

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
DIVISION \_\_\_\_\_

**ROCHELLE ANDERSON and  
ANTHONY DOE, a minor**

**PLAINTIFFS**

vs.

Case No. 60CV-19-\_\_\_\_\_

**MICHAEL POORE**, in his official capacity  
as Superintendent of the Little Rock School District;  
**LAURA ROBERTSON, ROBERT BONNETTE, JR.,  
MARTHA CARDER, and ROGER RASICO, JR.**  
in their official capacity as  
Pulaski County Juvenile Intake Officers;  
and **PULASKI COUNTY, ARKANSAS**

**DEFENDANTS**

**CLASS ACTION**

COMES NOW Plaintiffs Rochelle Anderson and Anthony Doe by and through their attorney Chris Burks of WH Law, PLLC, and for their Class Action Complaint against Michael Poore in his official capacity as Superintendent of the Little Rock School District, Laura Robertson, Robert Bonnette, Jr., Martha Carder and Roger Rasico, Jr. in their official capacity as Pulaski County Juvenile Intake Officers, and Pulaski County, Arkansas (“Defendants”), do hereby state and allege as follows:

**I. INTRODUCTION**

1. The Little Rock School District and the Pulaski County juvenile system operate an unconstitutional school-to-prison pipeline that disparately impacts African-Americans.

2. African-Americans in Little Rock School District School District schools are more likely to receive out-of-school suspensions for the same offense, more likely to be arrested for school-based offenses, and once detained are more likely to stay detained longer than other races. School infractions are over 500% more likely to happen to African-Americans than white students.

3. This school-to-prison pipeline deprives African-American children of their right to a general system of public schools, and their right to a free and fair resolution of offenses under the Arkansas Constitution.

4. The Arkansas Constitution of 1874 Art. 14, § 1 requires that 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.”

5. However, African-American students in the Little Rock School District that is administered by Michael Poore and the State of Arkansas are disparately subjected to exclusionary school discipline and other tactics like arrests that deny them a general system of public schools. Despite being on notice of its discriminatory conduct for years, Defendants have not taken sufficient steps to eradicate this tragic cascading inequity.

6. Defendants’ use taxpayer funds to support school-based arrests and resulting detainment, yet nothing could be more arbitrary or illegal than receiving a harsher punishment solely based on your race.

7. Because Defendants spend property and sales tax revenue on a system that meets the legal definition of arbitrary and discriminates on the basis of race, the portion of the exaction that supports the arbitrary and discriminatory spending is illegal.

8. Taxpayers should be refunded the waste of tax money spent arbitrarily and illegally.

9. This Court should thus certify a class of all African-American children suspended or expelled who were also arrested at school and thus in the juvenile system within the past three years.

10. Defendants' mistreatment of African-American students flows from and perpetuates implicit biases and stereotypes that portray African-American youth as violent and aggressive, which can lead to unjustified exclusion from school.

11. Defendants' practices not only communicate these implicit biases and stereotypes, but also risk these students internalizing the underlying message that they do not belong in an educational environment in which their physical and emotional safety are at risk.

12. Defendants' actions and failures create real and lasting harms, including emotional trauma and feelings of stigmatization and isolation. The discriminatory arrests and detainment, as well as failure to stop them, is arbitrary, capricious, in bad faith and wantonly injurious to African-American students and their families as will be set forth more fully below.

13. Any hostile educational environment harms not only the students who are dehumanized and discriminated against, but all who witness and are implicitly taught to normalize such discriminatory treatment.

14. Thus this Court should remedy the unconstitutional school-to-prison pipeline by, at minimum, issuing an Order giving a finite time for the other branches of government to have the:

- a) **Little Rock School District revise its school discipline policy** and training that to the extent practicable stops documenting, suspending, expelling and arresting African-American students in disproportionate numbers.

- b) **Little Rock School District contract with outside provider to track and research school discipline and report back to the Court** to ensure that the school discipline system is not continuing to disparately impact African-American students.
- c) **Pulaski County, Arkansas create and implement an intake policy that provides alternatives to detention** such as release upon written conditions, use of electronic monitoring and release to a shelter for those who would otherwise be released from custody but are not although such policies are authorized by Arkansas Code Annotated § 9-27-322.
- d) **Little Rock School District and Pulaski County, Arkansas allocate an increased budget towards evidence-based programs for-diversions** such as Teen Court and mediation that seek to remedy recidivism and account for the fact that African-Americans have been desperately charged and thus detained at a higher rate.

15. Only then will African-American students receive a truly general and equal education.

## II. JURISDICTION AND VENUE

16. This action for declaratory and injunctive relief over illegal acts by Defendants arises under several provisions of the Arkansas Constitution and statutory law, to wit:

a) the Arkansas Constitution of 1874, Art. 14, § 1, which requires that the “State shall ever maintain a general, suitable and efficient system of free public schools;”

b) the Arkansas Constitution of 1874 Art. 2, § 2, which states that “all men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property, and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed;”

c) the Arkansas Constitution of 1874 Art. 2, § 3, which holds that “the equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity; nor exempted from any burden or duty, on account of race, color or previous condition;”

d) the Arkansas Constitution of 1874 Art. 2, § 8, which holds “nor shall any person...be deprived of life, liberty or property, without due process of law;”

e) the Arkansas Constitution of 1874 Art. 2, § 13 which provides that “every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without purchase...;”

f) the Arkansas Constitution of 1874, Art. 16, § 13; which states that “any citizen of any county, city or town may institute suit, in behalf of himself and all others interested, to protect the inhabitants thereof against the enforcement of any illegal exactions whatever;”

g) and the Arkansas Civil Rights Act of 1993 A.C.A. § 16-123-105 which guarantees that any person subject to “deprivation of any rights, privileges, or immunities secured by the Arkansas Constitution” may file in circuit court and obtain “a reasonable attorney’s fee in an amount to be fixed by the court.”

17. Arkansas Courts have long looked to analogous provisions of federal law in interpreting the Arkansas Constitution and statutory law, thus Plaintiffs’ equal protection and due process claims can be understood by analysis of the Fourteenth Amendment to the United States Constitution, and Plaintiffs’ Civil Rights Act claims understood by analysis of 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. § 2000d *et seq.*

18. This Court has subject matter jurisdiction and personal jurisdiction over the issues and persons before it.

19. Venue is proper in this Court pursuant to Arkansas Code Annotated § 16-60-101, *et. seq.*

20. The Arkansas Supreme Court has long held that “lawsuits for injunctive relief” where an official is “acting unlawfully, unconstitutionally, or otherwise outside the scope of his/its authority (*ultra vires*)” are not barred by sovereign immunity.

### **III. PARTIES**

#### **A. Anthony Doe**

21. Anthony Doe is a citizen and resident of Pulaski County and student in the Little Rock School District. His name will be revealed under seal per the Arkansas Rules of Civil Procedure and Supreme Court Administrative Orders.

22. Anthony Doe is an African-American who has been suspended and arrested at school, with a pending charge in the Pulaski County juvenile system. He has experienced repeated exclusionary discipline and classroom removals for non-criminal behavior. He has all rights under the Arkansas Constitution and may obtain a declaratory judgment under Arkansas Code Annotated § 16-111-104 *et seq.*

#### **B. Rochelle Anderson**

23. Rochelle Anderson is a citizen and resident of Pulaski County, taxpayer and mother of a minor African-American student, Anthony Doe, in the Little Rock School District.

24. She has all rights under the Arkansas Constitution and may obtain a declaratory judgment under Arkansas Code Annotated § 16-111-104 *et seq.*

### **C. Mike Poore in his official capacity**

25. Little Rock School District Superintendent Michael Poore, in his official capacity, has the duty under Arkansas Code Annotated § 6-13-109 to “direct the affairs of the school district,” including making and implementing administrative decisions for the schools and students within his jurisdiction.

26. Defendant Poore is responsible for ensuring that children in the Little Rock School District are provided equal access to public education programs and activities offered in the LRSD, as well as ensuring that all federal and state laws and regulations are applied equally to all children.

### **D. Pulaski County Juvenile Intake Officers in their official capacity**

27. Pulaski County Juvenile Intake Officers Laura Robertson, Robert Bonnette, Jr., Martha Carder and Roger Rasico, Jr. in their official capacity, have the duty to follow Arkansas Code Annotated § 9-27-310 to “substantiate” information sent to them as an “intake officer” and to then “refer the matter” if substantiated. Defendant Intake Officers also have a duty under Arkansas Code Annotated § 9-27-322 to release some juveniles upon conditions of release, electronic monitoring, and/or to shelter care and authority under Arkansas Code Annotated § 9-27-323 to divert to a program or teen court. Defendant Intake Officers are responsible for ensuring that all federal and state laws and regulations are applied equally to all juveniles processed, and are accountable to the County itself for such duties.<sup>1</sup> Defendant Intake Officers have no policy that

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<sup>1</sup> See Ark. Code Ann. § 16-13-331(d)(1) which reads that the General Assembly has created a duty in each county to provide adequate juvenile positions to serve the needs of the county. The needs of the county are necessarily a matter of local concern and these positions must answer to an elected official of the county. The requirements of Ark. Code Ann. §§ 16-13-327 and 328, which assign juvenile intake and probation officers to work with juvenile division circuit judges in part, do not fix the number of positions or salaries and do not preclude the county from exercising authority over the duties of those positions.

allows for release upon conditions of release, use of an electronic monitor, and/or use of shelter beds, nor is there a policy to divert juveniles to teen court.

#### **E. Pulaski County, Arkansas**

28. Pulaski County Arkansas pays and employs juvenile officers under Ark. Code Ann. § 16-13-331(d)(1). The County has a duty to ensure that all federal and state laws and regulations are applied equally by its employees to all juveniles detained or to be given an alternative to detention, and that it has policies that as applied do not disparately impact African-Americans.

#### **IV. LEGAL FRAMEWORK**

29. *Lake View School Dist. No. 25 v. Huckabee*, 349 Ark. 481, 484, 10 S.W.3d 892 (2000) (Lake View II) held that the State's failure to act can be inequitable under the Equal Protection clause of the Arkansas Constitution, and inadequate under Article 14, Section 1 of the Arkansas Constitution if the government fails to ensure a "general, suitable and efficient" public school system. *Huckabee*, 10 S.W.3d 892 at 894.

30. Arkansas Courts have long given constitutional and statutory language its plain and ordinary meaning. *Gritts v. State*, 315 Ark. 1, 864 S.W.2d 859 (1993); *Mountain Home School District No. 9 v. T M. J Builders, Inc.*, 313 Ark. 661, 858 S.W.2d (1993); *Omega Tube & Conduit Corp. v. Maples*, 312 Ark. 489, 850 S.W.2d 317 (1993).

31. Thus, the plain and common meaning of words may be found in the dictionary. Consulting The American Heritage Dictionary of the English Language, the following plain meanings are:

"General" - applicable to the whole, to every member of a group;

"Suitable" - adapted to a purpose.

"Efficient" - productive of the desired without waste.



32. The Little Rock School District and State, by and through the actions and inactions of its Superintendent Defendant Poore, is excluding African-American students, from a general education by suspending and having them arrested disproportionately. Further, the State is not maintaining an efficient system of free public schools because it is wasting taxpayer resources in a system that disparately impacts African-Americans.

33. Defendants are also depriving Plaintiffs of “life and liberty” under Arkansas Constitution of 1874 Art. 2, § 2, by having them arrested and detaining them disproportionately. An arrest and detainment by their very definition implicate a fundamental liberty interest.

34. Plaintiffs are not being treated with “equality” and are being “deprived of” their “rights, privileges and immunities...on account of race” and “color” in violation of Arkansas Constitution of 1874 Art. 2, § 3 when they are suspended and arrested and thus detained and held at a disproportionate rate simply because of their race and color.

35. Plaintiffs are being “deprived of life, liberty...without due process of law” when the policy of Defendants is to suspend and arrest and thus detain and hold at a disproportionate rate simply because of their race and color.

36. Plaintiffs are also not able to “obtain justice freely, and without purchase...;” in violation of the Arkansas Constitution of 1874 Art. 2, § 13 because they must take off work, provide daycare for siblings, and incur the costs associated with travel.

37. Plaintiffs as taxpayers have a right under the Arkansas Constitution of 1874, Art. 16, § 13; to recover from the “illegal exactions” of their taxes being used to operate a system that is by definition arbitrary and discriminates on the basis of race, and thus illegal.

38. Plaintiffs' claims under the Arkansas Civil Rights Act of 1993 A.C.A. § 16-123-105 are that they are being "depriv[ed] of rights, privileges, or immunities secured by the Arkansas Constitution" as set forth above and that they are entitled to obtain "a reasonable attorney's fee in an amount to be fixed by the court."

38. Arkansas Courts look to analogous provisions of federal law in interpreting the Arkansas Constitution and statutes, thus Plaintiff's equal protection and due process claims can be understood by analysis of the Fourteenth Amendment to the United States Constitution, and the Civil Rights Act claims by 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964 ("Title VI"), 42 U.S.C. § 2000d *et seq.*

39. Like Articles 2 and 14 of the Arkansas Constitution, the Fourteenth Amendment to the U.S. Constitution provides for "equal protection of the laws." U.S. Const. amend. XIV. The Equal Protection Clause was created to prevent "official conduct discriminating on the basis of race." *Washington v. Davis*, 426 U.S. 229, 239 (1976).

40. The Fourteenth Amendment to the U.S. Constitution has been interpreted to mean that "[T]he opportunity of an education . . . where the state has undertaken to provide it, is a right which must be made available to all on equal terms." *Brown v. Board of Educ.*, 347 U.S. 483, 493 (1954). When a school district deprives a child of an equal education to those of her peers, "[t]he inestimable toll of that deprivation on the social economic, intellectual, and psychological well-being of the individual . . . make it most difficult to reconcile the cost or the principle of a status-based denial of basic education with the framework of equality embodied in the Equal Protection Clause." *Plyler v. Doe*, 457 U.S. 202, 222 (1982).

## **V. FACTUAL ALLEGATIONS**

### ***a) Defendants' Unlawful Actions and Inactions***

41. Defendant Poore fails to ensure lawful adherence to neutral policies, procedures, and programs with respect to African-American students with supposed discipline infractions. Defendant's failure to adhere to legally-compliant policies, procedures, and programs results in LRSD discriminatorily suspending and arresting African-American students, at rates significantly higher than white students charged with the same infractions.

42. Despite the concerns expressed by the July 27, 2017, Stakeholder Report to Defendant Poore and State with data that showed that African-American students were sanctioned at rates disproportionately high to their population in a school, LRSD has not sufficiently reformed its practices related to the use of discipline.

43. For example, in the 2018-2019 school year, there were 254 out-of-school suspensions at McClellan High School taking students away from the learning environment. As is expected when students are missing so much instructional time, the school's Value-Added Growth score was 77.58, indicating students, on average, are losing ground compared to their expected growth in achievement.<sup>2</sup>

44. Put in context, there were 26 out-of-school suspensions for every 100 African-American students at McClellan High School in 2018-2019. Importantly, students placed in suspension or arrested are more likely to dropout. Thus as is expected when there are so many arrest and suspensions, in 2018-2019, the 4-Year Graduation Rate at Little Rock McClellan was 73.02%, well below the 2018 statewide average of 89.2%.<sup>3</sup>

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<sup>2</sup> <https://myschoolinfo.arkansas.gov/Schools/Detail/6001064>

<sup>3</sup> <https://myschoolinfo.arkansas.gov/Schools/Detail/6001064>

45. Crucially, African-Americans in Little Rock School District schools are more likely to receive out-of-school suspensions for the same offense,<sup>4</sup> more likely to be arrested for school-based offenses,<sup>5</sup> and once detained are more likely to stay detained longer than other races.<sup>6</sup>

46. From June to December of 2018, there were 54 school-based arrests at 86.5% African-American Little Rock McClellan and only 5 school-based arrest at 52.1% African-American Little Rock Central,<sup>7</sup> even though the Defendants have long been on notice that over several years prior the likelihood that an out-of-school suspension happened to an African-American student as compared to a Caucasian student was 5.1 times greater.<sup>8</sup>

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<sup>4</sup> <https://epaa.asu.edu/ojs/article/view/2787/1911> *Education Policy Analysis Archives Vol. 25 No. 49* 2, May 22, 2017 “We find that marginalized students are more likely to receive exclusionary discipline, even after controlling for the nature and number of disciplinary referrals, but that most of the differences occur across rather than within schools. Across the state, black students are about 2.4 times as likely to receive exclusionary discipline (conditional on reported infractions and other student characteristics) whereas within school, this same conditional disparity is not statistically significant. Within schools, the disproportionalities in exclusionary discipline are driven primarily by non-race factors such as free- and reduced-price lunch (FRL) eligibility and special education status. We find, not surprisingly, that schools with larger proportions of non-White students tend to give out longer punishments, regardless of school income levels, measured by FRL rates. Combined, these results appear to indicate multiple tiers of disadvantage: race drives most of the disparities across schools, whereas within schools, FRL or special education status may matter more.”

<sup>5</sup> *Id.* See Also, <http://www.uaedreform.org/downloads/2017/04/do-school-discipline-policies-treat-students-fairly-a-second-look-at-school-discipline-rate-disparities.pdf> “We find that, even after controlling for student infractions, there are large racial disproportionalities in the length of punishments....”

<sup>6</sup> <https://pulaskicounty.net/wp-content/uploads/2019/06/January-2019-JDAI-Meeting.pdf> January 2019, Pulaski County JDAI Presentation, Chief Deputy Pulaski County Attorney. 80% of those detained were African-American, 38% of all arrests were school-based arrests, and 98 of the overrides who stayed detained longer than they might have “were eligible for release or alternative (however, 9 of these were subject to mandatory holds), but placed in a more restrictive detention setting. Domestic incidents where youth were unable to return home for safety reasons was the most common reason for detention, which indicates the addition of shelter beds would be supported as a data driven decision.” African-American incidents of home-based incidents are higher, and family availability disparately impacts African-Americans.

<sup>7</sup> <https://pulaskicounty.net/wp-content/uploads/2019/06/January-2019-JDAI-Meeting.pdf> January 2019, Pulaski County JDAI Presentation, Chief Deputy Pulaski County Attorney.

<sup>8</sup> University of Arkansas Office for Education Policy, Dr. Gary Ritter, August 15, 2016 Presentation of data to the Little Rock Area Public Education Stakeholders Group.

47. Put another way, in the LRSD over a period of three years, school infractions were over 500% more likely to happen to African-Americans than white students.<sup>9</sup> This is one nefarious essence of the school-to-prison pipeline: African-American students are disproportionately in schools where they are suspended and arrested for incidents that would not get non-African American students suspended and arrested.

48. To the extent free- and reduced-price lunch (FRL) eligibility correlates to within-school disparities in punishment, race has a profound impact on economics in a way that still demonstrates race is a prevailing factor in these punishment decisions. In the seminal and comprehensive, peer-reviewed economic study on this topic, the findings prove that race explains punishment more than merely can be explained by income, for an illustrative example; “Black men raised in the top 1 percent — by millionaires — were as likely to be incarcerated as white men raised in households earning about \$36,000.”<sup>10</sup>

49. To be clear, the study shows that “black men earn significantly less than white men, even when they were raised in families making the same amount. Poor black boys tend to stay poor as adults, and wealthy black boys are more likely to be poor as adults than to stay wealthy.” The assumption that socioeconomic status matters, but that race and racism — aside from their impact on family income — does not matter, is not supported by the data.<sup>11</sup>

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<sup>9</sup> University of Arkansas Office for Education Policy, Dr. Gary Ritter, August 15, 2016 Presentation of data to the Little Rock Area Public Education Stakeholders Group.

<sup>10</sup> <https://chalkbeat.org/posts/us/2018/03/23/race-not-just-poverty-shapes-who-graduates-in-america-and-other-education-lessons-from-a-big-new-study/>; [http://www.equality-of-opportunity.org/assets/documents/race\\_paper.pdf](http://www.equality-of-opportunity.org/assets/documents/race_paper.pdf)

<sup>11</sup> <https://chalkbeat.org/posts/us/2018/03/23/race-not-just-poverty-shapes-who-graduates-in-america-and-other-education-lessons-from-a-big-new-study/> ; [http://www.equality-of-opportunity.org/assets/documents/race\\_paper.pdf](http://www.equality-of-opportunity.org/assets/documents/race_paper.pdf)

50. In other words, race matters the most. Crucially, “differences in ability also do not explain the patterns of intergenerational mobility...” and that the “black-white gap persists even among boys who grow up in the same neighborhood.”<sup>12</sup>

51. Further, the LRSD has failed to leverage the funds it expends on alternative schools and placements to, instead, provide students with discipline issues with non-discriminatory access to education in the general education environment. LRSD’s out-of-school suspension and segregation of African-American students with discipline issues causes these students ongoing harm. Because Defendants fail to provide African-American students with discipline issues access to the same educational opportunities as their peers, these students fall further and further behind.

52. Students who experience exclusionary discipline lose instructional opportunities, are more likely to have decreased school connectedness and have reduced opportunities for pro-social development. Over time, the cumulative effect of exclusionary discipline can disengage students from their education, risking further negative outcomes for these students.

#### **b) District Policies that Result in Discriminatory Discipline**

53. Defendant Poore further segregates African-Americans through policies that lead to inappropriate exclusionary discipline. LRSD overly relies on time outside of the classroom, suspensions, and expulsions, which denies African-American students access to educational opportunities.

54. The District’s written student discipline board policy and administrative regulation purports to prevent that a student “be excluded from participation, or denied the benefits, or

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<sup>12</sup> *Id.* At 1.

subjected to discrimination.”<sup>13</sup> However, the District, despite being aware of the discrimination rampant in its schools, has engaged in a widespread policy of selective non-enforcement of its own written policy. Consequently, discrimination remains entrenched in the District’s disciplinary practices.

55. The District no longer has an annual program that will ensure mandatory professional development for all elementary, middle, and high school teachers in areas including restorative justice practices, social and emotional learning, implicit bias, and cultural proficiency.

56. Upon information and belief, Defendant Poore has not ensured such a program is implemented, and has not mandated such training for all District employees, despite knowledge that such training was necessary to address race- and disability-based discrimination in the District’s schools.

57. Further, the District has a written policy of prohibiting “Disruptive behavior that interferes with orderly school operations. Prohibited Conduct #2— Policy # 4.20.”<sup>14</sup> As a result of the selective application of this vague policy, African-American students with non-criminal discipline issues are unable to access critical support services, academic instruction, and social integration with their peers at a young age when such services and experiences are particularly critical to students’ social-emotional development and access to education.

58. Upon information and belief, the District has a policy of not providing students, including Plaintiff, with access to all educational enrichment programs during periods of disciplinary exclusion.

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<sup>13</sup><https://www.lrsd.org/site/handlers/filedownload.ashx?moduleinstanceid=4718&dataid=4479&FileName=LRSd%20Section%204%20-%20STUDENTS.pdf>

<sup>14</sup><https://www.lrsd.org/site/handlers/filedownload.ashx?moduleinstanceid=4718&dataid=4479&FileName=LRSd%20Section%204%20-%20STUDENTS.pdf>

59. Due to the lack of access to education, students with discipline issues fall further behind their classmates during disciplinary exclusions. African-American students suffer the greatest lack of access to education since, as described above, they bear the brunt of the District's discriminatory overuse of exclusionary discipline.

60. These failures result in the inappropriate use of exclusion from school in response to student behaviors, disproportionately impacting African-American students.

61. African-American students face an even greater risk of suspension under highly subjective, vague and discretionary categories like "disruptive behavior" or "disrespect."

62. Such offense categories are susceptible to implicit and explicit biases; educators are more likely to view ambiguous behavior as more hostile when performed by African-American rather than Caucasian actors.<sup>15</sup> Thus, highly discretionary and subjective offenses can be expected to result in disparate outcomes for African-American students when districts fail to mitigate this risk.

### **c) Individual Student Plaintiff**

63. Anthony Doe has experienced discrimination, segregation (including exclusionary discipline), and unequal educational opportunities that are illustrative and symptomatic of the District's failure to adhere to policies, as outlined above.

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<sup>15</sup> See Kurt Hugenberg & Galen V. Bodenhausen, *Facing Prejudice: Implicit Prejudice and the Perception of Racial Threat*, 14 Psychol. Science 640, 643 (Nov. 2003), available at <https://www.frontiersin.org/articles/10.3389/fpsyg.2017.00519/full> ; Anthony Page, *Batson's Blind-Spot: Unconscious Stereotyping and the Peremptory Challenge*, 85 B.U. L. Rev. 155, 22224 & n.337 (2005) (collecting studies showing that "that people will assign different significance to identical actions depending on the actors' race").



64. Unless and until the Defendants' address the problems outlined herein, Plaintiff and the class members will be unable to be free from discrimination and will not receive the equal access to a general public education in the integrated and inclusive school setting to which they are entitled.

65. The District has failed to provide Anthony Doe with appropriate mental health, behavioral, or social evaluations, nor has the District provided him the services, accommodations, provided to the wealthiest areas of Little Rock.

66. In addition, Anthony Doe has been sent home or kept in the office for most of the school day, and accordingly deprived of academic instruction, on several occasions. Upon information and belief, the District did not document, track, or report all of Anthony's additional removals from the classroom during the 2018-19 school year.

67. These removals constitute excessive and unlawful exclusionary discipline. Because of the District's policies that deny students with discipline issues access to the general education environment, Anthony Doe is at constant risk of being removed from his school and placed in a segregated setting where he also will not have equal access to his public education and where he is likely to be subjected to additional harms, such as a heightened risk of seclusion. He remains at constant risk of experiencing exclusionary discipline because the District does not follow its policies in regards to how District employees interact with students. District employees cannot merely turn children over to school resource officers to make arrests first without District employees following District processes.

68. Anthony Doe is further at risk because his school based-arrest puts him into a juvenile system that treats him differently on the basis of his skin color and race. Once he is

processed through juvenile intake, his constitutional rights are violated first if he is not given an alternative to detention for a charge others of a different race would be, then secondly if he is further detained and otherwise eligible for release but for the availability of family members, because African-Americans are much less likely in this system to be available to accept him upon release. Further, the failure to have a policy that would provide juveniles upon intake non-detention alternatives such as release with written conditions, electronic monitoring, and/or use of a shelter disparately impacts African-American juveniles.

## **VI. CLASS ALLEGATIONS**

69. Pursuant to Rules 23(a) and 23(b) of the Arkansas Rules of Civil Procedure, Plaintiffs bring this action for injunctive and declaratory relief on their own behalf and on behalf of all similarly situated students. The Plaintiffs seek to represent the following Class in this matter, pursuant to Arkansas Rules of Civil Procedure 23(a) and 23(b), as follows:

**CLASS:** All African-American students who were suspended or expelled and were also arrested at Little Rock McClellan High School, Hall High School and J. A. Fair High School and then an intake decision was made within the past three years.

**SUBCLASS:** All African-American students who were arrested at a Little Rock School District school and who scored low or moderate risk and were detained rather than being provided an alternative to detainment within the past three years.

This action is an appropriate class action under Rule 23(b) as Defendants have acted or refused to act on grounds that apply generally to each Class member, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole.

70. **Numerosity.** The persons in these Classes are so numerous that joinder of all such persons is impracticable. In just one six month period in 2018, there were 384 juvenile arrests by the Little Rock Police Department, including 53 school-based arrests at McClellan, 49 at J.A. Fair

and 44 at Hall High. In the same time period, there were 132 arrests for disorderly conduct countywide, with nearly 300 juveniles in the system who resided in the 72209 and 72204 ZIP codes served by the LRSD.<sup>16</sup> Accordingly, Defendants' deficient policies and practices impact many hundreds of current and future students.

71. **Commonality.** There are questions of law and fact common to each Class identified above, namely: Whether Defendants' policies, procedures and practices related to segregating students with discipline issues, including through lack of timely identification and evaluation; denial of services; discriminatory exclusionary discipline; failure to create and implement an intake policy for release with written conditions, electronic monitoring, and/or use of shelter beds rather than detention for those who are eligible; and failure to provide a safe learning environment violate the Arkansas Constitution and the Arkansas Civil Rights Act.

72. **Typicality.** The claims of Anthony Doe are typical of the claims of the Class, identified above, in that each of the putative class members is a student with a school-based arrest, but Student Class Plaintiffs: (1) have not received a fair disposition due to their African-American race and (2) have been excluded from the general education environment in the absence of lawful disciplinary arrest and detainment.

73. **Adequate Representation.** Anthony Doe will fairly and adequately protect the interests of the Class and Subclass. Anthony Doe does not have any interests antagonistic to the members of any Class. The relief sought by Anthony Doe will inure benefit to the members of each Class. Additionally, Anthony Doe is represented by counsel who are experienced, skilled, and knowledgeable about civil rights litigation, constitutional rights, and class action litigation.

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<sup>16</sup> <https://pulaskicounty.net/wp-content/uploads/2019/06/January-2019-JDAI-Meeting.pdf>; January 2019, Pulaski County JDAI Presentation, Chief Deputy Pulaski County Attorney

## **VII. LEGAL CLAIMS**

### **a) FIRST CLAIM FOR RELIEF**

#### **Violations of Article 14, Section 1 (On Behalf of Plaintiff and Class Members Against Defendant Poore)**

74. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth in full herein. Plaintiff is, and Class Members are, students who are entitled under the Arkansas Constitution of 1874, Art. 14, § 1, to “a general, suitable and efficient system of free public schools.”

75. The State, by and through the actions and inactions of its Superintendent Defendant Poore, is excluding members of the group of all students, African-American students, from a general education by suspending and arresting them disproportionately. Further, the State is not maintaining an efficient system of free public schools by wasting taxpayer resources in a system that disparately impacts African-Americans.

76. As set forth above, Defendant’s policies and practices violate the Arkansas Constitution and unnecessarily segregate students and discriminate against all Plaintiffs and Class Members by reason of their race.

77. Defendants’ policies and practices regarding student discipline, their failure to adhere to them, and State’s failure to remedy them, constitute a persistent and systemic failure to meet the requirements of a general and efficient system of education.

78. Thus, Defendant Poore have deprived Plaintiffs and have or may deprive Class Members of participation in and the benefits of general education.

79. Defendant Poore has further used methods of administration that have subjected students with discipline issues to discrimination on the basis of their race .

80. As a result of Defendant's violations, Plaintiffs have suffered, and Class Members suffer or may suffer, irreparable harm, including substantial losses of educational opportunities.

81. Due to Defendants' ongoing violations of Art. 14, § 1, injunctive and declaratory relief are appropriate remedies.

**b) SECOND CLAIM FOR RELIEF**

**Violations of Article 2, sections 2, 3, 8 & 13  
(On Behalf of All Plaintiffs and Class Members Against All Defendants)**

82. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth in full herein. Article 2, sections 2, 3, 8 & 13 of the Arkansas Constitution generally prohibits discrimination against persons on the basis of race and provides for equal protection and due process.

83. Defendant Poore is supervised by the State, and Defendant Intake Officers are Pulaski County employees and both are subject to the Arkansas Constitutional provisions.

84. Defendants are depriving Plaintiffs of "life and liberty" under Arkansas Constitution of 1874 Art. 2, § 2, by arresting and detaining them disproportionately. An arrest, failure to offer alternatives to detention, and detainment by their very definition implicate a fundamental liberty interest.

85. Plaintiffs are not being treated with "equality" and are being "deprived of" their "rights, privileges and immunities...on account of race" and "color" in violation of Arkansas Constitution of 1874 Art. 2, § 3 when they are suspended and arrested and thus detained and held at a disproportionate rate simply because of their race and color.

86. Plaintiffs are being “deprived of life, liberty...without due process of law” when they are suspended and arrested and thus detained and held at a disproportionate rate simply because of their race and color.

87. Plaintiffs are also not able to “obtain justice freely, and without purchase...;” in violation of the Arkansas Constitution of 1874 Art. 2, § 13 because they must pay the costs and fees associated with taking off from work, finding child care, and travel.

88. To add detail, Defendant Poore’s application of policies in administration of educational services within District schools has the effect of denying Plaintiffs and Subclass Members full and equal access to the benefits of the programs or activities administered by the District, and of subjecting Plaintiffs and Subclass Members to discrimination under such programs or activities, on the basis of their race.

89. As a result of the manner in which the District has administered the policies described above, Plaintiffs and Subclass Members have been denied full and equal access to the benefits of educational opportunities within District schools, or have been subjected to discrimination under such programs or activities, on the basis of race, in violation of the Arkansas Constitutional provisions set forth above.

90. Plaintiffs and Subclass Members are entitled to injunctive relief to enjoin the District’s violation of the Arkansas Constitution.

91. Due to Defendants’ ongoing violations of the Arkansas Constitution, injunctive and declaratory relief are appropriate remedies.

**c) THIRD CLAIM FOR RELIEF**

**Violation of the Arkansas Civil Rights Act A.C.A. § 16-123-105  
(On Behalf of All Plaintiffs against all Defendants)**

92. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth in full herein.

93. Defendants have, on the basis of race, discriminated against Plaintiffs and the Class Members by excluding and segregating African-Americans from an equal education. These Defendants have excluded and segregated African-American students by arresting, disciplining or allowing the discipline, and detaining of African-American students denying African-American students the general education to which they are entitled.

94. These Defendants have demonstrated a widespread pattern of discrimination by selectively enforcing facially neutral disciplinary policies, which has resulted in African-American students being denied access to education, and for which there is no nondiscriminatory justification.

95. In addition, these Defendants have been deliberately indifferent to the educational environment that exists for African-American students, despite their actual knowledge of this educational environment. In addition and in the alternative, these Defendants' implicit and unconscious biases and stereotypes against African-American students have been a significant factor in causing, allowing the continued existence of, and the District's deliberate indifference to the gross race-based disparities in the discipline, exclusion, segregation, and deprivation of services and supports for African-American students.

96. In addition, the Defendants' policies have had a disproportionate negative impact on African-American students regard to arrests, exclusion, segregation, discipline, harassment,

and deprivation of services and supports to which those students are entitled. The failure to have a facially neutral intake policy that allows for use of alternatives to detention disparately impacts African-Americans.

97. The acts and omissions complained of were committed by the Defendants who were at all times acting under color of state law to deprive the Plaintiffs and Subclass Members of their federal right to equal protection and due process within the meaning of the Arkansas Constitution.

98. As a result of Defendants' violations, Plaintiffs have suffered, and Class Members suffer or may suffer, irreparable harm, including substantial losses of educational opportunities.

99. Due to Defendants' ongoing violations of the Arkansas Civil Rights Act, injunctive and declaratory relief are appropriate remedies.

**d) Fourth Claim for Relief**

**Violations of Art. 16, § 13;  
(On Behalf of All Plaintiffs and Class Members  
Against all Defendants)**

100. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth in full herein.

101. Defendants are recipients of property and sales tax funds, levied at the State and County level.

102. Plaintiffs as taxpayers have a right under the Arkansas Constitution of 1874, Art. 16, § 13; to recover from the "illegal exactions" of their taxes being used to operate a system that is by definition arbitrary and discriminates on the basis of race, and thus illegal.



103. Defendants have, on the basis of race, discriminated against Plaintiffs and the Class Members by excluding African-American students from an equal education.

104. These Defendants have demonstrated a widespread pattern of discrimination by selectively enforcing facially neutral disciplinary policies, in violation of the Arkansas Constitution and Arkansas Civil Rights Act. This selective enforcement has resulted in African-American students being denied access to education, and for which there is no nondiscriminatory justification.

105. The acts and omissions complained of were committed by these Defendants who were at all times acting under color of state law to deprive the Plaintiffs and Class Members of their right to nondiscrimination within the meaning of the Arkansas Constitution and Arkansas Civil Rights Act.

106. As a result of Defendants' violations, taxpayers have suffered. Because Defendants are spending property and sales tax revenue on a system that meets the legal definition of arbitrary and discriminates on the basis of race, the portion of the exaction that supports the arbitrary and discriminatory spending is illegal.

107. Due to Defendants' ongoing violations of the Arkansas Constitution, taxpayers should get an accounting and be refunded the waste of tax money spent arbitrarily and illegally.

**e) Fifth Claim for Relief**

**Temporary Injunction and Writ of Mandamus  
(On Behalf of All Plaintiffs and Subclass Members  
Against all Defendants)**

108. Plaintiffs incorporate herein each and every allegation set forth above.

109. The facts herein warrant the issuing of an injunction and writ of mandamus in order to prevent injustice to Plaintiffs.

110. Plaintiff Anthony Doe has a citation and pending disorderly conduct charge in the Pulaski County juvenile system as a result of the discriminatory school-to-prison pipeline.

111. As such, Plaintiff is suffering immediate and irreparable harm.

112. Plaintiffs have no adequate remedy at law to stop the juvenile proceedings that are contaminated with racial bias.

113. An immediate injunction should issue to stop the juvenile proceedings against Plaintiff Anthony Doe during the pendency of the litigation.

114. A writ of mandamus should issue to ensure that Pulaski County Juvenile Intake Officers follow their duty under Arkansas Code Annotated § 9-27-310 to intake juveniles with a neutral procedure that does not disparately impact African-Americans, lawfully release qualifying juveniles under Arkansas Code Annotated § 9-27-322 on written conditions of release, with electronic monitoring, or to shelter care and lawfully divert qualifying juveniles under Arkansas Code Annotated § 9-27-323 to a program or teen court all without a disparate impact on African-Americans.

115. A writ of mandamus is the long-established practical method of enforcing a pre-existing duty of a public employee regardless of whether they are acting in an administrative, executive, or judicial function.

## **VII. REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Certify this case as a class action under Arkansas Rules of Civil Procedure 23(a) and 23(b). Appoint Plaintiffs as Class Representatives of the Classes and their attorneys as Counsel for all Classes.
2. Declare that Defendants' policies, practices and procedures regarding segregation and discipline of African-American regarding students violate the rights of all Plaintiffs and Class Members under the Arkansas Constitution and Arkansas Civil Rights Act.
3. Issue temporary and permanent injunctions pursuant to the Arkansas Constitution and Arkansas Civil Rights Act that enjoin Defendants, their successors in office, agents, employees and assigns, and all persons acting in concert from violating the Arkansas Constitutional provisions *infra* and require Defendants to promulgate compliant policies, procedures, and practices. Issue a writ of mandamus as well.
4. Order Defendants to immediately discontinue all policies, procedures and practices that do not comply with the laws cited in this complaint.
5. Create and broadly disseminate to teachers and other District staff, parents, and students a new written policy statement, which must include acknowledging the rights of African-American students and as set forth in this complaint, and reasserting Defendants' commitment to honor those rights, including:
  - a) The right of access to the same educational opportunities as their peers regardless of race;
  - b) The right to services, accommodations, and modifications necessary to remain in the general education environment; and
  - c) The right to an educational environment free of discriminatory discipline and harassment and bullying;

6. Take immediate action to reform policies, procedures and practices to fully comply with the Arkansas Constitutional provisions *infra* and the Arkansas Civil Rights

Act; such action must include that the:

- a) Little Rock School District revise its school discipline policy and training that to the extent practicable stops documenting, suspending, expelling and arresting African-American students in disproportionate numbers;
- b) Little Rock School District contract with outside provider to track and research school discipline and report back to the Court to ensure that the school discipline system is not continuing to disparately impact African-American students;
- c) Pulaski County, Arkansas create and implement an intake policy that provides alternatives to detention such as release upon written conditions, use of electronic monitoring and release to a shelter for those who would otherwise be released from custody but are not although such policies are authorized by Arkansas Code Annotated § 9-27-322.
- d) Little Rock School District and Pulaski County, Arkansas allocate an increased budget towards evidence-based programs diversions such as Teen Court that seek to remedy recidivism and account for the fact that African-Americans have been disparately charged and detained at a higher rate;
- e) Little Rock School District Develop and implement a clear and defined plan to achieve inclusivity for all students throughout the District, that enables these African-American students with discipline issues to have an equal education side-by-side with their peers in a safe and welcoming educational environment;
- f) Little Rock School District Implement a districtwide Multi-Tiered System of Supports to identify the needs of and improve educational outcomes for all students using multiple data measures, and to provide strategic, targeted, appropriate, and culturally relevant interventions for all students that are available regardless of a student's status or race;
- g) Little Rock School District and Pulaski County, Arkansas develop and implement a system to identify staff who are not complying with any of the laws cited in this Complaint, retrain and provide appropriate supports to any such staff to enable them to come into compliance, and take

appropriate disciplinary action regarding any staff who fail to come into compliance after such retraining or provision of supports;

- h) Little Rock School District analyze all aspects of education for students in the District for implicit racial bias and structural discriminatory racialization; develop a comprehensive plan to eliminate or mitigate such bias and discrimination; and achieve substantial compliance with such plan within two years; and
- i) Little Rock School District review and analyze the credentials and qualifications of all District administrators and staff; identify gaps in credentials or qualifications to administer or instruct minority students; develop a detailed plan to eliminate such gaps; and achieve substantial compliance with such plan within two years.

9. Provide the Court and the public with an annual report on the District's compliance with the Court's orders for two consecutive years.

10. Plaintiffs further respectfully request that the Court Retain jurisdiction of this case until Defendants have fully complied with the orders of his Court, and there is reasonable assurance that Defendants will continue to comply in the future absent continuing jurisdiction; Award Plaintiffs reasonable attorneys' fees, costs, and disbursements as authorized by law; and Grant further relief as the Court may deem just and proper.

Respectfully submitted,

**ANTHONY DOE and  
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