

# ARKANSAS BUREAU OF LEGISLATIVE RESEARCH



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## Memorandum

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**Date:** November 21, 2002  
**To:** Members of the Arkansas General Assembly  
**From:** Kim Chavis, Staff Attorney  
**Subject:** Summary of the Lakeview Order

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On May 25, 2001, Chancellor Collins Kilgore of the Chancery Court of Pulaski County, Arkansas, Second Division, found that the school funding system of the State of Arkansas is inequitable under the Arkansas Constitution. Key issues of the trial court's opinion were appealed to the Arkansas Supreme Court. Below is a summary of the Supreme Court's Opinion on key issues.

### Adequacy

The Court concludes that the State has not fulfilled its constitutional duty to provide the children of this state with a general, suitable, and efficient school-funding system. Accordingly, the Court holds that the current school-funding system violates the Education Article of the Arkansas Constitution, thereby affirming the trial court on this point. In reaching this conclusion the court states:

- In order that an amount of funding for an education system based on need and not on the amount available but on the amount necessary to provide an adequate educational system, the court concludes an adequacy study is necessary and must be conducted forthwith.
- An efficient system of education must have as its goal to provide each and every child with at least the seven following capacities: (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and

knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

- While the court did conclude that the State has an absolute constitutional duty to educate our children, the court did not reach the issue of whether a fundamental right is also implied.
- The court concluded that the focus for deciding equality must be on “actual expenditures spent on student”, not state revenues paid to the districts under the school funding formula.

### Equity

The court found that the State’s current school-funding system violates the equal-protection sections of the Arkansas Constitution in that equal educational opportunity is not being afforded to the school children of this state, and that there is no legitimate government purpose warranting the discrepancies in curriculum, facilities, equipment, and teacher pay among the school districts. In reaching this conclusion, the court states:

- The focus for deciding equality must be on the actual expenditures per student, not revenues paid the school districts under the school-funding formula.
- That a classification between poor and rich school districts does exist and that the State, with its school-funding formula, has fostered this discrimination based on wealth.
- It is the State's responsibility, first and foremost, to develop forthwith what constitutes an adequate education in Arkansas. It is, next, the State's responsibility to assess, evaluate, and monitor, not only the lower elementary grades for English and math proficiency, but the entire spectrum of public education across the state to determine whether equal educational opportunity for an adequate education is being substantially afforded to Arkansas' school children. It is, finally, the State's responsibility to know how state revenues are being spent and whether true equality in opportunity is being achieved. Equality of educational opportunity must include as basic components substantially equal curricula, substantially equal facilities, and substantially equal equipment for obtaining an adequate education.
- The Court rejects the argument of local control as a rational-basis for the disparate treatment in the school funding formula between school districts, and goes on to state that it is the General Assembly’s duty, not that of local school districts to provide equal educational opportunities to every child in this state.

### Early Childhood Education

The Court found that the trial court had no power to require the General Assembly to provide early childhood Education Programs and the court did not agree that it could mandate pre-school education as an essential component of an adequate education. The Court found that the issue is for the General Assembly and the school districts to decide. Article 14 contemplates that very thing when it refers to funding pre-six-year-old programs, as provided "by law."

### Desegregation Funds

The Court agreed with the trial court that the desegregation money was not "state aid" for current expenditures and should not form part of state funds for purposes of the Federal Range Ratio test.

### Excess Debt Millages

The Court held that the wording of Amendment 74 makes it abundantly clear that each school district is responsible for assessing a uniform rate of 25 mills for maintenance-and-operation purposes. If a school district already has in effect millages for maintenance and operation, those millages may be counted against the uniform rate of 25 mills required by Amendment 74. Nowhere, however, does Amendment 74 provide that part of a millage adopted by the school district for an entirely different purpose may be subtracted from the 25 mills owed. The General Assembly's legislation permitting excess debt service millage to be included is clearly contrary to the plain meaning of Amendment 74.

The Court held that Ark. Code Ann. § 26-80-204(18)(C) violates Amendment 74 of the Arkansas Constitution and is void and of no effect.

### Remedies

The Court leaves development of the necessary educational programs and the implementation of the same within the bailiwick of the General Assembly and the Department of Education.

### Attorneys' Fees

The Court modified the trial court's fee award to a total fee of \$3,088,035, which is based on total hours worked, 20,587 hours, multiplied by the hourly rate of \$150 per hour. The Court further modified the trial court's order and award costs in the amount of \$309,000, which amount was supported by a LakeView affidavit. The total award of attorneys' fees and costs, as modified, is \$3,397,035.

### Stay

The Court strongly believes that the General Assembly and Department of Education should have time to correct this constitutional disability in public school funding and time to chart a new course for public education in this state. Accordingly, the Court decided to stay the issuance of its mandate in this case until January 1, 2004. This will give the General Assembly an opportunity to meet in General Session and the Department of Education time to implement appropriate changes. On January 1, 2004, the stay will

terminate, and this case will be over. Any subsequent challenge will constitute separate litigation.

Conclusion

In conclusion the Court states:

We emphasize, once more, the dire need for changing the school-funding system forthwith to bring it into constitutional compliance. No longer can the State operate on a "hands off" basis regarding how state money is spent in local school districts and what the effect of that spending is. Nor can the State continue to leave adequacy and equality considerations regarding school expenditures solely to local decision-making. This court admits to considerable frustration on this score, since we had made our position about the State's role in education perfectly clear in the *DuPree* case. It is not this court's intention to monitor or superintend the public schools of this state. Nevertheless, should constitutional dictates not be followed, as interpreted by this court, we will have no hesitancy in reviewing the constitutionality of the state's school-funding system once again in an appropriate case.