

**EXHIBIT E**

# **ADEQUACY: A LEGAL OVERVIEW**

January 3, 2022

93<sup>rd</sup> General Assembly

House and Senate Interim Committees on Education



# ADEQUACY

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graph TD; A[ADEQUACY] --- B[Constitutional Duties]; A --- C[Case Law]; A --- D[Statutory Duties]
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Constitutional  
Duties

Case Law

Statutory  
Duties

# 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.<sup>1</sup>
- Ark. Const., art. 14, §§ 2, 3, and 18, “[guarantee] equal treatment to [the state’s] citizenry under the law” and require equity in the education system.

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

# RELEVANT CHRONOLOGY OF *LAKE VIEW* MILESTONES

**August 1992:** Lake View School District files suit alleging unconstitutional disparities in public school funding.



**December 1994:** Pulaski County Chancery Court rules public school finance system inequitable and unconstitutional.



**March 2000:** *Lake View II*; 1998 appeal is reversed & ARSC holds a trial is warranted to determine if legislation corrected issue



**May 2001:** Pulaski County Chancery Court during trial finds AR school funding system to be unconstitutional



**November 2002:** *Lake View III*; ARSC upheld May 2001 decision; gives General Assembly until January 2004 to remedy issues



**Each biennium:** Continued adequacy studies by interim Education Committees, including defining "adequacy"



**May 2007:** ARSC adopts Special Masters' reports, declaring public school funding as constitutional; declares 4 components of adq.



**December 2005:** ARSC holds legislature's inaction violated constitutional school funding reqs; given until Dec. 2006 to fix



**June 2004:** ARSC releases jurisdiction and holds that some deficiencies still need to be addressed, but teacher pay was adequate



**February 2004:** ARSC appoints Special Masters and maintains jurisdiction of the case; Special Masters file April 2004 report

# “LAKE VIEW” (1994)

- The state’s system of public school finance was ruled inequitable and unconstitutional by the Pulaski County Chancery Court 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 III” AND THE ORIGINS OF ADEQUACY (2001-2004)

- Following the State’s appeal of the 2001 Pulaski County decision, the ARSC held in 2002 that the public school funding system was unconstitutional. The Court delayed its ruling to allow the General Assembly time to address its findings during the 2003 Regular Session.
  - In this 2002 opinion, the ARSC found the state must:
    - **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 ARSC 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” (2005): 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;
  - (Formerly) NSL 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” (2007): GENERAL ASSEMBLY’S ACTIONS

- In its 2007 opinion, the *Lake View* Court concluded that the following actions from the legislature resulted in a system that was put in place that could lead to an adequate and equitable education:
  - Enactment of Continuing Adequacy Evaluation Act of 2004;
  - Enactment of the Educational Adequacy Fund;
  - Actions related to facilities (e.g. Immediate Repair Program);
  - Adoption of Am. 74 to the AR Constitution (25 mill URT);
  - Establishment of categorical funding (generally restricted);
  - Establishment of foundation funding (unrestricted);
  - Establishment of growth or declining enrollment funding;
  - Adoption of a minimum teacher salary schedule; and
  - Incentive bonuses for teaching in high-priority districts.





# “LAKE VIEW”: CONCLUSION (2007) & MAINTAINING CONSTITUTIONAL COMPLIANCE

- By May 2007, the Arkansas Supreme Court adopted the Special Masters’ Interim and Final Reports, declared the public school funding system constitutional, and identified four (4) essential components for continued constitutional compliance regarding the funding of public education:
  1. Conduct **adequacy reviews** 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 (2<sup>nd</sup> 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 (Arkansas Code § 10-3-2101(a)(2)).
  - “[T]he 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.”<sup>1</sup>
- What does an “equitable” public education funding system entail?
  - In examining whether equity exists, the ARSC 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.”<sup>2</sup>

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

<sup>2</sup> *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.”<sup>1</sup>
- The General Assembly determines the definition of “educational adequacy.”
  - Adequacy is a **fluid concept**.
  - Currently, adequacy includes three (3) main components:
    - Curriculum and career and technical frameworks:
      - Specific grade-level curriculum;
      - Mandatory 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.



<sup>1</sup> *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 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 & NON-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, rooted in *Lake View*:
  - ✓ 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 achieve adequacy 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** and an **equitable expenditure of funds** for all students?

# QUESTIONS?

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