



APSRC Written Testimony Regarding 2018 Adequacy Report

January 26, 2018

Executive Summary

The Arkansas Public School Resource Center is a service-oriented, non-profit membership organization that provides support, technical assistance, and training to benefit public schools in Arkansas. APSRC asks that the Senate and House Education Committees pay particular attention to five key factors affecting adequacy and equity:

- **Reading Proficiency** - Reading is a critical tool of education, and Arkansas students are showing disappointingly low levels of readiness. Improving reading instruction should be a key emphasis of the adequacy determination process.
- **Quality Teachers** - Too many Arkansas public schools are unable to adequately recruit and retain qualified teachers. Ensuring that schools have the resources and flexibility necessary to find and keep qualified teachers is paramount to adequacy.
- **Career-Technical Education** - For too long, career-technical education has been treated as an afterthought, but in reality it is a critical component of both education adequacy and economic development.
- **Digital Learning** - The revolutionary changes being wrought by digital learning justify adjustment of the funding matrix and adequacy process to account for new efficiencies and new needs created by digital learning.
- **Property Tax Appeals** - Small and rural public school districts are experiencing cash flow issues as a result of flaws in the process and standards for handling property tax assessment appeals. The Legislature should review options to remedy this situation and provide greater stability for districts.

APSRC also asks that the Committees consider regulatory/policy changes and funding opportunities to improve the adequacy and equity of school facilities. Specifically:

- The Arkansas Public School Facility Partnership Program should be reformed to utilize a state-wide systematic approach, rather than the existing focus on individual school district plans, with a goal of increasing efficiency and synergy.
- Additional funding must be provided for the Open-Enrollment Public Charter School Facilities Funding Aid Program to ensure that public charter school students benefit from facilities funding comparable to that received by students in traditional school districts.



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Dear Senator English and Representative Cozart:

Thank you for providing this opportunity to submit testimony to the Senate and House Education Committees. The Arkansas Public School Resource Center is a service-oriented, non-profit membership organization that provides support, technical assistance, and training to benefit public schools in Arkansas.

We are advocates for quality public education. We are proud to represent the interests of the students, parents, staff, and boards of the more than 200 Arkansas public school districts, open-enrollment public charter schools, and education service cooperatives that have chosen to be our members.

Our testimony to the Committees focuses first on five key factors affecting education adequacy and equity. We then provide a number of recommendations to provide more efficiency and equity in school facility funding.

Education Funding

The current adequacy process was shaped more than a decade ago as part of the legislative response to the *Lakeview* case. Since then, much has changed in education that directly impacts adequacy and the state's efforts to meet its constitutional obligations. As the Committees continue their work, they should consider the extent to which the adequacy process should be updated to reflect the growing importance of these factors:

1. Reading Proficiency

The Governor, the Legislature, and the Commissioner should be applauded for their renewed efforts to focus on reading as the most critical tool of a child's education. These renewed efforts are not without cause: the 2016-2017 ACT Aspire results show the percentage of students meeting readiness benchmarks in reading is disappointingly low, ranging from 34.56% (5th Grade) to 46.64% (8th Grade). In 2015, only 39% of Arkansas' graduating seniors met reading readiness benchmarks on the ACT. Arkansas ranks in the lower third in reading scores in comparison to other states, based on NAEP scores.

Arkansas has seen a significant increase in the *inputs* into our educational system, in the form of funding, resources, and facilities, without a corresponding increase in *outputs* in the form of student readiness. Any determination of the definition of adequacy must account for and systematically address this discrepancy.

2. Quality Teachers

There is widespread agreement that too many Arkansas public schools are finding it more and more difficult to recruit and retain qualified teachers. BLR has already reported to the Committees on the rapid growth in the number of waivers granted to districts and charter schools. Waivers of teacher licensure are the largest category of waivers granted, representing more than a quarter of all waivers. Numerous school districts have sought and received waivers of teacher licensure precisely because of their difficulty in attracting qualified teachers.

It is impossible to provide an adequate education in the absence of a qualified teacher. Therefore, ensuring that public schools have the resources and flexibility necessary to recruit, train, and retain qualified teachers is paramount to ensuring adequacy.

3. Career-Technical Education

For too long, career-technical education was treated as an afterthought. The Governor, the Legislature, and the Commissioner are changing that mindset, recognizing that not all students need or want to go to college, and that quality career-technical education is a critical component of both education adequacy and economic development.

Under the leadership of Sen. English and Rep. Cozart, the Legislative Task Force on Workforce Education Excellence is developing recommendations for improving the state's system of career-technical education. These recommendations should be given careful consideration, and the Committees should ensure that any adequacy determination provides an appropriate level of focus and funding for career-technical education.

4. Digital Learning

Digital learning is revolutionizing education by enabling more personal, individualized approaches for students. And digital learning promises to encourage greater course rigor, provide more effective resources, and create new efficiencies for public schools.

The Quality Digital Learning Provider Task Force is reviewing recommendations to improve the quality and educational benefit of digital learning, as well as to expand the availability, efficiency, and quality of digital learning. As the Committees consider any recommendations the Task Force makes, they should particularly focus on three issues.

First, because digital learning is so markedly different from traditional education, the Committees should evaluate the funding matrix and the adequacy process to look for adjustments that need to be made. Digital learning creates new efficiencies, but it also creates new needs. Both the efficiencies and the needs must be accounted for in adequacy.

Second, the Committees should identify promising opportunities for creating a broader array of access to quality digital learning providers from around the country and around the world. This may include providing greater resources for and access to digital learning, while removing any inefficiencies or obstacles in current policy.

Third, progress in digital learning is restrained by the continued use of Standards of Accreditation that were originally developed more than three decades ago. The current Standards of Accreditation should be scrapped entirely, and replaced with accreditation standards that reflect the new realities of education in the 21st century and that provide greater flexibility for public schools. We also encourage the Department of Education to take a second look at the state's approved ESSA plan and the Department's other regulations to identify regulatory requirements that can be modified or eliminated for districts that demonstrate continued success through digital learning or other methods, both to increase efficiency and to encourage innovation.

5. Property Tax Appeals

It is a little-known quirk of Arkansas law that when a property owner appeals an assessment of real property, the property owner is not required to pay any portion of the tax owed until the appeal is resolved. Just a few weeks ago, the Arkansas Supreme Court resolved a property tax appeal concerning valuation of a multi-million dollar pipeline that had been pending since 2014. By all appearances, the property owner paid none of the taxes owed for those years until the appeal was resolved. And even though the property owner lost the appeal, Arkansas law does not allow for any interest or penalty to be charged for the years' delay in paying the taxes owed.

This quirk of Arkansas law has enabled a critical threat to the financial health of many small school districts in the Fayetteville shale. A single property owner has filed an appeal over the assessment of mineral interests that could potentially represent an annual revenue loss of \$2.8 million for school districts in Cleburne County and White County. That property owner has recently filed new appeals in three other counties, and there are other mineral interest owners that could file similar appeals in future years.

This economic impact is not limited to the school districts, because the state is obligated to make up that portion of the lost revenue that is attributable to the Uniform Rate of Tax. In Cleburne County and White County alone, APSRC estimates the state stands to lose nearly \$1.9 million per year.

And these impact estimates are only the *net* impact; they do not account for the fact that under current law, the property owner may withhold *all* of the tax owed, even the portion of tax that the property owner admits that it owes. These revenue losses directly impact education adequacy, but they also implicate education equity. Larger school districts typically have the resources necessary to survive a cash flow crunch brought on by a taxpayer's withholding of payment pending an assessment appeal. Small and rural districts do not have this luxury. Because of the instability and inequity created by these appeals, the Legislature should review options to remedy this situation and provide greater stability for districts.

Arkansas Public School Facility Partnership Program

There are growing concerns regarding possible equity and adequacy disparities in the Arkansas Public School Facility Partnership Program. The state should look to the greater efficiency and synergy available through a state-wide systematic approach, rather than considering only the sum of individualized school district plans. The whole of the Partnership Program – and of the state's obligation of adequate facilities – is greater than the sum of its parts.

APSRC has identified eight key principles for regulatory and policy changes to improve the equity and adequacy of the Partnership Program. These principles are:

1. Facilities planning should transition from the current district-led plan to a systematic statewide plan focused on prioritizing and addressing aggregate statewide needs. Such an approach would be consistent with existing statutory language in Ark. Code Ann. § 6-21-806(a)(2) referencing a statewide facility needs priority list to be developed by the state.

2. Current regulations establish three partnership funding categories that compete with one another for funding – Warm, Safe, & Dry (Systems); Warm, Safe, & Dry (Space Replacement); and New Facilities, Add-Ons, and Conversions. These three categories should be redefined to two broader yet co-equal categories that are priority-ranked based on district needs – one category for Warm, Safe, & Dry; and one category for Space/Growth. The criteria for these two new funding categories should be narrowly defined so as to ensure that state funding is reserved only for projects that are necessary to meet the minimum standards of a constitutionally-adequate education.
3. As Partnership Program funds are allocated in accordance with the statewide plan, the state should make changes to the academic facilities wealth index to ensure more equitable local-district cost-sharing requirements.
4. The state should make intermediate and long-term aggregate forecasts of student growth and facility condition to anticipate and provide for all district needs in these two new funding categories.
5. State partnership funding should be forecast for the next four to six years, with a firm goal of addressing all current statewide needs within a defined time period.
6. The state should develop a systematic statewide plan to address facilities maintenance, governance, and support for all districts.
7. The state should cultivate a long-term focus on implementing procurement, budgeting, and efficiency measures to aid district facilities plans through well-researched, data-driven models.
8. For districts that cannot or will not raise local funds to match state Partnership Program funding for needed projects, the state should utilize the Academic Facilities Distress program to loan funds to districts. Districts should be required to repay the funds using other fund sources.

If the state approaches this issue with the end in mind, the state will be able to create a planned budget that will address each prioritized need in a systematic, rational basis. A planned approach will create greater reliability and assurance that the greatest equity and adequacy needs are addressed in first priority. It will also create stability and predictability around purchasing costs, while keeping the state on track with its constitutional obligations.

Open-Enrollment Public Charter School Facilities

Unlike school districts, open-enrollment public charter schools are ineligible for the Partnership Program, nor are they empowered to raise funds for facilities or debt through property taxes. In 2015, the Legislature made a commendable first effort to address this issue by creating and funding the Open-Enrollment Public Charter School Facilities Funding Aid Program.

As statewide enrollment in charter schools grows, charter schools are receiving fewer dollars per student in Program funding. In the 2016-2017 school year, the available funding for charter facilities was provided at a rate of \$533.24 per student. In 2017-2018, that per-student amount has dropped to \$433.10 (based on ADE preliminary estimates). APSRC projects that the per-student amount for 2018-2019 could drop again to \$369.21, taking in account only the addition of new charter schools or schools newly eligible for funding.

The current year's funding amount of \$433.10 per student trails the per-student funding provided to school districts through the Partnership Program, which APSRC estimates as \$462.57. And that gap will continue to grow unless adequate funding is provided for the Program.

Lacking any ability to obtain Partnership funds or local tax revenue, charter schools should be funded on an equitable basis to ensure that all public school students have access to adequate facilities.