

AN ARKANSAS STUDENT BILL OF RIGHTS



USING **OPPORTUNITY TO LEARN** STANDARDS TO
ENSURE EVERY STUDENT HAS A CHANCE TO SUCCEED



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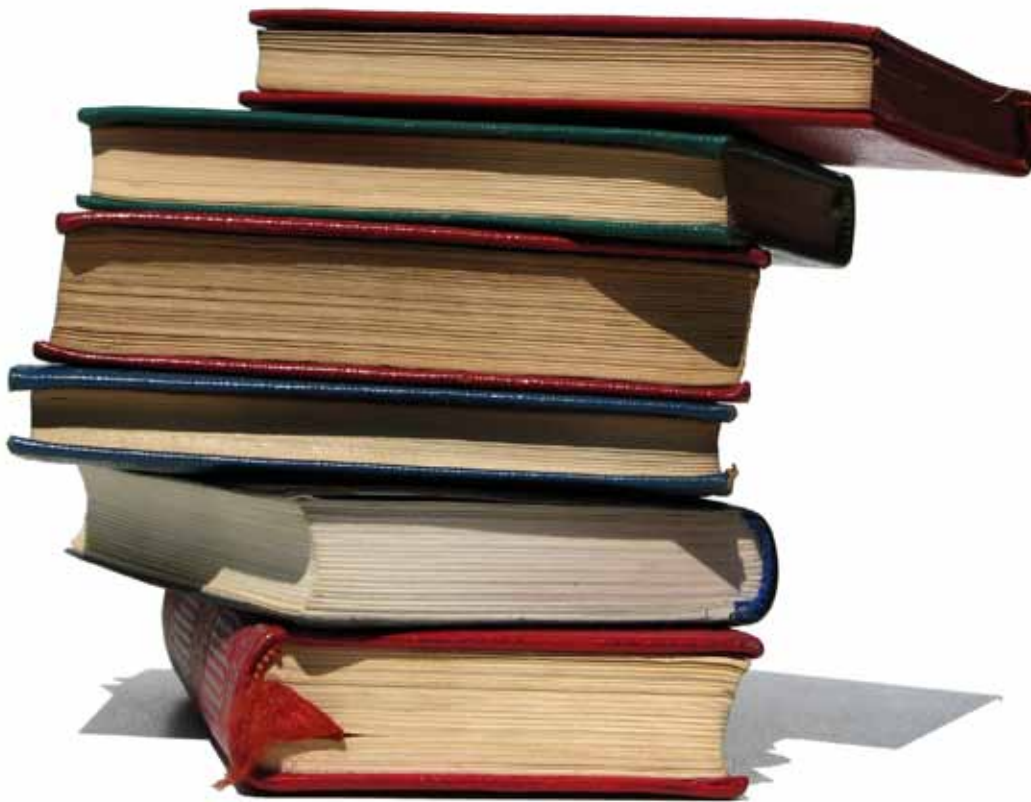
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EXECUTIVE SUMMARY

Over the last two decades, standards-based education reform has led the march toward accountability, high-stakes testing, and rigorous performance standards for the United States' education system. Beginning in 1990 with President George H. W. Bush's America 2000 legislation, continuing with President Bill Clinton's Goals 2000 and the 1994 reauthorization of the Elementary and Secondary Education Act (known as the Improving America's Schools Act), and finally culminating with President George W. Bush's 2002 No Child Left Behind, accountability standards have become the framework that community and political leaders use to measure the successes and failures of schools, teachers, and students.

But there's something missing from the debate: balance between what's expected of teacher and student accountability for their performance and the state's responsibility to provide them with the necessary resources. Leading education researchers Marshall Smith and Jennifer O'Day write, "It is not legitimate to hold students accountable unless they have been given the opportunity to learn the material on the examination. Similarly, teachers or schools cannot be legitimately held accountable for how well their students do unless they have the preparation and resources to provide the students the opportunity to learn."

Essentially, teachers and students shouldn't be judged on test scores, grades, and reading levels if they don't have the proper tools to produce high-quality outcomes. A Student Bill of Rights, using opportunity to learn (OTL) standards as the basis for measurement and accountability, unequivocally ensures the state will provide all students with the resources necessary to obtain a high-quality public education and achieve success in college and later, a career, including access to high-quality early childhood education, prepared and effective teachers,

college preparatory curriculum for all students, and equitable instructional materials.

Modern public education is built on the principle of equity. *Brown v. Board of Education* established that separate educational facilities for racial groups were inherently unequal. Following the logic of the Supreme Court, all students should have access to education of equal quality. A system of uniform indicators, in the form of OTL standards, is likely to produce more equal levels of student achievement than simple output standards.

In 1993, OTL standards were introduced to Congress concurrently with content- and performance-based standards. However, they met strong opposition and were eventually abandoned in order to draw a centrist consensus to pass President Clinton's Goals 2000 legislation. Opponents of such standards argued that such standards would result in a higher level of bureaucracy, a shift away from student accomplishments, and mindless checklists and accounting. Ultimately, OTL standards faded from the legislative debate for nearly a decade.

Recently, interest in OTL standards has grown. In order to receive federal funding, states must show that they are meeting outcome standards like the ones set forth in *No Child Left Behind*. As students' achievement gaps widen, or at least remain very wide depending on the state, it has become clear that outcome measures are not sufficient to raise test scores. Rather, input measures are also necessary. OTL standards provide the essential measurement tool for evaluating and compelling states to supply adequate resources to their students.

In 2002, a California legislator authored a bill for a Student Bill of Rights that aimed at accomplishing three goals (the bill ultimately failed although it once again injected educational inputs back into the conversation). First, the bill sought to institute the principal of reciprocal accountability - the idea that state and local officials should be responsible for ensuring quality learning conditions and that students, with the help of their parents, should be responsible for investing the effort required to achieve success. Second, it aimed to specify exactly what students and parents should expect from their schools. And third, it attempted to create an information system through which education shortcomings could be identified, publicized, and addressed.

Based off of the proposed California bill, and guidance from the National Opportunity To Learn Campaign, an Arkansas Student Bill of Rights would define what parents and students could expect from their school districts:

- a clear statement of the academic standards that define what students are expected to know and the basic conditions for learning that students can expect from the educational system;
- adequate materials and resources; suitable learning facilities;
- high-quality teachers and counselors; a course of study that will enable all students who wish to attend a public university to do so;
- a safe school environment;



- fair and authentic assessment that is used to measure and improve the quality of education the students receive; instruction which incorporates students' home language (which research shows to be a worthwhile investment of time and resources);
- easily understood information on the performance of the school in delivering these things;
- regular public forums to allow students and parents to communicate about their experiences;
- and increased access to high-quality early childhood education.

In the now famous Lakeview Case, an Arkansas trial court declared the state's education funding system unconstitutional. That decision was upheld by the Arkansas Supreme Court. The courts based their decisions in large part on the 1985 Kentucky court ruling, *Rose v. Council for Better Education*, which enumerated seven learning goals for "each and every child." Rose is an important piece of the Lake View story because its language explicitly ties responsibility for educational outcomes to the state. If students are not achieving the desired educational outcomes, it is the responsibility of the state to provide the resources necessary to the districts and teachers for students to do so.

In response to the Lake View case, the Arkansas General Assembly adopted a new education funding formula based on the estimated per-student cost of providing an adequate education. That formula, however, fails to clearly define the specific resources and opportunities that every student should expect from his or her school as a part of that adequate education.

While Arkansas has made major strides in education since the Lake View case, the state continues to fail its most needy children as long as major gaps in educational achievement exist along economic and racial lines. According to the National Assessment of Educational Progress, a significant gap exists between the performance of white and minority students at critical developmental stages.

Arkansas's constitution guarantees an adequate education to its citizens. Its courts have enforced that guarantee. Its legislature has committed to funding the formula. It is now time to be clear about what inputs are necessary to obtain an adequate education. OTL standards define the resources necessary, and a Student Bill of Rights communicates the assurance from the state that all students will be provided with the opportunity for academic success.

AN ARKANSAS STUDENT BILL OF RIGHTS



INTRODUCTION

Over the last two decades, standards-based education reform has led the march toward accountability, high-stakes testing, and rigorous performance standards for the United States' education system. Beginning in 1990 with President George H. W. Bush's America 2000 legislation, continuing with President Bill Clinton's Goals 2000 and the 1994 reauthorization of the Elementary and Secondary Education Act (known as the Improving America's Schools Act), and finally culminating with President George W. Bush's 2002 No Child Left Behind, accountability standards have become the framework that community and political leaders use to measure the successes and failures of schools, teachers, and students.

But there's something missing from the debate: balance between the expectations of teachers and their students and the responsibility of the state to provide them with the resources necessary to achieve high standards. Leading education researchers Marshall Smith and Jennifer O'Day write, "It is not legitimate to hold students accountable unless they have been given the opportunity to learn the material on the examination. Similarly, teachers or schools cannot be legitimately held accountable for how well their students do unless they have the preparation and resources to provide the students the opportunity to learn."¹ A Student Bill of Rights, using opportunity-to-learn (OTL) standards as the basis for measurement and accountability, unequivocally ensures the state will provide all students with the resources necessary to obtain a high-quality public education and achieve success in college and a career.

HISTORIC PERSPECTIVE

OTL standards are not a new idea in education. Since 1963 with John Carroll's "A Model of School Learning," the 'opportunity to learn' has been included as a necessary element for academic achievement. Carroll defined the opportunity to learn in terms of time and development, noting that the needs of one student were likely to

be different than the needs for another.² Not long after Carroll's work, noted education researcher Torsten Husen of Sweden began examining the disconnect between what students were expected to learn and the standardized tests being used for evaluation.³ OTL standards guarantee students have the resources available to learn the information necessary to be successful on the tests.

The modern era of public education is built on principles of equity. *Brown v. Board of Education* established that separate educational facilities for racial groups are inherently unequal. Following the logic of the Supreme Court, all students should have access to education of equal quality, and a system of uniform indicators, in the form of OTL standards, is likely to produce more equal levels of student achievement than simple output standards.

Additionally, many states have faced lawsuits in their courts extending from the inadequacy and inequality of their school systems. As of 2011, forty-five states had faced some form of an adequacy lawsuit. In twenty-five of those states, the plaintiffs won.⁴ In many of these cases, the decision was based on language found in the state's constitution. The most common phrase in these education clauses is "thorough and efficient," which in 1979, the West Virginia Supreme Court of Appeals defined as an education that "develops, as best the state of education expertise allows, the minds, bodies and social morality of its charges to prepare them for useful and happy occupations, recreation and citizenship, and does so economically."⁵ It then defined eight content areas as legally enforceable elements of such an education, which the state was then required to provide. Appendix A provides the elements included by the West Virginia court for a thorough and efficient education.



Equal protection rights have played a major role in court decisions. In 1981, a federal court of appeals ruled that "African American children who had been educated in segregated, constitutionally inadequate schools could not be made to suffer adverse consequences for the inferior education that had been foisted on them."⁶ This ruling was in response to Florida's use of a high-stakes test in order to obtain a diploma. The court's ruling clearly shows that students cannot be held solely responsible for the outcomes of their test scores if insufficient resources have gone into their education. Synthesizing these two rulings, a strong legal case can be made for OTL standards that codify the individual elements of a high-quality education for which the state is responsible and enforce sufficient resources to be applied to provide students with adequate opportunities for success.

In 1993, OTL standards were introduced to Congress concurrently with content- and performance-based standards. However, OTL standards met strong opposition and were eventually abandoned in order to draw a centrist consensus to pass President Clinton's Goals 2000 legislation.⁷ Opponents of OTL standards argued that such standards would result in a higher level of bureaucracy, a shift away from student accomplishments, and mindless checklists and accounting.⁸ These opponents were also critical of increased federal influence

over schools and assumed that OTL standards would result in greater obligations by the state to schools without additional funds from the federal government to pay for them.⁹ Ultimately, political necessity triumphed and OTL standards faded from the legislative debate for nearly a decade.

TWENTY-FIRST CENTURY MANIFESTATIONS OF EDUCATIONAL EQUITY

Recently, a new wave of interest has brought OTL standards back to the political landscape. Following the passage of No Child Left Behind (NCLB) in 2002, the courts have seen a renewed interest in adequacy lawsuits. Part of this renewed interest is the result of widespread criticisms of NCLB, which is currently being reviewed for reauthorization, although Congress does not appear likely to act soon. With a clearer definition of adequacy, in terms of proficiency and performance standards, plaintiffs have the fuel to challenge the educational status quo.¹⁰ Now, in order to receive federal funding, states must show that they are meeting these standards. As students' achievement gaps widen, or at least remain very wide depending on the state, it has become clear that outcome measures are not sufficient to raise test scores. Rather, input measures are also necessary. OTL standards provide the essential measurement tool for evaluating and compelling states to supply adequate resources in order for students to meet high performance standards.

In most adequacy lawsuits, the courts have used the states' education funding formula to define adequacy and equity. These funding formulas are a complicated merger of school funding needs and political realities. By placing emphasis on particular inputs, a state's funding formula acts as a de facto resource guide. However, many states, including Arkansas, derive their funding priorities from the 'types' of students enrolled, i.e. English language learners and National School Lunch state categorical funding, rather than on the resources needed to provide a high-quality education.¹¹ Pairing the funding formula with OTL standards can guarantee sufficient and affective input resources are provided for students to achieve.

In 2002, State Assembly Member Judy Chu authored a bill to establish a Students' Bill of Rights for the state of California. The original text enumerating these rights was drafted by a group of grassroots activists and organizations that convened at UCLA in the spring of 2001 in response to the poor conditions in Los Angeles schools. This piece of legislation identified opportunities to learn as fundamental rights and defined the appropriate education guaranteed by the State Constitution to all students "in order to be prepared for a four-year state university, a living wage job, and active participation in civic life."¹² The bill failed in Assembly, but once again brought the debate back to the necessary educational inputs needed to balance and supply the desired content and performance outcomes.

The legislation sought to accomplish three goals. First, it sought to institute the principal of reciprocal accountability: state and local officials should be responsible for ensuring quality learning conditions and students and parents should be responsible for investing the effort and commitment required to promote educational achievement. Second, it aimed to specify exactly what students and parents should expect from their schools. And third, it attempted to create an information system through which education shortcomings could be identified, publicized, and addressed.

Appendix B of this paper provides the full text of the proposed California Students' Bill of Rights (a summary is listed below). The ten rights enumerated are not outrageous requests; they are the basic necessary conditions for students to learn. No one would presume that these standards would be met overnight, but if teachers and students are being held accountable, and schools can be penalized, then shouldn't the state also be required to afford the resources necessary to meet these goals? The California Students' Bill of Rights is a model for states truly committed to educational excellence.

In addition to holding the state accountable, the California Students' Bill of Rights explicitly holds each pupil,

and the adult charged with his or her care, accountable for seven responsibilities necessary to maximize the opportunities that the state is required to provide. These are: (1) the pupil must attend school regularly; (2) the pupil must follow reasonable educational instructions of his or her teachers; (3) the pupil must adhere to the rules established for the school; (4) the pupil must give his or her best effort in order to take advantage of the opportunities provided; (5) the pupil must treat his or her peers with respect; (6) the parent/ guardian of a minor pupil must be aware of the educational instructions and rules of the school; and (7) the parent/ guardian must, to the maximum degree feasible, further guidance and supervision to promote educational success.¹³ By enumerating these responsibilities within the text of the legislation, the California Assembly sent a clear message that while it is the state's responsibility to provide the opportunity to learn, it is the parents' and students' responsibility to take advantage of the opportunity.

On the federal level, Rep. Chaka Fattah (D-PA) introduced a piece of federal legislation, The Student Bill of Rights, in May of 2007. He has continued to introduce this bill in subsequent sessions of Congress and as of April 2011, the bill was in the Subcommittee on Early Childhood, Elementary, and Secondary Education. The stated purpose of the bill is "to provide for adequate and equitable educational opportunities in State public school systems, and for other purposes."¹⁴ Like the California legislation, the federal Student Bill of Rights links education and citizenship by defining an adequate and equitable state school system as one that provides students with

the educational resources needed to succeed academically and in life, and an education that enables students to acquire the knowledge and skills necessary for responsible citizenship, to participate in the political process through informed electoral choice, and to be able to compete and succeed in a global economy.¹⁵

Fattah's Student Bill of Rights explicitly recognizes the role education plays in preparing future citizens to fully participate in a democracy.

The legislation specifically calls for each state to fund four OTL indicators at "adequate or ideal" levels. The four indicators are: highly effective teachers, early childhood education, college preparatory curricula, and equitable instructional resources.¹⁶ Additionally, the states are directed to develop standards that allow them to describe and measure the extent to which the OTL indicators are being met by public schools. Along with the four indicators, the states must also consider the availability of high performing school throughout the state, the unique needs of low-income, urban and rural, and minority students, and other educationally appropriate factors.

What the federal legislation does that the California legislation does not do is unambiguously tie OTL standards to the bill of rights philosophy. Clearly making this connection empowers groups seeking to place pressure on legislative bodies by labeling these components as rights, a word rich with meaning and history in the American lexicon.

Supplementing these efforts, The Schott Foundation for Public Education has initiated the National OTL Campaign. The Schott Foundation provides support to grassroots organizations in order "to develop and strengthen a broad-based and representative movement to achieve fully-resourced, quality preK-12 public education."¹⁷ As one of its initiatives, the OTL Campaign "is a growing collaboration of local, state, and national organizations, grassroots community leaders, policymakers, youth organizers, business leaders, and philanthropic partners working to ensure that every public school in the nation provides each child with the opportunity for a high-quality education."¹⁸

The National OTL Campaign advocates for high-quality early education, highly-qualified teachers, college preparatory curricula, and equitable instructional resources; the same four indicators Rep. Fattah's legislation

tracks.¹⁹ The Schott Foundation has developed the OTL Indicator, which is defined by the access historically disadvantaged students have to high performing schools coupled with the percentage of students that achieve at the proficient or advanced level on the reading portion of the National Assessment of Educational Progress (NAEP). The states are then grouped into four categories based on the combinations of access and quality. Only eight states have moderate proficiency and high access; sixteen states have moderate proficiency, but low access; seventeen states have low proficiency, but high access; and nine states, including Arkansas, have both low proficiency and low access.²⁰ In Arkansas, some of the most historically disadvantaged students have little access to high quality schools.

A SUMMARY OF THE CALIFORNIA STUDENT BILL OF RIGHTS STUDENTS ARE ENTITLED TO:	
1.	A clear statement of the academic standards that both define what students are expected to know and be able to do at every educational level and specify the basic conditions for learning that students and families can expect from the educational system
2.	Adequate learning materials and resource
3.	A suitable learning environment and school classrooms, buildings, and facilities that enable learning and health
4.	High-quality teachers and counselors
5.	A course of instruction that will enable all students who wish to do so to compete for admission to any public university in the state and participate actively in California's civic life
6.	A safe and supportive school environment
7.	Fair and authentic assessment that is used to measure and improve the quality of education students receive and supplementary educational services that respond to identified student needs
8.	Instruction which incorporates students' home language so as to provide all students with equal opportunity to access curriculum and develop and maintain proficiency in their native language
9.	Easily understood, current, reliable information on the performance of the school in delivering each of the rights herein listed
10.	Regular public forums that allow students and parents to communicate their experiences relative to these rights to educators and local and state elected officials responsible for insuring these rights

The California Student Bill of Rights, the National Student Bill of Rights, and the National OTL Campaign each strive to guarantee the necessary inputs for a high-quality education are made available to all students, regardless of race, gender, socioeconomic status, or geographic location. The supporters of each of these efforts recognize that for the United States to meet President Obama’s goal that the country be a leader in post-secondary education by 2020, policy leaders must improve the educational access and outcomes for those most historically underserved by the educational system.

OPPORTUNITY TO LEARN INDICATORS	CA STUDENT BILL OF RIGHTS (2002)	NATIONAL OTL CAMPAIGN (2010)	FATTAH STUDENT BILL OF RIGHTS (2011)
Clear Standards	X		
Equitable Instructional Resources	X	X	X
Adequate Facilities	X		
High-Quality Teachers	X	X	X
Rigorous Curriculum	X	X	X
Safe School Environment	X		
Fair and Authentic Assessment	X		
Native Language Instruction	X		
System Transparency	X		
Community Involvement	X		
Early Childhood Education		X	X

THE LOGIC FOR OTL STANDARDS AND A STUDENT BILL OF RIGHTS

Education researchers and reformers make a strong case for the necessity of OTL standards in crafting a well-balanced, feasible reform model. In their landmark 1993 article, Marshall Smith and Jennifer O’Day present the framework for systemic reform through three standards-based mechanisms: content, performance, and opportunity to learn. As presented, this framework clearly defines the curriculum that students should know, holds their performance accountable, and ensures that the resources necessary for them to achieve are available. This research has been used in support of content and performance standards, but the third component, OTL standards, has been neglected in the systemic reform efforts of the last two decades. Smith and O’Day justify the need for OTL standards on two primary rationales. The first is a matter of justice:

Simple justice dictates that skills and knowledge deemed necessary for basic citizenship and economic opportunity be available to all future citizens—that is, access must be distributed equally, not just equitably...In the absence of new deliberate policy [Student Bill of Rights], our history as a nation shows that such fairness is extremely unlikely. The deck will inevitably be stacked against minorities, the poor, and the least politically powerful and their schools.²¹

The second is a matter of quality:

Where limited capacity in preparation, resources, or personnel is a problem, as it is in many schools serving poor and minority students... the pressure to get more students to pass the examination may pull schools toward narrow “beat the examination” strategies rather than toward upgrading the quality of curriculum and instruction.²²

It is as though Smith and O’Day were looking into a crystal ball in 1993 when they warned against a standards-based reform approach that excluded OTL standards. Criticisms of NCLB include inadequate funding and a narrowing of the curriculum – reinforcing the critical need for OTL standards. A Student Bill of Rights can articulate these standards in a manner accessible and relevant to the families and communities that depend on a high-quality education system to lift them out of poverty.

While Smith and O’Day are certainly the leading authors in the field, other researchers have also contributed significantly to the body of research defining and supporting OTL standards. Lorraine McDonnell argues that the establishment of standards represents “a social contract between schools and the larger community.”²³ Douglas Harris and Carolyn Herrington claim that the reduction in the achievement gap prior to 1980 was due to an increase in resources made available to newly desegregating schools through Title I and Head Start programs. Furthermore, they contend, that it is the consequence of inadequate resources that has widened the achievement gap in recent years.²⁴ And Jeannie Oakes maintains that “a correction is required in current policy—a better balance between rules and resources.”²⁵ A decade of research proves the validity of OTL standards, what is now needed is the political will to hold the state accountable for providing the resources necessary for high student achievement.

Beyond the research supporting OTL standards, Rep. Fattah’s federal Student Bill of Rights legislation clearly outlines the national interest in a Student Bill of Rights. The bill begins by stating that a “high-quality, highly-competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and for achievement of the historical aspiration to be one nation of equal citizens.”²⁶ Thus, the argument that a Student Bill of Rights, supporting educational achievement for all, is in the best interest of the nation’s economy, national defense, and legacy is clearly articulated at the federal level.

The Fattah bill also establishes precedent for the federal government to take part in public education. It cites the Congress of the United States’ power to admit new states under article IV, section 3 of the Constitution, which imposes on every state the requirement of reserving land for public schools and including provisions in its constitution for the “establishment and maintenance of systems of public schools.”²⁷ The bill also links federal funding to outcomes:

Since 1965, the Congress, in exercising its spending authority, has provided substantial Federal financial assistance to the States for the improvement of their public school systems. In their expenditure and oversight of this assistance, the States have failed systematically to achieve the purpose of the Congress in providing the assistance, namely the effective education of all the children of the United States... Because a well-educated populace is critical to the Nation’s political and economic well-being and national security, the Federal government has a substantial interest in ensuring that States provide a high-quality education by ensuring that all children have access to the opportunity to learn.²⁸

States have failed to meet their obligation to provide the nation with a well-educated populace. This is, in part, a result of an unclear delineation of the states’ responsibilities. OTL standards are the necessary ingredients for all children to have an adequate and equitable education. Framing these standards as a Student Bill of Rights articulates what every child should expect and deserves from a public education in his or her state.

RESEARCH SUPPORTING A STUDENT BILL OF RIGHTS

Significant research has been done to identify the key elements in providing the opportunity to learn to students. This research indicates that these components have a positive effect on student learning and achievement. It also supports the claim that cumulatively, OTL standards in the form of a Student Bill of Rights can provide the tools necessary to close the achievement gap. Following is a brief examination of several of these elements and the evidence to support their inclusion in a Student Bill of Rights:

Clear Standards

In *Debra P. v. Turlington* (1981), the court ruled that “all students were entitled to adequate notice and the opportunity to prepare for the test before suffering adverse consequences.”²⁹ Clear standards provide students the notice and possibility to prepare for high-stakes, performance-based assessments.

Equitable Instructional Resources

The relationship between school resources and student achievement has long been debated. With the publication of the Coleman Report in 1966, policy makers have had a go-to analysis asserting that school funding has little effect on student success. A more accurate understanding, however, is that student background and socioeconomic status are more influential in predicting student outcomes.³⁰

Thirty years later, Eric Hanushek analyzed close to 400 studies of student achievement and again concluded that there is little relationship between student performance and school resources. However, he asserts that this “does not suggest that resources never matter, nor does it suggest that resources could not matter. It only indicates that the current organization and incentives of schools do little to ensure that any added resources will be used effectively.”³¹ Hanushek, among others, believes that how resources are used is as important as the amount of resources available to a school.

Adequate Facilities

Increasingly, research shows a relationship, although sometimes weak, between physical traits of school buildings and students’ ability to achieve. Both anecdotal and more systematic analyses reveal significant disparities in the facilities available to low-income and high-income students.³² A study conducted in Washington, D.C. showed that better academic outcomes for these urban students were directly associated with schools that had better physical environments.³³

High-quality Teachers

In the National Commission of Teaching & America’s Future report *What Matters Most: Teaching for America’s Future*, the authors reported that in a study of 1,000 school districts, each additional dollar spent on more highly-qualified teachers had a larger impact on student achievement than did any other use of school funds. They also cited a study which “compar[ed] high-achieving and low-achieving elementary schools with similar student characteristics, [and] found that differences in teacher qualifications accounted for more than 90% of the variation in student achievement in reading and mathematics.”³⁴

Rigorous Curriculum

Not surprisingly, research shows that students’ academic achievement is closely related to the rigor of the curriculum. In the literature, terms such as challenging curriculum, academic environment, and academic press are used to denote rigor. Longitudinal data from the High School and Beyond study show that “academic program participation has a strong, independent effect on achievement gains... All things being equal, academic programs promote academic achievement.”³⁵

Safe School Environment

A general lack of student discipline and an atmosphere that produces fear in students are not conducive to learning. Researchers have found that a positive disciplinary climate is directly linked to high achievement.³⁶

Fair and Authentic Assessment

In order to show educational improvement, the assessments used to measure growth must match the content being delivered. Four criteria must be met in order for an assessment to legitimately measure outcomes: (1) the assessment should reflect the curriculum; (2) students should have the opportunity to learn the curriculum; (3) assessment performance should be sensitive to variation in the quality and content of instruction; and (4) on replication, the assessment should produce the same results.³⁷ In a time of high-stakes testing, fair and authentic assessment is crucial for the protection of students' rights.



Native Language Instruction

In 1998, Jay Greene conducted a meta-analysis of eleven high-quality, rigorous studies examining the effectiveness of bilingual education. Greene unequivocally found that “native language instruction has a significant, positive impact on children learning English.”³⁸ More recently, the National Literacy Panel found clear evidence that engaging native language literacy provides advantages to English-language learners as they develop English literacy.³⁹ Native language instruction enables students to focus on content material, rather than basic language comprehension, and enables higher order learning.

Transparency

In the June 2011, the Council of Chief State School Officers (CCSSO) released the report “Roadmap for Next-generation State Accountability Systems.” In the report, the CCSSO Accountability Taskforce listed “transparent reporting” as one of eight key elements necessary to prepare students for college and beyond. The report asserts, “Transparent reporting is necessary to ensure that stakeholders – students, families, educators, administrators, policymakers, and the public – receive information that can be used to identify and replicate best practices, recognize and correct deficiencies, and continuously improve performance.”⁴⁰

Parental and Community Involvement

Research clearly shows a relationship between parental and community involvement and student success. The level of this engagement can range from homework help and PTA participation to local education reform efforts. The best results are achieved when efforts to engage parents and communities are “comprehensive in nature, with the school consistently interfacing with parents at many points, in many venues, over the course of the schooling years.”⁴¹

Early Childhood Education

Research on early childhood education is abundant and universally shows that early childhood education has positive impacts on future academic success for students, as well as economic gains for the nation. Children who participate in pre-k programs require less special education and are less likely to repeat a grade. High-quality

early childhood education also reduces the cost of educating children in the K-12 system. Children who receive early education have higher incomes upon entering the labor force, which results in higher taxes paid back to society. They are less likely to engage in criminal activity, both as juveniles and as adults. The estimated overall annual budgetary, earnings, and crime benefits are \$315 billion by 2050.⁴² Early childhood education lays the initial foundation for the opportunity to learn.

THE NEED FOR A STUDENT BILL OF RIGHTS IN ARKANSAS

In 1983 in *Dupree v. Alma School District No. 30*, the Arkansas Supreme Court found Arkansas' school funding system unconstitutional under the equal protection clause of the state constitution. The court found no legitimate state purpose and no rational relationship to educational needs in the state's method of financing public schools. The ruling rejected "local control" as a possible justification for the disparities of funding and educational opportunities in the state's school districts.⁴³

After the 1983 court decision, the state revised its funding statutes, but plaintiffs challenged the revised system. In 2001 in *Lake View School District, No. 25 v. Huckabee*, an Arkansas trial court declared the state's education funding system unconstitutional:

The school funding system now in place... is inequitable and inadequate under... the Arkansas constitution... Too many of our children are leaving school for a life of deprivation, burdening our culture with the corrosive effects of citizens who lack the education to contribute.⁴⁴

The Arkansas Supreme Court upheld the lower court's finding in 2002 and charged the state with providing adequate funding to allow students to achieve the expected outcomes.

The Arkansas courts based their decisions in large part on the 1985 Kentucky court ruling, *Rose v. Council for Better Education*, which enumerated seven learning goals for "each and every child."⁴⁵ Appendix C provides the language of these learning goals. *Rose* is an important piece of the Lake View story because its language explicitly ties responsibility for educational outcomes to the state. If students are not achieving the desired educational outcomes, it is the responsibility of the state to provide the resources necessary to the districts and teachers for students to achieve.

Arkansas' constitution guarantees an adequate education to its citizens; its courts have enforced that guarantee; its legislature has committed to funding the formula. It is now time to be clear about what inputs are necessary to obtain an adequate education. OTL standards define the resources necessary, and a Student Bill of Rights communicates the assurance from the state that all students will be provided with the opportunity for academic achievement.

Drs. Odden and Picus designed a new funding formula in 2006, which was in part adopted by the Arkansas General Assembly.⁴⁶ Although the courts have now declared the state funding formula adequate, Arkansas is continuing to fail its most needy children as long as the achievement gap persists.

Arkansas has made great strides in improving education following the Lake View decision. In the Eighty-sixth General Assembly alone, it committed over \$450 million to improve school facilities.⁴⁷ It has been recognized for its efforts toward improvement.⁴⁸ It has raised teacher pay to 32nd in the nation and increased per pupil funding significantly.⁴⁹ These efforts have produced positive results: student scores have risen.

However, a 2005 Arkansas Public Policy Panel report concluded that the racial and income achievement gaps in Arkansas are severe and fail to offer equal opportunity to all students.⁵⁰ A more recent examination of the National Assessment of Educational Progress (NAEP) also shows that a persistent achievement gap continues to exist.⁵¹

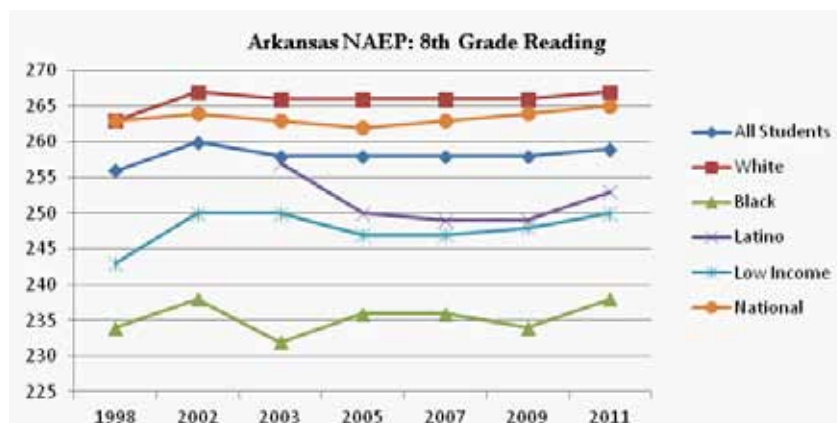
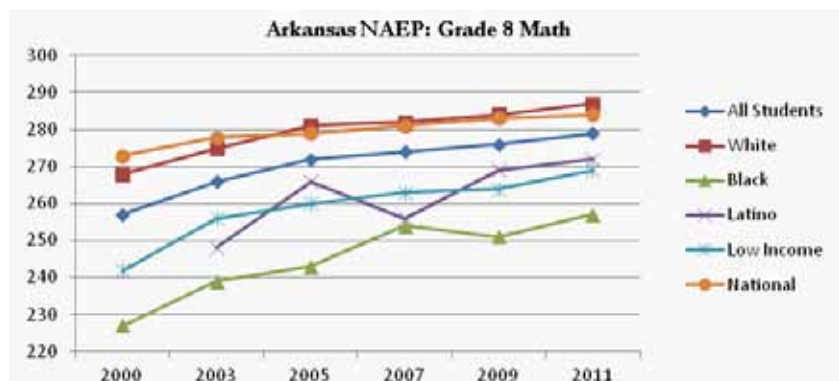
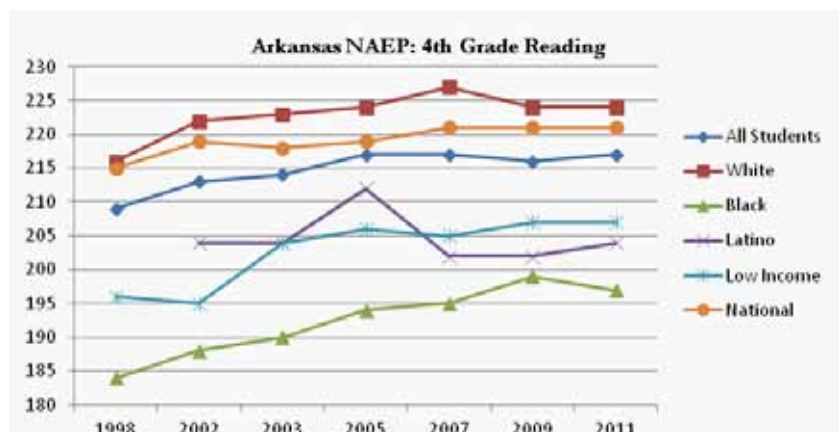
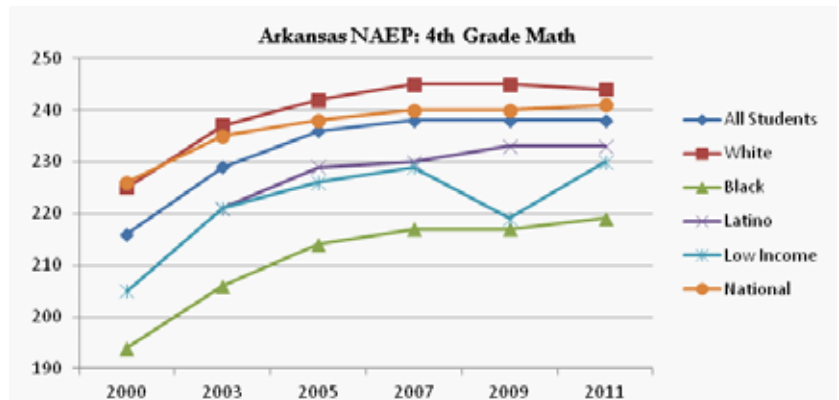
AN ARKANSAS STUDENT BILL OF RIGHTS

The NAEP uses scale anchors and achievement levels to describe where students should be at developmentally significant points (9, 13, and 17 years old/4th, 8th, and 12th grades). The 12th grade assessment is only given to students for the National NAEP. The scale for each test is broken into three levels: basic, proficient, and advanced. The scale score cut points are determined by the National Assessment Governing Board using item mapping, a process in which individual assessment items are mapped to a point on a corresponding scale. The point on the scale is determined through a response probability convention that divides students with a higher probability of answering correctly from students with a lower probability. For example, fourth grade students will have had greater exposure to long division than third graders and thus are more likely to answer those problems correctly.

The achievement gap is particularly concerning given the growing body of research linking fourth grade reading proficiency and high school drop outs. It is estimated that nearly 6.2 million 16-24 year olds were high school dropouts in 2007.⁵⁴ The general hypothesis is that students drop out in high school because they lose interest in motivation in middle school, stemming from retention in grade and the inability to keep up academically, as a result of not being able to read proficiently as early as fourth grade.⁵⁵ In Arkansas, 71% of fourth graders are not proficient in reading.⁵⁶

The National Research Council has found that “academic success, as defined by high school graduation, can be predicted with reasonable accuracy by knowing someone’s reading skill at the end of third grade. A person who is not at least a modestly skilled reader by that time is unlikely to graduate from high school.”⁵⁷ The high correlation between fourth grade reading and high school success occurs because in the earlier grades students are learning to read, but by fourth grade students are reading to learn. If a student cannot read proficiently by the end of third grade, he is likely to continue struggling for the rest of his academic experience.

The Schott Foundation ranked Arkansas 47th



among the states when the Opportunity to Learn Indicator (OTLI) was combined with a measure of the educational quality.⁵⁸ It ranks 26th with the OTLI and 40th in quality. Of the four OTL indicators that the Schott Foundation measures, Arkansas ranks first in two areas: access to highly qualified teachers and access to college preparatory curriculum. Arkansas also ranked well on access to high-quality early childhood education: seventh. However, Arkansas ranked 33rd in access to instructional materials as reported by the National Center for Education Statistics.⁵⁹ Clearly, there are areas in which Arkansas is excelling, but because efforts have been so narrowly focused, the state continues to neglect its most vulnerable students.

SCALE SCORE CUT POINTS	Math ⁵²		Reading ⁵³	
	4th	8th	4th	8th
BASIC	214	262	208	243
PROFICIENT	249	299	238	281
ADVANCED	282	333	268	323

Arkansas' historically disadvantaged students have low access to quality schools and the percentage of students at national proficiency level is low. Its black students have only 44% of the opportunity to learn that its white students have, and its low-income students have only 78% of the opportunity to learn of the average-income white student.⁶⁰ Black students in Arkansas are more than twice as likely as white students to attend schools where they have little chance of becoming proficient in basic skills and graduating on time.⁶¹

Arkansas needs OTL standards and a Student Bill of Rights in order to fulfill its obligation and promise to the students of the state. In order to truly realize a reduction in the achievement gap, new and existing resources should be focused on research-proven strategies that enable disadvantaged students to succeed in school. Until the achievement gap ceases to persist, Arkansas is failing to provide an adequate and equitable education to its students.

ARKANSAS'S EFFORTS TO PROVIDE AN ADEQUATE AND EQUITABLE PUBLIC EDUCATION

A Student Bill of Rights offers Arkansas the opportunity to coordinate its efforts to create an environment in which all children can reach their potential. The state already has regulations and programs addressing many of the OTL indicators – and was recognized by Education Week in the 2012 “Quality Counts” as ranking fifth in the nation for its education infrastructure, although not its outcomes.⁶² The laws Arkansas has already committed to can be compiled, expanded, and clarified so that every parent, guardian, and community in Arkansas understands the rights of every student in every school. As the Student Bill of Rights coordinates existing laws, it can also codify the additional elements required to close the achievement gap.

Clear Standards

Arkansas has been a leader in developing its curriculum standards and continues to be at the forefront of curriculum standards development by joining with 43 other states in the Common Core Standards Initiative. Common Core is an effort to improve college and career readiness across the nation. Its mission is to:

Provide a consistent, clear understanding of what students are expected to learn, so teachers and parents

know what they need to do to help them. The standards are designed to be robust and relevant to the real world, reflecting the knowledge and skills that our young people need for success in college and careers. With American students fully prepared for the future, our communities will be best positioned to compete successfully in the global economy.⁶³

Equitable Instructional Resources

Act 1039 of 2011 provides foundation per pupil funding to ensure equal minimal funding is provided to schools throughout the state.⁶⁴ For the 2011-2012 fiscal year, foundation funding is \$6,144.

However, Arkansas Advocates for Children and Families (AACF) published a report following the 2008-2009 school year examining unspent National School Lunch Act (NSLA) money. AACF found that over \$25 million had been stockpiled since 2004 when the program began, rather than being used to help poor students close the achievement gap. Significant resources go to Arkansas's schools, but if those resources are not being used to provide opportunities for students, they do little to improve educational outcomes.

Adequate Facilities

The Lake View decision found that the “appropriations for the Immediate Repair Program and Priority One facilities construction and repair for safe, dry, and healthy facilities were grossly underfunded and, thus, inadequate.”⁶⁵ Following Act 1237 of 2007, which appropriated \$456,000,000 for public school academic facilities in addition to \$150,000,000 available from unspent fund balances and \$35,000,000 for each year of the following biennium, the courts found that the state's share of approved academic facilities requests was fully funded.⁶⁶

High-Quality Teachers

Act 1209 of 2011 established the Arkansas Teacher Excellence and Support System based on Charlotte Danielson's Framework for Teaching, which includes four domains of teaching responsibility. The four domains are planning and preparation, the classroom environment, instruction, and professional responsibilities.⁶⁷ The framework is based on research and reflects proven practices to boost student learning by using clear, concise evidentiary data for professional growth and development to increase student achievement. It also highlights teachers whose successful strategies can be celebrated and shared, as well as uncovering weaknesses that can be addressed and improved.

Rigorous Curriculum

Over the last decade, Arkansas made expanded access to Advanced Placement (AP) courses a top priority of its education program. As of the 2008-09 school year, all state high schools are required to offer at least one AP course in the four core academic areas, either in traditional classrooms or via distance learning. The state has extended that commitment by allocating funds to pay students' AP exam fees and reward schools for each test score of three or higher. In addition, the Arkansas Advanced Initiative for Math and Science (AAIMS) is



working with specific schools throughout the state to increase the number of passing AP scores in mathematics, science, and English by 25% annually.⁶⁸ AAIMS is establishing best practices for AP instructors throughout the state and the growing number of pass scores reflects its successful work. In 2002, 5% of test-takers earned a score of 3 or better; in 2007, almost 10% of state juniors passed at least one AP test.⁶⁹

Safe School Environment

The Arkansas Safe Schools Initiative of the Criminal Justice Institute “provides programs and resources that assist in reducing violence and violence related behaviors in Arkansas schools.”⁷⁰ It was awarded a grant from the U.S. Department of Justice, Office of Community Oriented Policing (COPS) to provide foundational support for the state’s School Resource Officer (SRO) program. The program strives to provide basic and specialty school safety training courses for school resource officers, school security officers, and school personnel. It also produces a manual for local law enforcement, agencies, and schools when implementing an SRO program.

Fair and Authentic Assessment

Arkansas combines a criterion-reference test (CRT), aligned with the state’s curriculum frameworks, with a national norm-referenced test (NRT) to form the Augmented Benchmark Examinations given to students in

OPPORTUNITY TO LEARN INDICATORS	ARKANSAS'S EFFORTS
Clear Standards	Common Core Standards Initiative
Equitable Instructional Resources	Funding formula includes foundation funding of \$6,023
Adequate Facilities	\$456 million to school facilities in Act 1237 of 2007
High-Quality Teachers	Arkansas Teacher Excellence and Supporty Systeme - Act 1209 of 2011
Rigorous Curriculum	All state high schools required to offer at least one AP course in the four core academic areas Allocated funds to pay for students' AP exams
Safe School Environment	Arkansas Safe Schools Initiative
Fair and Authentic Assessment	Criterion-referenced tests (Grades 3-8) Norm-referenced tests (Grades 3-8) Grade 11 Literacy Exam End-of-Course exams in algebra I, geometry, and biology
Native Language Instruction	Additional funding including in funding formula for ELL students Administers the English Language Development Assessment (ELDA)
System Transparency	Arkansas School Performance Report Cards
Community Involvement	UALR Bowen School of Law Arkansas Special Education Mediation Project Arkansas State PTA Grassroots Organizations
Early Childhood Education	Arkansas Better Chance (ABC) nationally recognized for access and standards

the third through eighth grades.⁷¹ The CRT part of the exam focuses on measuring student performance on items specifically developed by Arkansas teachers and the Arkansas Department of Education. The NRT part of the exam rank-orders student performance based on national norms. In ninth through twelfth grades, the CRT portion includes a Grade 11 Literacy exam and End-of-Course exams in algebra I, geometry, and biology, also aligned with the Arkansas Curriculum Frameworks and developed by Arkansas teachers and the Arkansas Department of Education.

Native Language Instruction

In addition to the foundation funding provided by the state, schools in Arkansas receive an additional \$299 for each English Language Learner (ELL) enrolled.⁷² These additional funds enable educators throughout Arkansas to meet the unique needs of ELL students.

System Transparency

Arkansas publishes the Arkansas School Performance Report Card “to disseminate statistical performance information to students, parents and interested community members so that they can work with their schools to ensure that Arkansas provides every student with access to an extraordinary education.”⁷³ The Report Card follows seven accountability indicators: student achievement, school performance, retention, safe and orderly environment, teacher quality, choice, and school funding.⁷⁴

Parental and Community Involvement

The UALR Bowen School of Law Arkansas Special Education Clinic provides trained, professional mediators to assist in resolving special education disputes.⁷⁵ While this program is only available to children with special educational needs, it provides an excellent model for effective conflict resolution between students, parents, teachers, and administrations. Additionally, Arkansas has a robust and active statewide PTA, which includes many local chapters, and several grassroots organizations, such as the Arkansas Public Policy Panel and the Rural Community Alliance, that promote parental and community involvement.⁷⁶

Early Childhood Education

In 1991, the Arkansas Better Chance (ABC) program was established. In the twenty years since its establishment, the state has continued to increase its funding to the program and as of 2011 provides \$111 million annually to provide 20,500 children with access to early childhood education. The National Institute for Early Education Research (NIEER) ranks Arkansas eleventh nationally in spending on pre-k.⁷⁷ In addition, Arkansas meets nine of ten benchmarks on NIEER’s “Quality Standards Checklist.”⁷⁸

IS IT TIME FOR AN ARKANSAS STUDENT BILL OF RIGHTS?

While Arkansas has examples of all the necessary OTL inputs, they are not sufficient without a universal commitment to ensuring their effectiveness, coordination, and implementation. Clearly these inputs are positive first steps, but until the achievement gap is closed, they are not enough. To not only compete, but to simply survive in the twenty-first century, children need access to a high-quality education.

A Student Bill of Rights will position Arkansas to be a leader in the next phase of education reform, as well as guarantee the resources necessary for all of the states’ children to reach their highest potential. Arkansas must do this to protect its future economic stability and increase its competitiveness – without an educated workforce, Arkansas will continue to lag behind the nation in all economic measures. However, above and beyond the economic security of the state, the foundation of democracy is rooted in an educated populace. Arkansas must do everything in its power to provide a high-quality education to its people to ensure freedom continues to prevail. A Student Bill of Rights clearly communicates Arkansas’s commitment to building a strong economy and a government of the people by the people.

APPENDIX A

West Virginia's Pauley v. Kelly⁷⁹

We may now define a thorough and efficient system of schools: It develops, as best the state of education expertise allows, the minds, bodies and social morality of its charges to prepare them for useful and happy occupations, recreation and citizenship, and does so economically.

Legally recognized elements in this definition are development in every child to his or her capacity of (1) literacy; (2) ability to add, subtract, multiply and divide numbers; (3) knowledge of government to the extent that the child will be equipped as a citizen to make informed choices among persons and issues that affect his own governance; (4) self-knowledge and knowledge of his or her total environment to allow the child to intelligently choose life work to know his or her options; (5) *706 work-training and advanced academic training as the child may intelligently choose; (6) recreational pursuits; (7) interests in all creative arts, such as music, theatre, literature, and the visual arts; (8) social ethics, both behavioral and abstract, to facilitate compatibility with others in this society.

Implicit are supportive services: (1) good physical facilities, instructional materials and personnel; (2) careful state and local supervision to prevent waste and to monitor pupil, teacher and administrative competency.

APPENDIX B

The Students' Bill of Rights⁸⁰

- 1) A clear statement of the academic standards that both define what students are expected to know and be able to do at every educational level and specify the basic conditions for learning that students and families can expect from the educational system.
- 2) Adequate learning materials and resources, including:
 - Materials necessary to support the instructional program at each level recommended in the state curricular standards;
 - Individual texts, workbooks and other instructional materials (e.g., graphing calculators for mathematics) for use in and out of school;
 - Books that can be borrowed from the school library and elsewhere that the student may use individually;
 - Computers with internet access that each student may use on a regular basis;
 - Necessary equipment for rigorous science and mathematics instruction;
 - Resources for teachers to tailor and creatively adapt curriculum to the interests and needs of individual students;
 - Suitable chairs, desks and other classroom equipment.
- 3) A suitable learning environment and school classrooms, buildings, and facilities that enable learning and health, including:
 - School facilities located within a reasonable commuting distance of one's home;
 - Clean, uncrowded, well-lighted classrooms and other instructional spaces with adequate ventilation and necessary heating and air conditioning, reasonably maintained and free of vermin, mold and other health hazards;
 - Adequate laboratories and studios for students to complete rigorous work in science and the arts;
 - Bathrooms and sanitary facilities that are unlocked, accessible, well-stocked and maintained in decent, safe, and sanitary condition;
 - Outdoor space sufficient for exercise and sports;
 - Adequate school nursing services;
 - Adequate lunch periods with nutritious food;
 - Educational programs during "off-track" periods.
- 4) High-quality teachers and counselors, including:
 - Teachers adequately trained to teach the subject;
 - Teachers who have a caring attitude towards students;
 - Teachers who receive ongoing professional development and training;
 - Teachers who have the cultural and linguistic skills and backgrounds to optimally teach California's diverse population;
 - Teachers who understand and use knowledge of cultural differences to inform instructional decisions and multiple teaching strategies;
 - Teachers who have sufficient time to devote to each students' development--hence access to classrooms with a reasonable cap on class size;
 - Counselors available to meet with students at regular intervals throughout the school year;
 - Counselors who serve as student advocates, instructional leaders, and parent education leaders;
 - Middle and high school counselors who are trained in college preparation and admissions, community college and four-year college programs, and postsecondary financial options.

5) A course of instruction that will enable all students who wish to do so to compete for admission to any public university in the state and participate actively in California's civic life, including:

- Access to challenging curriculum in elementary and middle school that prepares students to enroll and succeed in college preparatory curriculum in high school;
- Access to A-G course sequence;
- Access to AP courses regardless of which 'track' or which part of the school the student is enrolled in;
- Access to the full array of curricular and extra-curricular options offered across the entire school calendar. No student can be denied access to any program offered in the school because of their assignment to a particular "track" in a year-round.

6) A safe and supportive school environment, including:

- Protection from harassment or abuse of any kind, from any person, including those persons designated to provide school security;
- A fair and nondiscriminatory disciplinary system;
- Proactive measures on the part of the school to prevent criminalization of youth.

7) Fair and authentic assessment that is used to measure and improve the quality of education students receive and supplementary educational services that respond to identified student needs, including:

- Measures that are sensitive to the diversity of learners and of school communities;
- Measures that allow students to demonstrate their competence authentically for the purpose of graduation, state scholarship funds, and college eligibility;
- Items and results that are available immediately, and that are reported in ways that enable teachers to guide students and design further learning opportunities and that enable students to take a more active role in directing their learning;
- Reports that communicate what students have learned, rather than scores based on norms or other representations of the "bell curve;"
- Full disclosure of all of the uses to which student assessment information will be put;
- The right of parents/students to waive out of any standardized test.

8) Instruction which incorporates students' home language so as to provide all students with equal opportunity to access curriculum and develop and maintain proficiency in their native language.

9) Easily understood, current, reliable information on the performance of the school in delivering each of the rights herein listed, including:

- Access by parents, guardians, and students to accurate information about the quality of services each student receives and the individual student's preparation for, and completion of, requirements for college eligibility;
- Access by parents, students, the press and the public to information, disaggregated by race/ethnicity, gender, socio-economic status, and curricular 'track' assignment, on the quality of services provided to all students within the school;
- Access by parents, students, the press and the public to information, disaggregated by race/ethnicity, gender, socio-economic status, and curricular 'track' assignment, on student preparation for, and completion of, requirements for college eligibility;
- Access by parents, students, the press and the public to information, disaggregated by race/ethnicity, gender, socio-economic status, and curricular 'track' assignment, on disciplinary actions taken by the school.

10) Regular public forums that allow students and parents to communicate their experiences relative to these

rights to educators and local and state elected officials responsible for insuring these rights, including:

- Access to mediation services to resolve conflicts with teachers, principals, or other school personnel;
- Access to an ombudsperson who will advocate on behalf of students and families in their interactions with schools, districts, and the state;
- “Whistle-blowing” protection for educators and others who might expose violations of law or standards of fairness and equity;
- The right of students, parents, and teachers to associate, organize, protest, and petition—without threat of retaliation—to insure that the rights as herein enumerated are being met.

APPENDIX C

Rose Learning Goals⁸¹

1. Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
2. Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
3. Sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
4. Sufficient self-knowledge and knowledge of his or her mental and physical wellness;
5. Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
6. 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
7. 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.

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⁷¹“Testing – Student Assessment,” Arkansas Department of Education, 5 November 2011 <<http://arkansased.org/testing/assessment.html>>

⁷²“Approved Memos.”

⁷³“Testing – Performance Reports,” Arkansas Department of Education, 5 November 2011 <http://arkansased.org/testing/performance_report.html>

⁷⁴“Testing – Performance Report – Accountability Indicators,” Arkansas Department of Education, 5 November 2011 <<http://arkansased.org/testing/performance/indicators.html>>

⁷⁵“Mediation Clinic,” UALR: William H. Bowen School of Law, 22 November 2011 <<http://ualr.edu/law/clinical-programs/mediation-clinic>>

⁷⁶“Arkansas PTA,” Arkansas PTA, 22 November 2011 <<http://www.arkansaspta.org>>

⁷⁷“Arkansas,” National Institute for Early Education Research, 5 October 2011 <http://nieer.org/yearbook/pdf/yearbook_AR.pdf>

⁷⁸“Arkansas.”

⁷⁹Pauley v. Kelly, 162 W.Va. 672, 705-06, 255 S.E.2d 859, 875 (1979).

⁸⁰“The Student Bill of Rights.”

⁸¹Rose v. Council for Better Education

For more information on this and other issues that affect children and families in Arkansas, visit www.aradvocates.org

The mission of Arkansas Advocates for Children and Families is to ensure that all children and their families have the resources and opportunities to lead healthy and productive lives and to realize their full potential. We serve as a voice for children at the Arkansas State Capitol and in Washington, D.C., gather and analyze data to support public policy that serves all children and families, and organize coalitions of diverse groups to drive change.

