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Special Masters' Report

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BACKGROUND INFORMATION

The final ruling in the 1992 *Lake View School District* case was upheld by the State Supreme Court in November 2002 in a decision known as "*Lake View III*." The ruling found that the school system for Arkansas failed to meet the mandate in the Arkansas Constitution requiring that the State provide a "general, suitable and efficient system of free public schools equally available to all" (Article 14, § 1) and required that the legislature develop remedies by January 1, 2004. The Arkansas General Assembly convened in a Special Session from December 8, 2003 to February 6, 2004 to address the *Lake View* mandate.

On February 3, 2004 the Arkansas Supreme Court appointed two Special Masters, Bradley D. Jesson and David Newbern, to address ten specific questions concerning the court's decision in the *Lake View* case. Specifically, a *Per Curiam* order directed them to examine and evaluate legislative and executive actions taken since November 21, 2002 to comply with the Supreme Court's *LakeView III* ruling. The report considers the steps taken by the State to assure compliance with the ruling in the following areas:

- 1) implementation of the Adequacy Study prepared for the General Assembly;
- 2) development of a system to assess, evaluate, and monitor public school curricula offered in all primary and secondary schools in the state;
- 3) assurance that a substantially equal curriculum is made available to all school children in the state;
- 4) assessment and evaluation of public school buildings and educational equipment;
- 5) implementation of measures to assure that substantially equal school buildings and school equipment are available to all school children;
- 6) assurance that teacher salaries are sufficient to prevent the migration of teachers from poorer school districts to wealthier school districts or to neighboring states;
- 7) accountability and accounting measures in place to determine per-pupil expenditures and

how money is actually being spent in local school districts;

- 8) accountability and testing measures in place to evaluate the performance and rankings of Arkansas students by grade, including rankings in-state, regionally, and nationally;
- 9) measures taken to enact a school funding formula and to fund it so that the school children of the state are afforded (a) an adequate education, and (b) a substantially equal educational opportunity so as to close the gap between wealthy school districts and poor school districts; and finally,
- 10) measures taken to assure that funding education is the priority matter in the budgetary process.

The Special Masters released their report to the Supreme Court on April 2, 2004.

FINDINGS OF THE SPECIAL MASTERS

The Special Masters spent two months analyzing the measures passed in the 2003 Regular Session and the 2003 Extraordinary Session ("Special Session") of the Arkansas General Assembly, reviewing regulations promulgated by the Arkansas Department of Education, reviewing exhibits, and hearing testimony on the activities of the legislative and executive branches concerning their efforts to comply with the *Lake View III* mandate. What follows is a summary of the findings of the Special Masters concerning the ten items set forth by the Arkansas Supreme Court.

EDUCATIONAL ADEQUACY

The Special Masters reviewed the final reports on educational adequacy delivered by Picus & Associates and others to the legislative Joint Committee on Education Adequacy in September 2003. The Joint Committee adopted the following definition concerning what comprises an "adequate education:"

- Meets the standards included in the state's curriculum frameworks, which define what all Arkansas students are to be taught;
- Meets the standards included in the state's testing system, which include a definition of what would be

considered a proficient score for each test (and all but the most severely disabled students would perform at or above proficient on these tests); and

- Appropriates sufficient funding to provide the resources identified in the report's resource matrix (including additional teachers and instructional facilitators for the primary grades, for students with disabilities, and for schools with high concentrations of poverty; enhanced professional development programs; and the elimination of assistant principal positions).

With respect to educational adequacy, the Special Masters determined that the reports commissioned by the Joint Committee were thorough, and that the legislature had incorporated most of the expert recommendations of these reports into the measures passed during the Special Session. The legislature took exception to the idea of a 10 percent increase in teacher salaries, a \$100 million increase in funding for early childhood education, and the recommended 15:1 class size for grades K-3, adopting instead less costly modifications of these recommendations. The report concludes that the state's definition of "adequacy," though perhaps not as succinct as the court desired, was useful in shaping new requirements for accountability and curricula. New developments in "the state of education art and science" will lead, they noted, to variations in the definition of what constitutes an adequate education.

ADEQUACY OF CURRICULA

With respect to evaluating the steps taken by the State to put in place a system to assess, evaluate, and monitor the curricula offered in all primary and secondary public schools, the Special Masters relied on the Arkansas Curriculum Frameworks developed by the Department of Education to guide them. They endorsed the state K-12 *Standards for Accreditation*, which include access to early childhood education, and at the secondary level, access to all Common Core and Smart Core courses (38 units total to be taught annually). Additionally, the Special Masters commended the General Assembly's mandated evaluation of both curricula and student achievement. The report's conclusion about the state's actions in this area is as follows:

"The ability of the State to provide Arkansas children with an adequate education includes many parameters...the most important are competent and effective teachers, challenging and efficacious curricula, and children who are prepared to learn

and reason...the State has just begun to address this critical responsibility and it is a good beginning toward an effective system to assess, evaluate, and monitor public school curricula."

EQUITY OF CURRICULA

Citing the work of both the Joint Committee on Education Adequacy and the Arkansas Department of Education, the Special Masters note that the legislative and executive branches have taken numerous steps to assure that a substantially equal curriculum is made available to all school children. They note that questions of equity fall into four general categories: early childhood education, access to technology, school choice, and administrative consolidation. Since each of these issues is discussed elsewhere in their report, the Special Masters conclude by referring the reader to the sections of the report dealing with these issues.

SCHOOL BUILDINGS & EQUIPMENT

In the *Lake View III* decision, the court found the State's educational facilities and equipment in poor districts to be inadequate and inequitable, rendering poor districts unable to provide an advanced system of education. Two of the questions addressed by the Special Masters (Questions 4 and 5) deal with school facilities and equipment. They noted that the legislature had created a Joint Committee on Educational Facilities, which had appointed an Educational Facilities Task Force to explore the adequacy of existing facilities. In November 2003, this Task Force reported the parameters it recommended for a school-by-school assessment, reviewing the status and needs of each facility. In February 2004, the legislature contracted with DeJong, Inc. to assess and evaluate each facility using the parameters recommended by the Task Force, and to report by December 1, 2004 the status, needs, and costs of repairing, renovating, or replacing existing facilities.

While the Special Masters acknowledged that the General Assembly could address facility inadequacies only after this forthcoming study is completed, they noted that neither unattached school equipment nor instructional materials are to be included in the DeJong school facility survey. The report observed that today's students "will be expected to perform in a global and technologically advanced world," and drew the following conclusion regarding this issue:

The schools' needs for unattached equipment, both short-term and long-term, must be addressed. These needs appear to have been overlooked or

ignored at every step in the process and the State has failed to offer an explanation...

Effective educational facilities, equipment, and instructional materials are necessary to deliver meaningful education and learning experiences to students. Further, the condition of the environment in which teachers teach and students learn can have a direct influence on their morale and dedication to the educational process.

TEACHER SALARIES

With respect to teacher salaries, the Special Masters were asked to evaluate whether the measures in place would be sufficient to assure that teacher salaries are sufficient to prevent the migration of teachers from poorer school districts to wealthier school districts or to neighboring states. Among the legislation the report discussed was Act 74, passed in the Special Session, which mandates the following minimum teacher salary schedule for the 2004-2005 school year:

- \$27,500 - bachelor's degree, no experience;
- \$31,625 - master's degree, no experience;
- Annual incremental pay increases for teaching experience, offered for at least 15 years:
\$450 annually for bachelor's level teachers,
\$500 annually for master's level teachers.

Also, the report noted Act 101, which will provide signing and retention bonuses to licensed teachers who teach in high-priority (low-income) districts as follows:

- \$4,000 one-time signing bonus;
- \$3,000 retention bonus each of the next two school years following entry year; and
- \$2,000 retention bonus each of the next two school years for teachers already serving in these high-priority districts.

The Special Masters observed that the legislature had enacted numerous measures to address this issue, many of which may influence Arkansas teachers to remain in or migrate to poorer school districts. Testimony citing figures from the National Education Association for 2002-2003 indicated that Arkansas' average teacher salary, at \$37,753, placed the state in the midrange for teacher salaries among the six contiguous states in the area. The NEA figures show Texas, Tennessee, and Missouri to have had a competitive advantage over Arkansas, while Louisiana, Oklahoma, and Mississippi had lower average salaries at that time. Nevertheless, the Special Masters found "disconcerting" the State's inability to provide current figures for average teacher salary. They concluded that the impact of the recently

adopted teacher salary increases and incentives would not be known for at least another year.

ACCOUNTABILITY TO THE STATE FOR PER-PUPIL EXPENDITURES

With respect to this issue, the Special Masters detailed the provisions of Act 1467, Regular Session 2003, which established the Arkansas Fiscal Assessment and Accountability Program, designed to identify, assess, and address the problems of school districts in fiscal distress. They discuss, as well, Act 61 from the Special Session, which mandated an Arkansas Educational Financial Accounting and Reporting system to account for expenditure of state dollars categorically, separating expenditures for instruction, administration, extracurricular activities, capital improvements, and debt service. They observed that these and related steps taken by the General Assembly and the State were "laudably numerous" and should be expected "to enlighten local and state educators and administrators, as well as the General Assembly and the general public about local expenditures."

ACCOUNTABILITY FOR TEST SCORES

The Special Masters noted that "a principal achievement of the Regular and Special Sessions was the General Assembly's accountability-related legislation" and that "Arkansas now has a state-of-the-art accountability system." With this system in place, the report drew the following conclusion concerning accountability:

Are measures in place to evaluate the performance and rankings of Arkansas students by grade, including rankings in-state, regionally, and nationally? Measures are certainly in place but much remains to be done to fully implement the system. Many of the enactments will be phased in; some will not be effective until the end of this decade. Rules must be promulgated, commissions must be appointed, people must be trained, assessment instruments must be developed. To say that "laws" are in place is easy; to say that "measures" are in place is perhaps premature.

AN EQUITABLE FUNDING FORMULA

Concerning the issue of school funding formulas, the Special Masters cite numerous acts, regulations, exhibits, and testimony related to this issue. Some of the poorer school districts argued that the revised funding formulas remain inequitable given the amount of money required to bring teacher salaries up to mandated minimums. Nevertheless, the Special

Masters reminded local school districts that *Lake View III* emphasizes the State's responsibility for education, and the State has devised formulas that provide more money to local districts in variable amount depending on the characteristics of their students, and local districts still have discretion in determining how to spend these funds. With this in mind, the report noted:

Comparing the educational opportunity provided among the districts is greatly impacted by decisions made at the local level. The ability of the Department of Education to monitor and assess the practices in the districts and to take remedial action, where necessary, will be critical in determining the equality of educational opportunity throughout the State.

ASSURING THAT EDUCATION FUNDING IS THE TOP PRIORITY

The Special Masters note that several acts passed during the Special Session together assure that the State intends for education funding to be *the* budgetary priority for the 2004-2005 school year.

SCHOOL CONSOLIDATION

Consolidation of small districts was not, specifically, a requirement of *Lake View III*, thus not an issue directed to the Special Masters for their consideration. However, it relates to questions of per-pupil expenditures, curriculum equality, and overall district efficiency, so they allowed testimony concerning consolidation relative to these issues. They noted that some small communities feared they would "wither on the vine" as a result of district consolidation. Balancing this concern with the need to provide equivalent educational benefits to students in small communities, the Special Masters suggested that "it may well be appropriate for the new districts created by administrative consolidation to retain small community elementary schools, and perhaps middle schools, in which less curricular variety is needed, but to create high schools with large classes to make greater variety of curricular offering economically feasible."

In the process of analyzing progress toward state compliance with the *Lake View III* mandate in these ten areas, the Special Masters reached the following conclusion:

Obviously, much well-intentioned legislation and regulation are now in place in response to the court's decision, and more implementing regulation by the Arkansas Department of Education is to

follow. Equally obvious is the fact that the system could not be completely reformed, even if more had been done in that direction prior to the deadline of January 1, 2004, because the important changes will take time to implement and more time to assess after they have been implemented.

Written by: Julie Summers

The complete text of the Special Masters' Report is available on the Arkansas Judiciary's website as follows:
<http://courts.state.ar.us/lake%20view/report.pdf>
Additional policy briefs and other education policy information may be found on the website of Office for Education Policy at the University of Arkansas at <http://www.uark.edu/ua/oep> or may be ordered by contacting the Office at (479) 575-3773.