. Cohen*, seven taxpayers challenged the Elementary and Secondary Education Act of 1965, arguing that funds appropriated under this

¹³⁴ CONST. ANNOTATED, *supra* note 128.

¹³⁵ Jameson, *supra* note 31, at 360.

¹³⁶ *Id.* at 361 (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992) (clarifying the federal standing requirements)).

¹³⁷ *Id.* at 361.

¹³⁸ *Id.* (quoting *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State*, 454 U.S. 464, 475 (1982)).

¹³⁹ Jameson, *supra* note 31, at 378; *see also* Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U. L. REV. 881 (1983).

¹⁴⁰ Jameson, *supra* note 31, at 362 (quoting Maxwell L. Stearns, *Standing and Social Choice: Historical Evidence*, 144 U. PA. L. REV. 309, 364 (1995)); *see also* Gene R. Nichol, Jr., *Abusing Standing: A Comment on Allen v. Wright*, 133 U. PA. L. REV. 635, 653 (1985).

¹⁴¹ *See generally* *Friends of George’s, Inc. v. Mulroy*, 108 F.4th 431 (6th Cir. 2024); *see also* *Duncan v. State*, 102 A.3d 913 (N.H. 2014) (similar to *Midsouth*, overturning a trial court ruling an education tax credit program unconstitutional).

¹⁴² *See, e.g., Duncan*, 102 A.3d at 913.

act should not be allocated toward religious schools.¹⁴³ The U.S. Supreme Court granted taxpayer standing on Establishment Clause grounds, asserting that Flast was harmed directly and opening a door for future taxpayers who could assert similar injury claims.¹⁴⁴ However, in part, as Supreme Court justices and lower federal court judges change, so do these courts' views on certain topics, such as granting taxpayer standing. In 1984, parents of black students nationwide brought a class action lawsuit against the IRS.¹⁴⁵ On Equal Protection Clause grounds, Allen alleged that the IRS's standards and actions were insufficient in denying racially discriminatory private schools tax-exempt status.¹⁴⁶ The U.S. Supreme Court denied the parents' taxpayer standing, stating that their injuries were general taxpayer issues.¹⁴⁷ Massey contends that "[t]axpayer standing under *Flast v. Cohen* is virtually chimerical," and that state court would be a better litigation avenue; however, that is not the case.¹⁴⁸

General grievances "common to all members of the public" disqualify one from having taxpayer standing.¹⁴⁹ This is a subjective term at times, as one scholar notes that Justice Gorsuch characterized a government display injury as an "offense" and "dislike" as the plaintiff's sentiments toward the display.¹⁵⁰ Jameson asserts that this subjectivity "is where the problem begins—that judges and justices, do not understand the type of injury suffered, do not believe the plaintiffs in the way they describe their injuries, or both."¹⁵¹ Another commenter contends that characterizations such as these allow for "defendants to belittle these claims and gain a 'rhetorical advantage in an effort to have [the case] dismissed at the outset for [a] lack of standing.'"¹⁵² Though not bound to federal court rulings and

¹⁴³ 392 U.S. 83, 85-86 (1968).

¹⁴⁴ *Id.* at 105-06; Massey, *supra* note 35, at 407.

¹⁴⁵ *Allen v. Wright*, 468 U.S. 737, 739 (1984).

¹⁴⁶ *Id.* at 739-40.

¹⁴⁷ *Id.* at 740.

¹⁴⁸ Massey, *supra* note 35, at 407.

¹⁴⁹ Jameson, *supra* note 31, at 368.

¹⁵⁰ *Id.* at 367.

¹⁵¹ *Id.*; Note, *supra* note 30, at 1224.

¹⁵² Jameson, *supra* note 31, at 367.

standards, some state courts decide on cases in a manner as if they are, blurring the jurisdictional line.¹⁵³ *Midsouth* and the Mississippi Supreme Court's ruling exemplifies this unfortunate reality.

B. State Courts' Inappropriate Reliance on the Federal Standing Doctrine

State courts are not bound by Article III of the U.S. Constitution, which provides the judicial power of the federal government.¹⁵⁴ As a result, taxpayers supposedly have a greater chance of having standing in state courts than federal courts.¹⁵⁵ Past cases show that this bar for granting taxpayer standing is decently high in federal courts.¹⁵⁶ However, state courts have continuously and inappropriately relied on federal doctrines, such as standing.¹⁵⁷ There is even conflict amongst scholars over whether state courts should abide by Article III when deciding whether standing exists in regards to federally related cases.¹⁵⁸ Massey notes that state courts have no reason to adhere to federal standing principles.¹⁵⁹ Massey further emphasizes that states "must consider the consequences" of adding an expanded and altered standing doctrine to their state constitutions.¹⁶⁰ That being said, *Midsouth* deals with "pure state law," which is permitted to have "expanded standing."¹⁶¹

PPS specifically challenged the constitutionality of Senate Bills 2780 and 3064 under Article VIII, Section 208 of the Mississippi Constitution.¹⁶² This section provides that state funds shall not be allocated to non-public schools,¹⁶³ but these two bills

¹⁵³ Hershkoff, *supra* note 34, at 1836-38.

¹⁵⁴ U.S. CONST. art. III, § 1.

¹⁵⁵ Massey, *supra* note 35, at 407.

¹⁵⁶ See *Allen v. Wright*, 468 U.S. 737, 739 (1984).

¹⁵⁷ Hershkoff, *supra* note 34, at 1838.

¹⁵⁸ Flaherty & Ogren, *supra* note 38, at 1012-13, 1019-21.

¹⁵⁹ Massey, *supra* note 35, at 407.

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 411.

¹⁶² *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1234 (Miss. 2024).

¹⁶³ MISS. CONST. art. VIII, § 208.

allow this specific result.¹⁶⁴ Nonetheless, the Mississippi Supreme Court contends that the ARPA funds are not Mississippi taxpayer funds.¹⁶⁵ The Court seems to forget that most Mississippians are required to pay both federal and state taxes.¹⁶⁶ Federal funds are generally used and allocated for public use.¹⁶⁷ Assessing the plain language of the first three categories of the ARPA applicable funding areas, “government services,” “public health,” “COVID-19,” and “essential workers” are terms that refer to the greater public, not private institutions or organizations.¹⁶⁸ With regard to the doctrine of *noscitur a sociis*, a similar understanding can be grasped from category four pertaining to “water, sewer, and broadband infrastructure.”¹⁶⁹ All four categories affect the public in varying ways, as the ARPA was the U.S. Congress’ attempt at rescuing the American public after an unprecedented pandemic.¹⁷⁰

Whether the origin is state or federal, the ARPA was publicly funded through taxpayer dollars.¹⁷¹ Private schools are independent from state public schools.¹⁷² MAIS even states

¹⁶⁴ See S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); see also S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

¹⁶⁵ *Midsouth Ass’n of Indep. Schs.*, 384 So. 3d at 1232-33.

¹⁶⁶ *General Information*, MISS. DEP’T OF REVENUE, <https://www.dor.ms.gov/individual/tax-rates> [<https://perma.cc/UH7M-LTSV>] (last visited Nov. 30, 2025).

¹⁶⁷ *How Much Has the U.S. Government Spent This Year?*, FISCAL DATA (Sep. 30, 2025), <https://fiscaldata.treasury.gov/americas-finance-guide/federal-spending/> [<https://perma.cc/7T4C-6C5J>].

¹⁶⁸ *Noscitur a Sociis*, BLACK’S LAW DICTIONARY (12th ed. 2024); see also *Public Health*, BLACK’S LAW DICTIONARY (12th ed. 2024) (“The health of the community at large.”); American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9901 (2021).

¹⁶⁹ *Noscitur a Sociis*, *supra* note 168; Ruth O’Neil, *Addressing a Growing Water Crisis in the U.S.*, CDC FOUND. (Mar. 22, 2023), <https://www.cdcfoundation.org/blog/addressing-growing-water-crisis-us> [<https://perma.cc/9ZD8-8YGG>], (“[W]ater insecurity threatens the health of all communities”); American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9901 (2021).

¹⁷⁰ *Fact Sheet: The Impact of the American Rescue Act Plan After One Year*, U.S. DEP’T. OF THE TREASURY (Mar. 9, 2022), <https://home.treasury.gov/news/press-releases/jy0645> [<https://perma.cc/K3ZP-E3LM>].

¹⁷¹ *Where Do Our Federal Tax Dollars Go?*, CTR. ON BUDGET & POL’Y PRIORITIES (Jan. 28, 2025), <https://www.cbpp.org/research/federal-budget/where-do-our-federal-tax-dollars-go> [<https://perma.cc/6SHS-SSAD>].

¹⁷² *Public and Private Schools: How Do They Differ?*, NAT’L CTR. FOR EDUC. STAT. (July 1997), <https://nces.ed.gov/pubs97/97983.pdf> [<https://perma.cc/6FU5-MQG8>].

“[i]ndependent schools operate independently of taxpayer funding,” allowing these schools to function how they see fit.¹⁷³ The association’s website even promotes religious views.¹⁷⁴ This promotion makes it clear that the distribution of taxpayer funds to MAIS is inconsistent with the state’s constitution that “[n]o religious or other sect or sects shall ever control any part of the school or other educational funds of this state.”¹⁷⁵ Additionally, states are met “with stiff resistance and litigation by private schools” regarding state regulation.¹⁷⁶ MAIS’s member schools formed as a way for white southerners to rebel against racial integration in schools.¹⁷⁷ It is concerning that Mississippi legislators chose to allocate funds to the same private institutions that seek little to no state involvement.¹⁷⁸ These are also the legislators who failed to include public schools (which are subject to state authority) within the same or similar bill granting funding.¹⁷⁹

1. Federal Standing Standard in State Court

The Court’s primary but erroneous reasoning for denying PPS associational standing was that it believed none of the individuals PPS represented had individual standing.¹⁸⁰ Three requirements must be met to have associational standing: “(1) its members would otherwise have standing to sue in their own right, (2) the interests it seeks are germane to the organization’s purpose, *and* (3) neither the claim asserted nor the relief

(“Public schools depend primarily on local, state, and federal government funds, while private schools are usually supported by tuition payments . . .”).

¹⁷³ See generally MIDSOUTH ASS’N OF INDEP. SCHS., THE HISTORY OF MAIS (n.d.).

¹⁷⁴ *Id.*

¹⁷⁵ MISS. CONST. art. VIII, § 208.

¹⁷⁶ E. Vance Randall, *Private Schools [sic] and State Regulation*, 24 URB. LAW. 341, 341 (1992).

¹⁷⁷ S. EDUC. FOUND., *supra* note 6 (“Private schools . . . were used as safe havens for Southern Whites to escape the effects of the impending and ongoing desegregation mandates.”).

¹⁷⁸ Randall, *supra* note 176, at 341; Midsouth Ass’n of Indep. Schs. v. Parents for Pub. Schs., 384 So. 3d 1226, 1228 (Miss. 2024).

¹⁷⁹ *Midsouth Ass’n of Indep. Schs.*, 384 So. 3d at 1230-31.

¹⁸⁰ *Id.* at 1230.

requested requires the participation of individual members in the lawsuit.”¹⁸¹

A provision with individual standing requirements is nowhere in Mississippi’s constitution.¹⁸² Professor Helen Hershkoff argues that “[m]any state courts do conform the scope of their judicial function to the Article III [standing] model.”¹⁸³ The Mississippi Supreme Court, like other state courts, chose to use federal standing requirements in a case arising under state law and under a state court’s general jurisdiction.¹⁸⁴ Limiting cases as if in federal court defeats the purpose of having both general and limited jurisdictions. In turn, this allows state courts to unfairly pick and choose which cases and controversies it will hear.

Professor Hershkoff further claims that “state courts that refuse to limit standing to private, individualistic conceptions of harm explicitly distinguish their approach [to standing] from that of the federal system.”¹⁸⁵ Hershkoff references an Ohio case, *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*.¹⁸⁶ The Ohio Supreme Court expressed that state courts “are free to reject [federal] procedural frustrations [such as standing] in favor of just and expeditious determination on the ultimate merits.”¹⁸⁷ Paul J. Katz rebuts on a federal level, claiming that “[s]tate courts must adhere to federal standing requirements” when hearing cases based on issues of federal law.¹⁸⁸ Yet again, the discussion here

¹⁸¹ *Id.* (quoting Jackson Pub. Sch. Dist. v. Jackson Fed’n of Tchrs., 372 So. 3d 997, 1002 (2023)).

¹⁸² See *The Mississippi Constitution of 1890 as Originally Adopted*, MISS. HIST. NOW, <https://www.mshistorynow.mdah.ms.gov/issue/mississippi-constitution-of-1890-as-originally-adopted> [https://perma.cc/EW4T-GHLB] (last visited Nov. 30, 2025).

¹⁸³ Hershkoff, *supra* note 34, at 1838.

¹⁸⁴ *Midsouth Ass’n of Indep. Schs.*, 384 So. 3d at 1229-30; U.S. CONST. art. III, § 2, cl. 1.

¹⁸⁵ Hershkoff, *supra* note 34, at 1857.

¹⁸⁶ *Id.* at 1857 n.126; *State ex rel. Ohio Acad. of Trial Laws. v. Sheward*, 715 N.E.2d 1062 (Ohio 1999).

¹⁸⁷ *Sheward*, 715 N.E.2d at 1081. Note that the Ohio Supreme Court recently overturned this 25-year-old ruling in *State ex rel. Martens v. Findlay Mun. Ct.*, 262 N.E.3d 304 (Ohio 2024), exemplifying the state’s increasing and improper reliance on federal standing requirements.

¹⁸⁸ Paul J. Katz, Comment, *Standing in Good Stead: State Courts, Federal Standing Doctrine, and Reverse-Erie Analysis*, 99 NW. U. L. REV. 1315, 1353 (2005) (noting that *ASARCO Inc. v. Kadish*, 490 U.S. 605 (1989), was “an attempt by the Supreme Court to minimize state courts’ distortion of federal law”).

pertains to state courts and state issues, and most scholars' arguments for why states should abide by federal standing involve federal law, not state law.

2. State Courts Have Broad Constitutional Provisions

Another reason why state courts improperly rely on federal standing doctrine is because several states already have broad constitutional provisions linked to standing.¹⁸⁹ Calvin Massey purports, "[t]here is no reason why state courts must adhere to federal principles of standing."¹⁹⁰ Plaintiffs have a greater chance of their grievances being heard in state courts regarding "grant[ing] taxpayer standing" rather than federal courts, who are almost closed off to this specific topic.¹⁹¹

On the other hand, Professor Massey asserts that if state courts go beyond the federal standing doctrine, then expansion consequences must be considered.¹⁹² Massey notes that regarding cases involving "state constitutional claims or issues of pure state law," state courts will become a place for "deciding many public policy issues that are stripped of the adversarial quality that has traditionally defined the limits of the judicial role."¹⁹³

Other scholars rebut, stating that without a considerable differentiation in state and federal standing requirements, "state standing rules will be as much of a barrier to plaintiffs as federal standing rules would be in federal court."¹⁹⁴ Defendants can appeal to the U.S. Supreme Court if they lose in state court. In contrast, if a plaintiff does not prevail in state court, "they go home."¹⁹⁵ Professor Thomas Bennett contends that state courts are often plaintiffs' only chance of seeking justice.¹⁹⁶ Scholars similar to Massey contend that "states could revise or affirm their standing rules so that their courts are available to hear [civil

¹⁸⁹ Hershkoff, *supra* note 34, 1836-37.

¹⁹⁰ Massey, *supra* note 35, at 407.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.* at 409.

¹⁹⁴ Note, *supra* note 30, at 1223.

¹⁹⁵ *Id.* at 1237.

¹⁹⁶ Thomas B. Bennett, *The Paradox of Exclusive State-Court Jurisdiction Over Federal Claims*, 105 MINN. L. REV. 1211, 1238-40 (2021).

rights] claims.”¹⁹⁷ Bennett’s proposal is similar to this subsection’s argument that state courts should adopt and apply broad state constitutional provisions linked to standing.¹⁹⁸

III. POTENTIAL SOLUTIONS

Due to an increasing amount of state court dependency on the federal standing doctrine,¹⁹⁹ plaintiffs, unfortunately, must find alternatives to getting their claims into court and qualified for standing as well. Standing is often used as a “gatekeeper” to keep civil rights claims and other claims out of state courts, even though state courts are places of general jurisdiction.²⁰⁰ Though states claim that their use of standing deviates from federal courts, few states have formulated doctrines outside of their constitutions “to meet the special needs of state and local governance.”²⁰¹ Being that the Mississippi Supreme Court and other state courts are not federal courts, action must be taken to resolve state courts’ reliance on the federal standing doctrine.

A. Parental (General) Guardians Have Rights

Procedurally, parental guardians are allowed to stand in and bring suits on behalf of their minor.²⁰² Rule 17 of the Federal Rules of Civil Procedure states that a general guardian, committee, conservator, or a like fiduciary, “may sue or defend on behalf of a minor or an incompetent person.”²⁰³

The Mississippi Supreme Court denied PPS associational standing due to the parents represented by the organization not having individual standing.²⁰⁴ In this instance, an option would be for parents of public school children to stand in place of their minor children in court.²⁰⁵ There are undeniable facts that public

¹⁹⁷ Note, *supra* note 30, at 1237.

¹⁹⁸ See Bennett, *supra* note 196, at 1262.

¹⁹⁹ Hershkoff, *supra* note 34, at 1875-76.

²⁰⁰ *Id.* at 1838.

²⁰¹ *Id.* at 1841.

²⁰² FED. R. CIV. P. 17(c)(1).

²⁰³ *Id.*

²⁰⁴ *Midsouth Ass’n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1230 (Miss. 2024).

²⁰⁵ See FED. R. CIV. P. 17(c)(1).

school children have been injured by the lack of funding allocated to public schools.²⁰⁶ The trial court judge in *Parents for Public Schools v. Mississippi Department of Finance & Administration* detailed water and infrastructure issues faced by public schools within Jackson.²⁰⁷ The trial court went on to list a number of news articles informing the public of the hardships faced by public school children in the process of receiving a public education.²⁰⁸

Some argue that future injuries are not material enough to satisfy standing.²⁰⁹ Others, in agreement, assert that when a state “operates outside of its constitutional constraints,” it is a generalized grievance because all individuals are affected.²¹⁰ This is not the case though. Varying scholars and reports detail how public-school students have been harmed due to improperly funding K-12 educational systems,²¹¹ and these injuries remain with students after graduating.²¹² Utilizing public school children as plaintiffs maintains the argument of a direct injury. Moreover, the injuries caused by water and infrastructure will persist if funding is not allocated to public schools.²¹³ The trial court details how water and infrastructure problems have affected Jackson’s public school students’ ability to receive a consistent quality education, similar to non-public schools in surrounding predominantly white towns.²¹⁴

Plaintiffs could also assert that MAIS promotes religion, and according to the Mississippi constitution, public funds shall not be given to religious schools and institutions.²¹⁵ This is precisely

²⁰⁶ *When Schools Are Underfunded, Children Suffer*, PARENTS FOR PUB. SCHS., <https://parents4publicschools.org/when-schools-are-underfunded-children-suffer/> [https://perma.cc/BJ9T-P99F] (last visited Nov. 1, 2025).

²⁰⁷ *Parents for Pub. Schs. v. Miss. Dep’t of Fin. & Admin.*, No. G2022-705-M, 2022 WL 10965489, at *5 (Ch. Miss. Oct. 13, 2022).

²⁰⁸ *Id.*

²⁰⁹ Jameson, *supra* note 31, at 363.

²¹⁰ *Id.*

²¹¹ See PARENTS FOR PUB. SCHS., *supra* note 206.

²¹² *Id.*

²¹³ See Kayla Jimenez, *Lead in School Water Persists in US Despite Work to Fix the Problem. What Can Be Done?*, USA TODAY (Feb. 24, 2023, 16:30 ET), <https://www.usatoday.com/story/news/education/2023/02/23/lead-persists-us-schools-despite-attempts-fix/11316247002/> [https://perma.cc/R7J6-WP6Q].

²¹⁴ See *Parents for Pub. Schs. v. Miss. Dep’t of Fin. & Admin.*, No. G2022-705-M, 2022 WL 10965489, at *5-6 (Ch. Miss. Oct. 13, 2022).

²¹⁵ MISS. CONST. art. VIII, § 208.

what Senate Bills 2780 and 3064 do.²¹⁶ It does not matter that the grant formed from Bill 2780 says “Independent Schools.”²¹⁷ There are secular independent schools and religious independent schools.²¹⁸ Either way, the Mississippi Constitution prohibits non-public schools from receiving funding.²¹⁹ Additionally, federal case law against giving public funds to private schools from the U.S. Supreme Court has weakened, as the Court’s commitment to the Establishment Clause (separation of church and state) has waned.²²⁰ There may be more success for cases involving allocating public funds to private schools under state law. For example, the South Carolina Supreme Court recently struck down a voucher program allocating public funds to private schools.²²¹

B. Access to Courts Provisions

Though the Mississippi Supreme Court in *Midsouth* claimed to use a more “liberal” standing approach,²²² the state legislature has not implemented this standard into its constitution.²²³ Mississippi is one of the more culturally conservative states in the nation, valuing limited government interference.²²⁴ State courts across the country should be less obliged to abide by federal doctrines when the United States Constitution does not obligate

²¹⁶ See S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022); see also S.B. 3064, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

²¹⁷ S.B. 2780, 2022 Gen. Assemb., Reg. Sess. (Miss. 2022).

²¹⁸ *Are All Private Schools Christian or Religious?*, BAYSHORE CHRISTIAN SCH. (July 2, 2024), <https://www.bayshorechristianschool.org/admissions/are-all-private-schools-christian-or-religious/> [<https://perma.cc/R7J6-WP6Q>] (“Just like with religious independent schools, there are a variety of different types of secular private schools.”).

²¹⁹ MISS. CONST. art. VIII, § 208.

²²⁰ See generally, e.g., *Carson v. Makin*, 596 U.S. 767 (2022); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017).

²²¹ *Edison v. S.C. Dep’t of Educ.*, 906 S.E.2d 345, 355-56 (S.C. 2024); *South Carolina Supreme Court Strikes Down Unconstitutional Private School Vouchers*, EDUC. L. CTR. (Sep. 12, 2024), <https://edlawcenter.org/south-carolina-supreme-court-strikes-down-unconstitutional-private-school-vouchers/> [<https://perma.cc/63LM-D2PW>].

²²² *Midsouth Ass’n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1230 (Miss. 2024) (quoting *Araujo v. Bryant*, 283 So. 3d 73, 77 (Miss. 2019)).

²²³ See MISS. CONST. art. VIII.

²²⁴ *Cultural Conservatism by State*, CULTURAL CURRENTS INST. (Apr. 5, 2023), <https://www.culturalcurrents.institute/insights/most-conservative-states> [<https://perma.cc/4W9F-DGHJ>].

them to do so.²²⁵ Conservative state courts, like federal courts, tend to interpret laws and statutes narrowly. State courts should broaden their interpretations in regard to civil rights claims to prevent those claims from being locked out of the courthouse. More importantly, it is inappropriate for state courts to apply federal standards to its citizens when state matters are at issue.²²⁶

A solution is for state legislatures to draft and pass provisions that grant a right of access to the courts. These potential provisions, in turn, would provide most individuals with an injury claim path to the courthouse, limiting standing as a barrier. A number of states—like Florida, Mississippi, and Louisiana—already have similar provisions within their state constitution. Article I, Section 21 of Florida’s state constitution states, “[t]he courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.”²²⁷ Article III, Section 25 of Mississippi’s state constitution outlines that “[n]o person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both.”²²⁸ Article I, Section 22 of Louisiana’s state constitution lays out that “[a]ll courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights.”²²⁹ More states must adopt resembling provisions so plaintiffs can have another avenue to assert civil rights claims in a case of state law.

C. Lenient Causation and Injury

The federal standing doctrine, though not directly stated in Article III of the U.S. Constitution, has been in application since the twentieth century.²³⁰ Nothing prevents state courts from

²²⁵ U.S. CONST. art. III, § 2, cl. 1.

²²⁶ See Massey, *supra* note 35, at 411.

²²⁷ FLA. CONST. art. I, § 21.

²²⁸ MISS. CONST. art. III, § 25.

²²⁹ LA. CONST. art. I, § 22.

²³⁰ See *Article III Standing*, ELEC. PRIV. INFO. CTR., <https://epic.org/issues/privacy-laws/article-iii-standing/> [<https://perma.cc/A3PW-HJZJ>] (last visited Nov. 24, 2025) (“In

applying this doctrine, and some have even formally adopted the federal standing framework.²³¹ State constitutional actions like this will cause federal standing to continue expanding into state courts' jurisdictions.²³²

With this in mind, if states are going to apply 1) injury, 2) causation, and 3) redressability for plaintiffs to have appropriate standing in state courts, then the requirements for injury and causation must be lenient.²³³ Often times, civil rights injury claims involve indirect harms and affect a group of people. However, "a group of people" does not automatically label the injury as a general grievance. More often than not, the injury is to a *specific* group, but injury and causation requirements boot out cases similar to *Midsouth* before it can even be heard on the merits.²³⁴

Though individuals must not settle for a compromise when attempting to remove federal standing from state courts completely, individuals must first have a steppingstone. Another potential solution to granting individuals' civil rights claims on the basis of standing is for state courts to have a lenient application of the standing doctrine rules regarding civil rights cases. These cases are swiftly thrown out of federal court.²³⁵ State courts and many state constitutions have broad provisions granting most, if not all, a chance to assert their claim and injury.²³⁶ A lenient causation and injury application in state courts could be a temporary band-aid solution in the journey to fully remove federal standing requirements from state courts.

1992, the [Supreme] Court crystallized the Article III standing test into its modern formulation . . .").

²³¹ See, e.g., *Parker v. Town of Milton*, 726 A.2d 477, 480 (Vt. 1998) (explaining that the Vermont Supreme Court adopted the standing test articulated in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992)).

²³² Bennett, *supra* note 196, at 1214-15.

²³³ *Lujan*, 504 U.S. at 560-62 (clarifying the federal standing requirements).

²³⁴ *Id.*; see also *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226 (Miss. 2024).

²³⁵ See, e.g., *Spokeo, Inc. v. Robins*, 578 U.S. 330 (2016) (denying standing after plaintiff argued that an operating website was in violation of the Fair Credit Reporting Act); *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021) (denying standing for another Fair Credit Reporting Act claim); *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587 (2007) (holding that plaintiffs lacked standing in challenging federal money being allocated to "faith-based" initiatives).

²³⁶ E.g., FLA. CONST. art. I, § 21; MISS. CONST. art. III, § 25; LA. CONST. art. I, § 22.

Moreover, if states decide to legislate their own constitutional standing provisions, then these provisions must also have lenient causation and injury requirements. Though the preferred option is for states not to have any standing requirements.

D. Private Attorney Generals

State attorneys general tend to have a large workload.²³⁷ Consequently, some claims, including civil rights claims, are left improperly litigated. The concept of a private attorney general is a potential solution to this dilemma. A private citizen or private lawyer can wear the title of a “private attorney general.”²³⁸ In the context of laypeople representing others, a private attorney general relates to “[a] private citizen legislatively granted standing to enforce a public policy through litigation.”²³⁹ Under this doctrine, the lawsuit must benefit a large number of individuals, “require[] private enforcement,” and have importance to the whole of society.²⁴⁰

Many civil rights plaintiffs cannot afford a lawyer.²⁴¹ On top of this, civil rights lawyers are few and far between. The private attorney general doctrine allows plaintiffs to bring their claims while lessening the state’s prosecutorial load. The private attorney general doctrine is another route for individuals to gain standing in federal courts if courts will not hear plaintiffs’ claims due to lacking standing.

Although state courts are labeled as courts of general jurisdiction, states’ judiciary use of standing to avoid hearing particular claims is rising.²⁴² Plaintiffs must be diligent in finding loopholes within the system. The goal for most individuals

²³⁷ See *What Attorneys General Do*, NAT’L ASS’N OF ATT’YS GEN., <https://www.naag.org/attorneys-general/what-attorneys-general-do/> [https://perma.cc/HC54-EC9G] (last visited Nov. 24, 2025).

²³⁸ *Private Attorney General*, BLACK’S LAW DICTIONARY (12th ed. 2024).

²³⁹ *Id.*

²⁴⁰ *Private-Attorney-General Doctrine*, BLACK’S LAW DICTIONARY (12th ed. 2024).

²⁴¹ Rebecca Buckwalter-Poza, *Making Justice Equal*, CTR.. FOR AM. PROGRESS (Dec. 8, 2016), <https://www.americanprogress.org/article/making-justice-equal/> [https://perma.cc/Z7DD-J7JH].

²⁴² *State Courts vs. Federal Courts*, JUD. LEARNING CTR., <https://judiciallearningcenter.org/state-courts-vs-federal-courts/> [https://perma.cc/C9FC-9BJ6] (last visited Nov. 24, 2025).

bringing suit is not just to have taxpayer standing or general standing, but to receive the justice and relief one seeks. Unfortunately, this will require plaintiffs to think far outside the box, compared to defendants, when it comes to controversial and political cases. Standing is an issue that Congress drafted and that both federal and state judiciaries inconsistently apply.²⁴³ It is now up to “We the People” to take a stab at remedying this decades-long issue, even though oftentimes the people affected by the standing doctrine were not even considered whole “People” at the time of the U.S. Constitution’s creation.²⁴⁴ Ironically, the very document that was not originally made for certain individuals is unsurprisingly and inappropriately used to harm these unintended recipients.²⁴⁵

CONCLUSION

Across America, many public schools tend to be composed of predominantly one race, while non-public schools largely consist of predominantly White students.²⁴⁶ Areas that provide well-funded and diverse educational systems are quite fortunate but are outliers as it pertains to the rest of the nation.²⁴⁷ Many Black Southerners are still navigating an educational system that resembles classrooms prior to integration.²⁴⁸ White students are going to college at higher rates than Black and other minority

²⁴³ See U.S. CONST. art. III, § 2, cl. 1.

²⁴⁴ U.S. CONST. pmbl; U.S. CONST. art. I, § 2, cl. 3.

²⁴⁵ *Id.*

²⁴⁶ Sequoia Carrillo & Pooja Salhotra, *The U.S. Student Population Is More Diverse, But Schools Are Still Highly Segregated*, NAT’L PUB. RADIO (July 14, 2022, at 05:13 ET), <https://www.npr.org/2022/07/14/1111060299/school-segregation-report> [<https://perma.cc/9Z2Q-8MFM>]; Katherine Schaeffer, *U.S. Public School Students Often Go to Schools Where At Least Half of Their Peers Are the Same Race or Ethnicity*, PEW RSCH. CTR. (Dec. 15, 2021), <https://www.pewresearch.org/short-reads/2021/12/15/u-s-public-school-students-often-go-to-schools-where-at-least-half-of-their-peers-are-the-same-race-or-ethnicity/> [<https://perma.cc/LKB7-Q5S5>].

²⁴⁷ See U.S. DEPT OF EDUC., FOR EACH AND EVERY CHILD: A STRATEGY FOR EDUCATION EQUITY AND EXCELLENCE 18 (2013).

²⁴⁸ Sarah Carr, *Private Academies Keep Students Separate and Unequal 40 Years Later*, THE HECHINGER REP. (Dec. 13, 2012), <https://hechingerreport.org/private-academies-keep-students-separate-and-unequal-40-years-later/> [<https://perma.cc/4J9P-9H5W>].

students.²⁴⁹ Whether knowingly or unintentionally, federal, state, and local governments perpetuate this reality by denying public schools—including students, parents, and representatives—standing.²⁵⁰ Many state courts further feed this issue by inappropriately relying on federal standing without textualized state constitutional support.²⁵¹

Moreover, federal standing's negative impact reaches far past the borders of Mississippi and the educational realm.²⁵² Problems gaining standing echo from Washington state down to the Florida peninsula.²⁵³ Courts have used standing for decades to keep controversial and political cases out of the courthouse.²⁵⁴ Most state judges are elected to these judicial positions and often choose to turn a blind eye to critical civil rights claims by denying standing in an attempt to remain on the bench.²⁵⁵ Standing has transitioned from being about merits to being about political games and gains. As a result, the standing doctrine eliminates and undermines civil rights claims, allowing for various injustices and civil liberties to go unnoticed and untended to.

Additionally, most state courts do not have standing provisions because state courts are courts of general jurisdiction,

²⁴⁹ See Jon Marcus, *The College Degree Gap Between Black and White Americans Was Always Bad. It's Getting Worse*, THE HECHINGER REP. (May 15, 2023), <https://hechingerreport.org/the-college-going-gap-between-black-and-white-americans-was-always-bad-its-getting-worse> [https://perma.cc/27E4-UUPQ] (“67 percent of white high school graduates went directly to college in 2020 . . . [compared to] 54 percent of Black high school graduates . . .”).

²⁵⁰ See “*Why Do They Hate Us So Much?*”: *Discriminatory Censorship Laws Harm Education in Florida*, HUM. RTS. WATCH (June 19, 2024), <https://www.hrw.org/report/2024/06/19/why-do-they-hate-us-so-much/discriminatory-censorship-laws-harm-education-florida> [https://perma.cc/52GW-S9RX].

²⁵¹ Hershkoff, *supra* note 34, at 1838-39; see also *Paige v. State*, 205 A.3d 526 (Vt. 2018) (formally adopting Article III standing requirements into Vermont state constitution).

²⁵² See, e.g., *Friends of George's, Inc. v. Mulroy*, 108 F.4th 431 (6th Cir. 2024); *Duncan v. State*, 102 A.3d 913 (N.H. 2014).

²⁵³ *Knight v. City of Yelm*, 267 P.3d 973 (Wash. 2011) (denying standing after plaintiff brought action under the Land Use Petition Act); *Planned Parenthood of Sw. & Cent. Fla. v. State*, 384 So. 3d 67 (Fla. 2024) (discussing plaintiffs claim that a Florida abortion law “violated right to privacy” under the state Constitution).

²⁵⁴ See ELEC. PRIV. INFO. CTR., *supra* note 230 (“In 1992, the [Supreme] Court crystallized the Article III standing test into its modern formulation . . . [a]s the Court wrote in *Lujan v. Defenders of Wildlife* . . .”).

²⁵⁵ Bannon, *supra* note 124, at 10-13.

relinquishing them from Article III's chains that federal courts are confined to.²⁵⁶ For the most part, state law issues require state law interpretation and application, not federal law. It is improper of state courts, such as the Mississippi Supreme Court in *Midsouth*, to claim that its standing doctrine is more "liberal" than the federal courts' doctrine without state constitutional backing.²⁵⁷ Though there are arguments as to why states should abide by federal standing provisions in Article III, those arguments apply to issues of total or partial federal law, not pure state law, which was present in *Midsouth*.

Although the solutions provided target the lack of standing held in *Midsouth*, these potential avenues are not limited to this case. Parental guardians in general have the ability to represent the interests of their child(ren) by standing in their place as the plaintiff.²⁵⁸ Since most public-school children are minors, some state and federal provisions afford parental guardians this opportunity during litigation.²⁵⁹ Second, state court can add constitutional provisions that provide a right of access to the courts. States should use these provisions to assert standing rather than applying Article III. In addition, civil rights claims face an uphill battle in federal court, often leading to a downhill tumble. State courts should leniently apply access to court provisions regarding causation and injury. Lastly, but certainly not the end all be all, state courts should be accepting of private individuals bringing civil rights claims on behalf of the public, under the private attorney general doctrine.²⁶⁰

When a claim cannot be brought in federal court, plaintiffs are given hope that there is a better chance of said claim being accepted and heard in state court.²⁶¹ Federal courts are limited in the cases they hear because of the limitations the U.S. Constitution and Congress have imposed.²⁶² State court's range of case topics is almost limitless because each state's constitution,

²⁵⁶ U.S. CONST. art. III, § 2, cl. 1.

²⁵⁷ *Midsouth Ass'n of Indep. Schs. v. Parents for Pub. Schs.*, 384 So. 3d 1226, 1230 (Miss. 2024) (quoting *Araujo v. Bryant*, 283 So. 3d 73, 77 (Miss. 2019)).

²⁵⁸ FED. R. CIV. P. 17(c)(1).

²⁵⁹ *Id.*

²⁶⁰ *Private-Attorney-General Doctrine*, BLACK'S LAW DICTIONARY (12th ed. 2024).

²⁶¹ Massey, *supra* note 35, at 407.

²⁶² U.S. CONST. art. III, § 2, cl. 1.

along with statutes, provides states with general jurisdiction.²⁶³ By state courts taking a federal standing doctrine approach within the cases they hear, civil rights claims will always be denied unless there is a perfect plaintiff.²⁶⁴ This is an unfair standard because defendants do not have to be perfect, nor do the laws and standards that plaintiffs challenge.²⁶⁵ Granted, the moving party has the burden of proof, but how are plaintiffs supposed to prove this burden if they are never given a chance from the outset due to lacking so-called standing that state courts are not obligated to abide by?²⁶⁶ Courts are supposed to be places where individuals seek justice, but the application of federal standing prevents specific individuals from utilizing this system for that purpose. For the sake of civil rights claims, states must bypass Article III when addressing cases involving state law issues or, at a minimum, significantly limit improper reliance on the doctrine.

²⁶³ CONST. ANNOTATED, *supra* note 128.

²⁶⁴ See generally Cynthia Godsoe, *Perfect Plaintiffs*, 125 YALE L.J.F. 136 (2015).

²⁶⁵ *Id.*

²⁶⁶ *Burden of Proof*, BLACK'S LAW DICTIONARY (12th ed. 2024).