

Adequacy and Equity: How *Dupree* and *Lake View* Shaped Arkansas' Education Finance Policy

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Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education (Arkansas Constitution, art. 14, § 1).

As evident through the education clause of its constitution, Arkansas (like many other states) regards education as an important and necessary expenditure to ensure the prosperity of its citizenry. However, despite proclaiming this value in its central governing document, it has had a long and torrid history of failing to meet the educational needs of its students. Debates over funding inequities, abysmal test scores, deteriorating facilities, and the perception that state officials neglected to uphold adequacy and equity in education finance have spurred on several pieces of litigation that have fundamentally changed the way Arkansas organizes, funds, and sustains its system of

public education. Two key challenges to state funding formulas, *Dupree v. Alma School District* and *Lake View I* and its four subsequent cases, started an onslaught of litigation in the 1980's that shot up to the Arkansas Supreme Court many times and ended in 2007. These cases had a significant impact on the way the state finances public education and were the catalyst for the development of continued review and accountability mechanisms to make sure that Arkansas provides adequate and fair educational experiences to its students. This paper explores how these Arkansas Supreme Court cases changed public education financing in the state and examines the cases' continuing impact on the system. It provides an overview of basic state education funding methods, examines the history of education finance reform in Arkansas, and documents the proceedings of the Dupree and Lake View cases. It identifies the key policy measures taken as a result of these court rulings and analyzes their effect on the adequacy and equity of Arkansas public school financing. Finally, it acknowledges recent legislative reluctance to re-examine public school financing; it concludes that though Dupree and Lake View drastically improved Arkansas' school funding methods, the state still faces challenges in providing complete educational adequacy and equity.

Methods of Financing K-12 Education

Before discussing Arkansas' changes to the way it does public education, we first need to identify what the common basic models of funding public education are. According to Vergstegen and Jordan (2009), states use one of five models to finance public K-12 education: foundation funding, district power equalizing, full state funding, flat grant, and combination/tiered system grants. The number of states using each method of funding and the specific characteristics of each iteration of the funding systems are liable to have changed since this information was collected; Vergstegen and Jordan highlight that general

state of education finance is always in flux, noting that in the time between when their survey was conducted in 2007 and when the report was published in 2009, four states enacted major changes to their school funding formulas. Nevertheless, most states still operate under one of these basic models.

Forty states, including Arkansas, used the foundation funding system in 2007 (Vergstegen & Jordan, 2009). Foundation funding systems work through providing a set amount of money per pupil that is determined by the state. The state requires localities to raise enough funds to meet this baseline amount for each pupil (most often raised through property taxes) and makes up the difference up to the baseline amount. The state's contribution is referred to usually as the "foundation amount." In some systems, states allow localities to raise more property taxes beyond the required amount. Three states used the district power equalizing (DPE) method, which is more conscious of distributing the tax burden equitably rather than making sure schools get enough money to fund education for each student equitably. In the DPE system, decision-making for taxing and spending is shifted to the localities, so citizens have more control over how much they are taxed for education. The state sets an across-the-board amount for how much funding school districts should receive and makes up the difference between the amount of local revenues raised and the state baseline. This mechanism is similar to the foundation funding method, but it shifts authority across jurisdictions. There is also likely to be more variation in the state-contributed amount because different districts will choose to tax and spend at different rates. One state in the nation uses the full state funding model, which does not permit local jurisdictions to raise revenues for education and shifts the burden of funding public education entirely onto the state. One state uses the flat-grant system, which is similar to the full state funding model in that states bear primary funding responsibility, but the system allows local jurisdictions

to raise extra revenues if desired. Five states use combinations of these funding models, often using one system or the other to cater to districts that have differing funding capacities. For example, Illinois uses foundation funding, but employs flat-grant funding when local revenues for a school district exceed 175% of the foundation baseline (Verstegen & Jordan, 2009). This is likely instituted to keep wealthier districts from spending too far above the baseline.

History of Education Finance Reform in Arkansas

Though Arkansas has made significant strides in providing an efficient, equitable, and adequate system of public education in the last 20 years, the state was only able to arrive at that outcome through a long and arduous string of civil cases. Two landmark cases, *Dupree* and *Lake View*, occurred during a time when many other states were bringing legal challenges to state funding methods as well; between the 1970's and the 1990's, school districts in 41 states had sued their state governments on the grounds that state education funding was unconstitutional (Carter, 2003).

Arkansas had a trend of providing decisively negative educational experiences for its students long before *Dupree* and *Lake View*. According to Blair & Barth, a report commissioned by the Arkansas State Legislature in 1921 notes that Arkansas was ranked among the states performing the worst in areas such as teacher pay, student enrollment and attendance, spending per student, and the length of the school year. The likely contributors to this failing in education spending included Arkansas' general lack of wealth, rural landscape, and aversion to taxation. Arkansas developed more slowly in terms of urbanization and industrialization than other states, which meant that it contained larger percentages of rural towns with no significant population clusters, infrastructure, or means to support the funding and development of public schools. Farmers in Arkansas were

also more likely to oppose collection of additional property taxes because they owned such extensive plots of land, and the rural, individualistic farm lifestyle created an idea that education was a private venture and was not the responsibility of the citizenry to fund (2005). Some efforts had been made to improve education outcomes in the years following the 1921 study. This included a constitutional amendment to raise local millage rates for schools from 12 to 18 mills in 1926, and an act passed in 1948 that consolidated school districts with fewer than 350 people and effectively reduced the number of school districts in Arkansas from 1,589 to 424 (Blair & Barth, 2005).

In 1983, the *Dupree* opinion was decided by the Arkansas Supreme Court, affirming a lower court ruling that the entire funding system for Arkansas schools was unconstitutional (Dumas, 2017). The Alma School District, along with 10 other districts, filed suit against Jim Dupree, the director of the state Board of Education. The lawsuit claimed that the foundation funding formula that allocated state aid to each district, even though the state performed regular adjustments to the way money was allocated, created vast funding disparities between districts. The lawsuit also took issue with the distributional equity of an additional law providing support for vocational education. These disparities were purported to violate the Arkansas Constitution's equal protection and education clauses. A Randolph County Circuit Court judge ruled that the funding formula was indeed unconstitutional, and the state appealed to the Arkansas Supreme Court. The Supreme Court ultimately found that the funding formula did not uphold the state's equal protection and education clauses, because per pupil spending for the 1978-1979 school year, when taking into account both state and local funds, ranged from \$873 to \$2,378 among school districts. Justice Steele Hays, in his opinion of the case, highlighted the effects of the funding system upon Arkansas students. He wrote that:

[the funding system] bears no rational relationship to the educational needs of the individual districts, rather it is determined primarily by the tax base of each district...such a system only promotes greater opportunities for the advantaged while diminishing the opportunities for the disadvantaged (as cited in Dumas, 2017).

Hays also claimed in his opinion that not only did the disparities in education funding violate the constitution, but the quality of the education Arkansas was currently providing did so as well. All children in Arkansas were not receiving a quality education according to the decision (Dumas, 2017). This failed to uphold the state's values of promoting the intellectual flourishing and development of its people, its democracy, and its institutions.

In light of the 1983 decision, the Arkansas State Legislature developed the Education Standards Committee, which was tasked with providing more rigorous criteria for school accreditation, lengthening the school day and year, and expanded curriculum offerings and requirements (Blair & Barth, 2005). Then-Governor Clinton used the Dupree ruling to push a wide array of education reforms through the Arkansas legislature; later in 1983, the state legislature adopted a state sales tax increase specifically for education, as well as a new funding formula exhibiting renewed commitment to making sure that each district received an equal minimum amount of funding (Blair & Barth, 2005). The State Board of Education also instituted more rigorous education standards and gave schools several years to come into compliance with the new benchmarks (Dumas, 2017)

Despite the apparent strides Arkansas made to increase K-12 education outcomes in the 1980's, it soon became apparent that the effects of those reforms were not long-lasting. Litigants in the first of several cases, *Lake View I* first brought the case against the state in 1992, filing in Chancery Court (Choate, 2017). The Lake View School District

cited the funding of education as both inadequate and inequitable, claiming that though state funding programs were supposed to compensate for differences in local revenue-raising capacity, in reality large disparities still existed. The plaintiffs in the case claimed that funding inequities were larger even than they were at the time of the *Dupree* ruling in 1983 (Blair & Barth, 2005). This occurred for several reasons: first, the state had passed Amendment 59 to the state constitution, which froze local tax revenues in several school districts. This meant that even if the districts wanted to raise revenues, they constitutionally could not. Secondly, several categories of state education aid (such as that which funded transportation and alternative education) was distributed based on the amount of funding available, not on the needs of the school districts. Thus, wealthier school districts who did not need as much funding for these areas still received money from the state while those funds could have been reallocated to less fiscally capable school districts. Finally, the value of property and the rates at which it was assessed were drastically different among school districts based on the economic, social, physical, and demographic characteristics of the areas of the state they were situated in. This was exacerbated by amendment 59 placing too-low values on farm and forest land, which was drastically more common in rural areas. The Chancery court mandated that the State Legislature correct the funding disparities and bring the system into constitutional compliance within two years.

In attempting to correct these disparities, the state legislature passed the Equitable School Finance Plan, consisting of Acts 916, 917, and 1195 of 1995. Act 917 was particularly significant in that it required each locality to adopt a base millage rate of 25 mills, and provided for subsequent state equalization funding that would correct any disparities between the amount of taxes local districts collect and the state-set base local revenue per student (80th Arkansas General Assembly, 1995). The

act also required the state to conduct an adequacy study, provided state funding for other types of expenditures, such as facilities and teachers, established a teacher salary schedule that districts must adopt, and required local school districts to submit accounting and auditing reports regularly (80th Arkansas General Assembly, 1995).

In 1998, Lake View filed another suit in the Pulaski County Chancery Court challenging the constitutionality of the new legislation and noting that the acts were not sufficient to make the system truly adequate and equitable (Carter, 2003). Chancery Court Judge Collins Kilgore initially dismissed the case (Arkansas Bureau of Legislative Research, 2012). However, the Arkansas Supreme Court reversed this decision and required that a compliance study be conducted to further determine whether the 1995 acts had corrected the problem (Carter, 2002). In 2001, the Chancery Court conducted a 19-day trial which included 36 witnesses and produced a report record of over 20,000 pages. This compliance report found that the education funding system was still unconstitutional and had not achieved adequacy and equity. The report cited several important findings in determining this ruling; Arkansas students were performing significantly below national averages on standardized test scores, with scores in eighth-grade math actually worsening during the decade of the 90's. After this, the state legislature made small adjustments to the funding formula, which didn't differ much from the 1994 funding system except in providing funding for special needs students through methods outside of the per-pupil funding formula instead of being included in the formula (Carter, 2002). In 2002 and 2004, two more appeals went back to the Arkansas Supreme Court, and each time the court found that the funding system was still inadequate (Bureau of Legislative Research, 2012).

After this time, the Arkansas Supreme Court appointed two legal scholars, Bradley Jesson and David Newborn, to conduct the first of two comprehensive reviews of past legislative action on educational

adequacy and equity (University of Arkansas Office for Education Policy, 2004). These reports attempted to determine whether the state had met its burden to comply with the Arkansas constitution (University of Arkansas Office for Education Policy, 2004). These studies were known as the Special Masters' Reports. The first report found in 2004 that the legislature did not take sufficient action to correct constitutional funding disparities, education needs were not funded first, and foundation funding was based on the amount of revenues available, not what the school districts needed to provide an adequate education. The second report in 2007 finally established that the state legislature had come into constitutional compliance. This report cited several key reasons that the legislature had finally come into compliance: First, a series of acts providing state appropriations for facilities improvements were undertaken in 2006 and 2007, and the state had completed over half of 300 facilities projects aimed at remedying hazardous conditions in school facilities (*Lake View School District no. 25 v. Huckabee*, 2007). Second, the amount of per-student foundation funding had been statutorily increased for the 2006-2007 and 2007-2008 school years, where the legislature had provided no increase in per-student foundation funding for the 2005-2006 school year. Third, the legislature took action to address problems in school districts experiencing rapid increases or decreases in student enrollment by passing legislation that directed additional funds towards school districts experiencing enrollment loss and increasing the amount of per-student funding for districts experiencing enrollment growth. Fourth, the legislature took action to increase categorical funding for special-needs students, English language learners, and state funding for students who qualify for national school lunch assistance. Fifth, the masters' report determined that Arkansas had succeeded in increasing teacher salaries through passing an act in 2007 that further raised minimum teacher salaries. The report of the Masters underscored the

need for “exercising constant vigilance to ensure the constitutional goal is met” (*Lake View School District v. Huckabee*, 2007, p. 9). Though the state had finally come into compliance with the constitution after an almost 20-year string of legal battles, this report emphasized that the job of evaluating and monitoring the state of public education in Arkansas would never be finished.

Arkansas’ Current Education Funding System.

Arkansas’ current system is a direct result of a series of changes, both monumental and minimal, that were brought about by the *Dupree* and *Lake View* cases. In the current education funding system, Arkansas requires localities to levy taxes for general operations of schools at a rate of 25 mills (Arkansas General Assembly, 2018, p. 66). This required tax is known as the Uniform Rate of Tax (URT). The state sets a baseline, mandatorily adjusted every two years, and when local property tax revenues do not meet that baseline, the state provides supplementary funding to meet the amount. In 2016-17, districts across the state contributed around 35% of the total amount spent on public education through the URT, leaving state foundation funding aid to contribute around 64%. These figures vary significantly by district, showing that the state is able to make up for local deficiencies and ensure that there are not large disparities in funding. For example, the school district of Poyen was only able to raise URT revenues in an amount that would cover 8% of the total funding needed to meet the baseline. Therefore, the state stepped in and contributed the other 92% of funding (Arkansas General Assembly, 2018, p. 66)

Arkansas calculates the per-student funding by using a tool called “the matrix” (Arkansas Department of Education, 2017). Every two years, the legislature determines how much it would cost and what kinds of resources it would take, per student, to operate a 500-person school. In 2016, the legislature set this number at \$6,646 per student. The

legislature also breaks down the amount of money needed to fund each line item (such as teacher salaries, facilities and equipment, transportation, educational materials, etc.) in this prototypical school. For example, in 2016, the matrix estimate for the amount of money per student that would go to funding school-level salaries per student was \$4,603.80 (Arkansas Department of Education, 2017).

The determination of what values are included in the funding matrix and the amount of the per-student base level expenditures come from a key component of the state's responsibility to maintain constitutional compliance: the biennial adequacy study. Act 57 of the Second Extraordinary Session of 2003, a key piece of legislation that was passed during the course of the *Lake View* litigation, requires that the legislature conduct a comprehensive assessment of the state of public education in Arkansas every biennium (Arkansas General Assembly, 2018, p 1). This is accomplished by tasks such as reviewing a comprehensive audit and accounting report from all school districts, comparing Arkansas teacher salaries to other states in the region, analyzing expenditures and reviewing proper resource allocation, and providing evidence-based recommendations for changes to the state's system of public education.

Impacts of Education Finance Reform

Through consistent review of Arkansas' progress in public education through adequacy reports, we can establish how key indicators of successful educational systems have changed over the years, which shows how the litigation and resulting policy changes have shaped the outcomes of our education finance system. In the 2001 compliance report conducted by the Chancery Court of Pulaski County, educational performance studies showed that only 44% of Arkansas fourth graders were proficient in reading, and only 35% were proficient in math on nationally administered standardized tests. Though we have

begun to administer different standardized tests than we did in 2001 (meaning results won't be entirely comparable), we have seen that Benchmark assessments show improvement in fourth and eighth grade math and reading scores between 2005 and 2017 (Arkansas Bureau of Legislative Research, 2018, p. 6). We have also improved in the number of adults graduating high school; 2000 Census data shows that in that year, 75.3% of adults graduated high school before age 25. In 2016, this number had jumped to 86% (p. 11). This increase also translates to a jump in our national ranking from 46th to 42nd in the nation for this indicator. In 2001, Arkansas ranked in the bottom three states for teacher pay. Since then, we have increased our average teacher salary by \$15,000, and in 2017 we ranked 42nd in the nation for teacher pay, with an average teacher salary of \$48,304 per year (p. 13). The most recent policy action on increasing teacher pay occurred early in 2019, when the legislature approved a measure to increase the base teacher salary by \$4000 over a period of 4 years (Field, 2019a). In other areas, Arkansas has not improved significantly, or has decreased in quality. For example, we have not improved significantly in our average ACT score, still falling below the national average as we did in 2001 (Arkansas Bureau of Legislative Research, 2018, p. 9). Additionally, Arkansas ACT English scores slightly exceeded the national average in 2001; now, we have dropped to almost 2 points below the national average (p.10). Though we have not increased our outcomes in all areas, the fact that we see progress in some indicators is promising, especially since we have increased teacher salary by such a large margin. The fact that Arkansas has accountability measures built into the bureaucratic structure and function of our state government is also promising; it shows that we have a sustainable commitment to ensuring public education meets the needs of all of our students in Arkansas and is truly equitable and adequate.

Conclusion

Though Arkansas has come a long way in improving its education finance system, uncertainties about its future still remain. Since the *Lake View* cases, Arkansas' actual funding formula has remained largely intact, though the legislature is tasked with adjusting funding amounts every two years. A proposal recently surfaced in the Arkansas legislature to conduct a third-party study that would examine the possibility of substantially altering the funding formula itself (Field, 2019b). However, despite the fact that teachers and administrators have clamored for a reconsideration of the funding formula for the last near-decade, Arkansas lawmakers voted against the possibility of conducting the study in early June of this year. Supporters of the third-party study were disappointed in the legislature's failure to approve the review (Field, 2019b). Even more recently, the Arkansas Legislative Council (the Arkansas General Assembly's interim body) considered another proposal for an adequacy study (Brantley, 2019). The Joint Education Committees, despite the failed attempts to approve a study earlier in the year, had selected a consulting firm to perform the study and referred it to the ALC for final approval. However, some members of the ALC disapproved of the vendor the education committee had selected; they wanted to hire a different firm that favored school choice, and therefore would be less likely to recommend increases for spending on public education. Because of the split over the desired consultant, the ALC was unable to reach a consensus and the motion to approve a study failed (Brantley, 2019). These difficulties show that the Arkansas legislature is still slow to move on education reform, despite the legal history and the development of policies that intended to incite continuous improvement upon our public education system.

Interviews with key participants in the *Lake View* cases, interested parties, and important stakeholders note that very few Arkansans currently believe that the system of Arkansas public education is truly

adequate, even despite the wide array of changes made (Searight, 2016). Interviewees cited concerns that the state legislature was unwilling to truly make education its top priority, and was leaning towards ignoring the results of regularly conducted adequacy studies. They also wonder if it will take another lawsuit to reinvigorate the legislature's interest in public education (Searight, 2016). The legislature's decision to block the funding formula study may demonstrate that this apathy is increasing on part of our legislators. Despite the monumental progress that Arkansas' education system has made over the last thirty years, our work isn't done. Our state must remain constantly vigilant and continue working towards a public education system that uplifts and empowers all of its students.

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