

ADEQUACY: A LEGAL OVERVIEW

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House and Senate Interim Committees on Education



CONSTITUTIONAL DUTIES

- Ark. Const., art. 14, § 1, provides that the State: shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure the people the advantages and opportunities of education.
- This constitutional mandate requires that the State be responsible for providing an “equal educational opportunity” to public school children.¹
- Ark. Const., art. 14, §§ 2, 3, and 18, the constitutional provisions “guaranteeing equal treatment to [the state’s] citizenry under the law”, require equity in the education system.

¹ *Lake View Sch. Dist. No. 25 of Phillips County v. Huckabee*, 370 Ark. 139, 257 S.W.3d 879 (2007)

“LAKE VIEW”- THE BEGINNING

- The “Lake View” case began in 1992.
 - Lake View School District filed suit alleging unconstitutional disparities in public school funding.
- The state’s system of public school finance was ruled inequitable and unconstitutional in 1994 for the following reasons:
 - No definition of “**adequacy**” or an adequacy study;
 - Arkansas **educational rankings** were “abysmal”;
 - Arkansas **benchmark scores** were low;
 - High need for **remediation in college** for Arkansas students;
 - **Teacher salaries** were low relative to surrounding states and there were disparities within the state;
 - Poor **recruitment and retention** of quality teachers;
 - **Poverty-level students**, including English-language learners, had **special needs that were not being met**;
 - School districts in **low-income areas had particular needs**, including improved curriculum, quality teachers, and adequate faculties, supplies, and equipment; and
 - School districts in **high-growth areas had particular needs** that were not being met.

“LAKE VIEW” – THE BEGINNING

- The General Assembly was given two (2) years to enact legislation to resolve the issues following the first *Lake View* decision in 1994.
 - The General Assembly amended the system of funding public education to a per-student method in 1995, and the case was dismissed in 1998.
- In 2000, Lake View School District appealed the 1998 ruling that dismissed the case, and the 1998 decision was reversed by the Arkansas Supreme Court.
 - The Arkansas Supreme Court held that the Pulaski County Chancery Court must conduct a trial to determine whether the 1995 legislation corrected the funding disparities.
 - In 2001, the Pulaski County Chancery Court held that the 1995 legislation created a constitutionally inequitable and inadequate funding system.

“LAKE VIEW” – THE ORIGINS OF “ADEQUACY”

- The State appealed the 2001 Pulaski County Chancery Court decision to the Arkansas Supreme Court.
 - The Arkansas Supreme Court held in 2002 that the public school funding system was unconstitutional.
 - However, the Arkansas Supreme Court delayed its ruling to allow the General Assembly time to address the court’s findings during the 2003 Regular Session.
 - In its 2002 opinion, the Arkansas Supreme Court found it was the state’s responsibility to:
 - **Define adequacy;**
 - **Assess, evaluate, and monitor the entire spectrum of public education; and**
 - **Know how state revenues are spent and whether true equality in education is being achieved.**
 - By 2004, the Arkansas Supreme Court issued its mandate from the 2002 case.
 - It determined that, while the General Assembly adequately addressed the issue of unconstitutional disparity in teacher pay, some deficiencies still needed to be addressed.



“LAKE VIEW” – MISSING THE MARK

- By early 2005, the Supreme Court recalled its 2004 mandate that determined deficiencies in public education funding must still be addressed and reappointed Special Masters.
- In late 2005, the Arkansas Supreme Court once again held that the General Assembly’s actions with respect to determining public education funding needs violated the constitutional school funding requirements.
 - However, the Arkansas Supreme Court once more delayed the issuance of this mandate to allow the General Assembly and Department of Education time to correct the constitutional deficiencies in public school funding.

“LAKE VIEW”:

EXISTING CONSTITUTIONAL DEFICIENCIES

- In its late 2005 opinion, the Arkansas Supreme Court held, in agreement with the Special Masters, that:
 - The General Assembly did not comply with the required **adequacy study** before its 2005 Regular Session;
 - Education needs were not **funded first**;
 - Foundation funding aid and categorical funding were based on **funds available and not on what was needed**;
 - School districts faced **unfunded mandates**;
 - **Facilities funding** was insufficient;
 - School districts did not receive **equal funding** when the state foundation funding aid formula assumes a certain collection rate for the uniform rate of tax;
 - National School Lunch funding calculations did not account for an **increase or decrease in the average daily number of students**; and
 - The **funding formula** did not address the economic stability of school districts that lose students.

“LAKE VIEW” – CONCLUSION

- In 2006, the Arkansas Supreme Court deferred the issuance of its 2005 mandate and appointed special masters to determine whether the General Assembly, during the 2006 Special Session, and the Department of Education, cured the constitutional deficiencies referenced in the Court’s late 2005 opinion.
- By May 2007, the Arkansas Supreme Court adopted the Special Masters’ Interim Report and Final Report, declared the Arkansas public school funding system constitutional, and issued its final mandate.

“LAKE VIEW”:

GENERAL ASSEMBLY – ACTIONS

- Why did the 2007 *Lake View* Court conclude that the General Assembly satisfied its constitutional responsibilities regarding public education?
 - Enactment of the Continuing Adequacy Evaluation Act of 2004 (the adequacy study);
 - Enactment of the Educational Adequacy Fund;
 - Actions related to facilities, including:
 - Immediate Repair Program;
 - Academic Facilities Partnership Program; and
 - Modification of academic facilities wealth index;
 - Adoption of the Amendment 74 to the Arkansas Constitution
 - Provided 25 mill Uniform Rate of Tax “used solely for maintenance and operation”;
 - Establishment of categorical funding, which is generally restricted
 - Alternative learning environments (ALE);
 - English-language learners (ELL); and
 - National School Lunch students (NSLA);
 - Establishment of foundation funding (unrestricted);
 - Establishment of growth or declining enrollment funding (unrestricted);
 - Adoption of a minimum teacher salary schedule; and
 - Incentive bonuses for teaching in high-priority districts.



“LAKE VIEW”:

MAINTAINING CONSTITUTIONAL COMPLIANCE

- In its final *Lake View* opinion in 2007, the Arkansas Supreme Court identified four (4) essential components for continued constitutional compliance regarding the funding of public education:
 1. **Adequacy reviews** conducted pursuant to Act 57;
 2. Education **funded first**;
 3. The comprehensive system for accounting and accountability for providing **state oversight of school-district expenditures**; and
 4. The General Assembly’s express showing that constitutional compliance is an “ongoing task requiring **constant study, review, and adjustment.**”
 - Ultimately, the General Assembly must conduct the adequacy study **and** react to it.

EDUCATIONAL ADEQUACY

CONTINUING ADEQUACY EVALUATION ACT OF 2004

Acts 2003 (2nd Ex. Sess.), No. 57 - (Ark. Code § 10-3-2101, *et seq.*)

- The first component of maintaining constitutional compliance: conducting the adequacy study.
- Ark. Code § 10-3-2101 – Purpose and findings.
 - (a) The General Assembly recognizes that it is the responsibility of the State of Arkansas to:
 - (1) Develop what constitutes an adequate education in Arkansas pursuant to the mandate of the Supreme Court and to conduct an **adequacy study**, which has been completed; and
 - (2) Know how revenues of the State of Arkansas are being spent and whether **true equality in educational opportunity** is being achieved.

“EQUITABLE” PUBLIC EDUCATION FUNDING

- Adequacy must result in **equity** in public education (Ark. Code § 10-3-2101(a)(2)).
- What, exactly, is required to achieve equity in public education?
 - “An adequate educational opportunity must be afforded on a substantially equal basis to all the school children of this state. This does not mean that if certain school districts provide more than an adequate education, all school districts must provide more than an adequate education with identical curricula, facilities, and equipment. Amendment 74 to the Arkansas Constitution allows for variances in school district revenues above the base millage rate of 25 mills, which may lead to enhanced curricula, facilities, and equipment which are superior to what is deemed to be adequate by the State. Nevertheless, **the overarching constitutional principle is that an adequate education must be provided to all school children on a substantially equal basis with regard to curricula, facilities, and equipment. Identical curricula, facilities, and equipment in all school districts across the state is not what is required.**”¹
- What does an “equitable” public education funding system entail?
 - In examining whether equity exists, the Arkansas Supreme Court will look to “expenditures made per pupil and whether that resulted in **equal educational opportunity** as the touchstone for constitutionality, not on whether the revenues doled out by the State to the school districts [are] equal.”²

¹ *Lake View Sch. Dist. No. 25 v. Huckabee*, 358 Ark. 137, 155, 189 S.W.3d 1, 13 (2004).

² *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 74, 91 S.W.3d 472, 497 (2002).



THE ADEQUACY STUDY

“The linchpin for achieving adequacy in public education.”

- “Without a continual assessment of what constitutes an adequate education, without accounting and accountability by the school districts, without an examination of school district expenditures by the House and Senate Interim Committees, and without reports to the Speaker of the House and the President of the Senate ... before each regular session, the General Assembly is ‘flying blind’ with respect to determining what is an adequate foundation-funding level.”¹
- The General Assembly determines the definition of “educational adequacy.”
 - Adequacy is a fluid concept.
 - For FY20 and FY21, adequacy includes three (3) main components:
 - Curriculum and career and technical frameworks:
 - Specific grade-level curriculum;
 - Mandatory thirty-eight (38) Carnegie units defined by the Arkansas Standards for Accreditation for high school; and
 - Opportunities for students to develop career-readiness skills.
 - Standards included in the state’s testing system:
 - The goal is to have all students, or all except the most severely disabled students, perform at or above proficiency on the state’s tests; and
 - Sufficient funding to provide adequate resources as identified by the General Assembly.

¹ *Lake View Sch. Dist. No. 25 et al. v. Huckabee*, 364 Ark. 398, 200 S.W.3d 645 (2005).



THE MATRIX

- The evidence-based matrix is not in statute. It is described as “the resources needed to provide an adequate education” and is studied each biennium during the adequacy study.
 - The components of the current matrix were developed in 2003 by the consultant firm, Odden and Picus.
- The matrix is a tool used by the General Assembly to measure whether adequacy is being met.
 - The matrix was the foundation funding formula in use at the time the *Lake View* Court held the school funding system constitutional in 2007.
- The matrix is a **funding matrix, NOT a spending matrix.**
 - This simply means that public schools are not required to mirror the spending patterns indicated in the General Assembly’s matrix.
- The matrix is based on a prototypical school of five hundred (500) students.

CHANGES TO THE MATRIX: FUNDING

- Changes to the funding structure of the educational system may be made by the General Assembly. These changes include, for example:
 - Removing an item from the matrix;
 - Changing the manner in which an item in the matrix is funded; or
 - Changing the amount of funding for an item in the matrix.
- When making changes, the General Assembly should ask the following questions:
 - ✓ Was the category or item of funding reviewed and evaluated in the **adequacy study**?
 - ✓ Is the change **based on need** and the amount of funds necessary to provide an adequate educational system and **not based on the availability of funds**?
 - ✓ Was **evidence-based research** used as the basis for the change?
 - ✓ After the change, will the funding structure result in the provision of an **adequate education**, as defined by the General Assembly, for all students?
 - ✓ After the change, will the funding structure result in the provision of an equitable expenditure of funds that results in an **equal opportunity to receive education**?

CHANGES TO THE MATRIX: NON-FUNDING

- When making non-funding-related changes to the structure of the educational system, the General Assembly should ask the following questions:
 - ✓ Was the subject of the change reviewed and evaluated in the **adequacy study**?
 - ✓ Is the change based on need to provide an **equal opportunity** for an adequate education?
 - ✓ Was **evidence-based research** used as the basis for the change?
 - ✓ Will the change result in the provision of an **adequate education**, as defined by the General Assembly, for all students?

QUESTIONS?

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