



**TIM GRIFFIN**  
ATTORNEY GENERAL

Opinion No. 2024-033

March 1, 2024

Mr. Bill Kopsky  
For AR Kids  
1308 West Second Street  
Little Rock, Arkansas 72201

Dear Mr. Kopsky:

I am writing in response to your request, made under A.C.A. § 7-9-107, that I certify the popular name and ballot title for a proposed constitutional amendment. In Opinion Nos. 2023-131 and 2024-019, I rejected prior versions of your proposal. You have now revised your proposed constitutional amendment and submitted it for certification.

My decision to certify or reject a popular name and ballot title is unrelated to my view of the proposed measure's merits. I am not authorized to consider the measure's merits when considering certification.

**1. Request.** Under A.C.A. § 7-9-107, you have asked me to certify the following popular name and ballot title for a proposed amendment to the Arkansas Constitution:

Popular Name

Arkansas Educational Rights Amendment of 2024

Ballot Title

An amendment to Article 14 (Education) of the Arkansas Constitution of 1874, to be known as the "Arkansas Educational Rights Amendment of 2024," to require identical academic standards and identical standards for accreditation, including assessments of students and schools based on such standards, for any school that receives State or local funds; to define "receives, or in receipt of, any State or local funds" to mean: (i) receipt by the school of any State or local funds, property, or tax credits to cover or defray, in whole or part, the costs of any student attending the school; or (ii) receipt by the student attending the school, or the student's parents or guardians, of any State or local funds, property, or tax credits to cover or defray, in whole or in part, the costs of the student attending the school; or (iii) receipt by a school, a student attending the school, or the student's parents or guardians, of financial assistance for the cost of the student attending the school that is funded, in whole or in part, by monetary contributions that

qualify for a state tax credit under Arkansas law; to deny State or local funds to any non-public school that fails to meet the same academic standards and standards for accreditation or to meet the same assessment requirements based on such standards as public schools; to expand the State's obligation to ever maintain a general, suitable, and efficient system of free public schools to include: (1) universal access to voluntary, early childhood education for students three (3) years old until they qualify for Kindergarten; (2) universal access to voluntary afterschool and summer programs necessary for the achievement of an adequate education; (3) assistance to children who are within 200% of the federal poverty line so that the qualifying children can achieve an adequate education and overcome the negative impact of poverty on education; and (4) services that fully meet the individualized needs of students with disabilities to allow them meaningful access to integrated education; to ensure that an adequate education means, without limitation, that every child educated in the school should develop sufficient: (1) oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (2) knowledge of economic, social, and political systems to students to make informed choices; (3) understanding of governmental processes to students to understand the issues that affect their community, state, and nation; (4) self-knowledge and knowledge of their mental and physical wellness; (5) grounding in the arts to enable students to appreciate their cultural and historical heritage; (6) training or preparation for advanced training in either academic or vocational fields so as to enable children to choose and pursue life work intelligently; and (7) 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; and to require the General Assembly to enact legislation to implement this amendment, including allocating funding necessary to fully implement this amendment.

**2. Rules governing my review.** In Opinion No. 2023-131, I explained the rules governing popular names and ballot titles, and I also explained the rules governing my review of proposed measures. Rather than repeat those explanations, I incorporate them here by reference.

**3. Application.** Having reviewed the text of your proposed constitutional amendment, as well as your proposed popular name and ballot title, I substitute and certify the following popular name and ballot title for your proposed measure:

Popular Name

The Arkansas Educational Rights Amendment of 2024

Ballot Title

An amendment to Article 14 (Education) of the Arkansas constitution requiring identical academic standards and identical standards for accreditation, including assessments of students and schools based on such standards, for any school that receives State or local funds; defining "receives, or in receipt of, any State or local funds" to mean: (i) receipt by the school of any State or local funds, property, or tax

credits to cover or defray, in whole or in part, the costs of any student attending the school; (ii) receipt by the student attending the school, or the student's parents or guardians, of any state or local funds, property, or tax credits to cover or defray, in whole or in part, the costs of the student attending the school; or (iii) receipt by a school, a student attending the school, or the student's parents or guardians, of financial assistance for the cost of the student attending the school that is funded, in whole or in part, by monetary contributions that qualify for a State tax credit under Arkansas law; denying State or local funds to any non-public school that fails to meet the same academic standards, standards for accreditation, or assessment requirements as public schools; expanding the State's obligation to ever maintain a general, suitable, and efficient system of free public schools to include: (1) universal access to voluntary, early childhood education for students three (3) years old until they qualify for Kindergarten; (2) universal access to voluntary afterschool and summer programs necessary for the achievement of an adequate education; (3) assistance to children who are within 200% of the federal poverty line so that the qualifying children can achieve an adequate education and overcome the negative impact of poverty on education; and (4) services that fully meet the individualized needs of students with disabilities to allow them meaningful access to integrated education; defining an adequate education as, without limitation, all children developing sufficient: (1) oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (2) knowledge of economic, social, and political systems to enable students to make informed choices; (3) understanding of governmental processes to enable students to understand the issues that affect their community, state, and nation; (4) self-knowledge and knowledge of their mental and physical wellness; (5) grounding in the arts to enable students to appreciate their cultural and historical heritage; (6) training or preparation for advanced training in either academic or vocational fields so as to enable children to choose and pursue life work intelligently; and (7) 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; requiring the General Assembly to enact legislation to implement this amendment, including allocating funding necessary to fully implement this amendment; forbidding the General Assembly from amending, altering, or repealing this amendment absent a vote of the people; and providing that this amendment's provisions are severable.

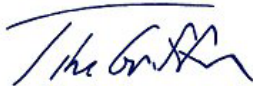
While the foregoing has been substituted and certified, I believe that, in light of the significance of the subject matter undertaken and the potential complexity and far-reaching effects of this proposal, a few cautionary notes are warranted. You should be aware that experience has shown a correlation between the length and complexity of constitutional amendments and their susceptibility to a successful ballot-title challenge. Any ambiguity in the text of a measure could lead to a successful court challenge. Significant changes in law often have unintended consequences that, if known, would give voters serious ground for reflection. As several of my predecessors have noted when certifying certain lengthy and complex ballot titles, the Arkansas Supreme Court has repeatedly warned sponsors of statewide measures about their ballot titles'

length and complexity.<sup>1</sup> In Opinion No. 2023-038, I recently summarized the Court's decisions on the significance of a ballot title's length and complexity.

Under A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Arkansas Constitution and the associated penalties for violations. I have included a copy of the instructions that should be incorporated into your petition before circulation.

Assistant Attorney General Jodie Keener prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line above it.

TIM GRIFFIN  
Attorney General

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<sup>1</sup> *E.g.*, Ark. Att'y Gen. Ops. 2023-038, 2007-160, 2005-212, 2000-137.