

# Abbeville County School District v. State of South Carolina

How Did We Get Here and  
What Happens Now?

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SCSBA School Law Conference  
August 2015

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## SC Constitution's Education Clause: Article XI, Section 3

**The General Assembly shall  
provide for the maintenance and  
support of a system of free public  
schools open to all children in the  
State . . . .**

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## Education Finance Act (EFA) of 1977

- Drafted in 1974
- Defined Minimum Program
- Base Student Cost
  - Assumed district size of 6000 students
  - No transportation
  - No fringe benefits
  - No facilities
- Shared formula – 70% state and 30% local (avg.)
- Index of Taxpaying Ability

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## Education Improvement Act (EIA) of 1984

- Statewide penny sales tax
- Innovations and improvements
- Periodic reviews

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## Why a lawsuit?

- State re-directed costs to districts
- Straw that broke the camel's back → fringe benefits
- Complaint filed November, 1993

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*Abbeville County School District, et al. v. State of South Carolina, et al.*

- 40 school districts in 1993
- 36 districts at time of trial in 2003
- 33 districts in 2015
  - No district has dropped out
  - Consolidation reduced district count

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*Abbeville v. State of South Carolina*

- Equal protection claims
- Education clause of the SC Constitution

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## *Abbeville v. State of South Carolina*

- Trial court granted defendants' motions to dismiss in 1996
- Separation of powers
- Plaintiffs appealed (1<sup>st</sup> appeal)

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## First Appeal

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### *Abbeville I* (1999)

**“It is the duty of this Court to interpret and declare the meaning of the Constitution.”**

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### *Abbeville I* (1999)

SC Constitution’s Education Clause:

**The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State . . . .**

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### *Abbeville I* (1999)

Since the education clause did not specify the qualitative standard required, the Supreme Court held that it must be at least “**minimally adequate.**”

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### *Abbeville I* (1999)

“We hold today that the South Carolina Constitution’s education clause requires the General Assembly to provide the opportunity for **each child** to receive a minimally adequate education.”

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## *Abbeville I (1999)*

We define this minimally adequate education required by our Constitution to include providing students adequate and safe **facilities** in which they have the opportunity to acquire:

- the ability to read, write and speak the **English** language, and knowledge of **mathematics** and **physical science**;
- a fundamental knowledge of **economic, social, and political systems**, and a **history of governmental processes**; and
- **academic and vocational skills**.

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## *Abbeville I (1999)*

- “The provisions of the Constitution shall be . . . construed to be **mandatory** . . .”
- “Since the education clause uses the term ‘shall,’ it is **mandatory**.”
- Bottom line: The General Assembly must provide adequate educational opportunities to each child.

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# Trial

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## The Plaintiffs

Eight trial plaintiff districts

- Allendale
- Dillon 2
- Florence 4
- Hampton 2
- Jasper
- Lee
- Marion 7
- Orangeburg 3

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## Trial

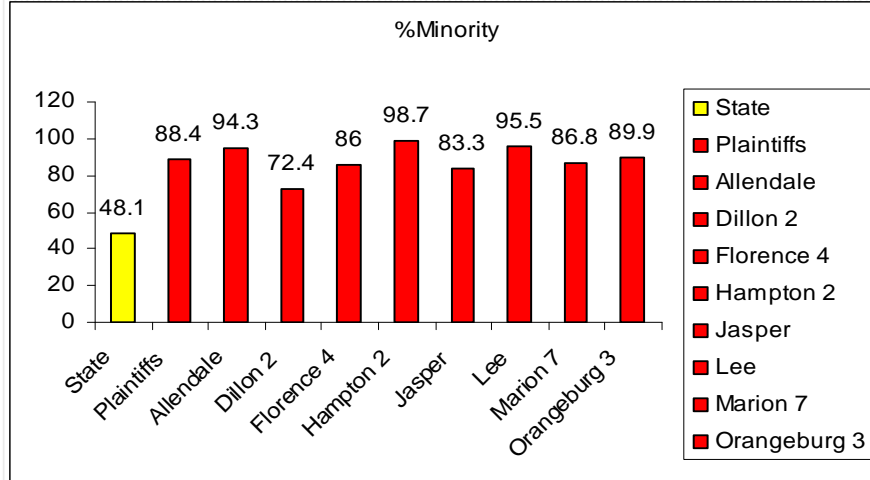
- Bench trial – Judge Thomas W. Cooper, Jr.
- Clarendon County – Manning
- July 28, 2003 – December 2004

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## Plaintiffs' Evidence and Arguments

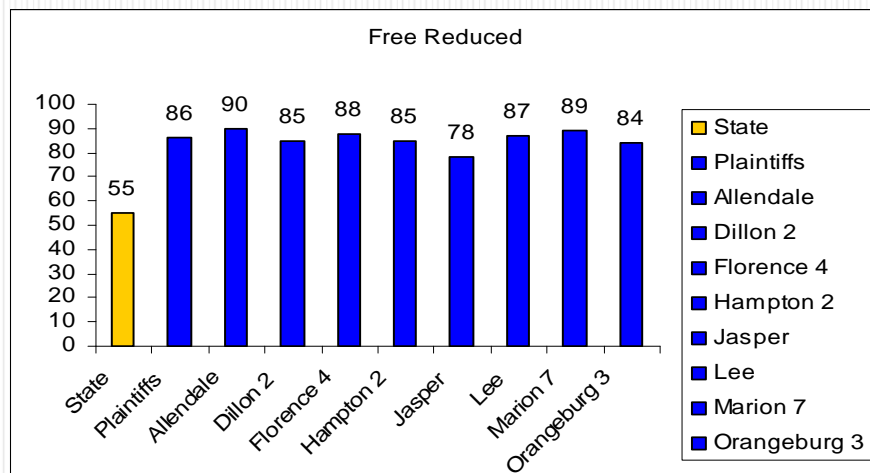
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## The Plaintiffs: Mostly Minority

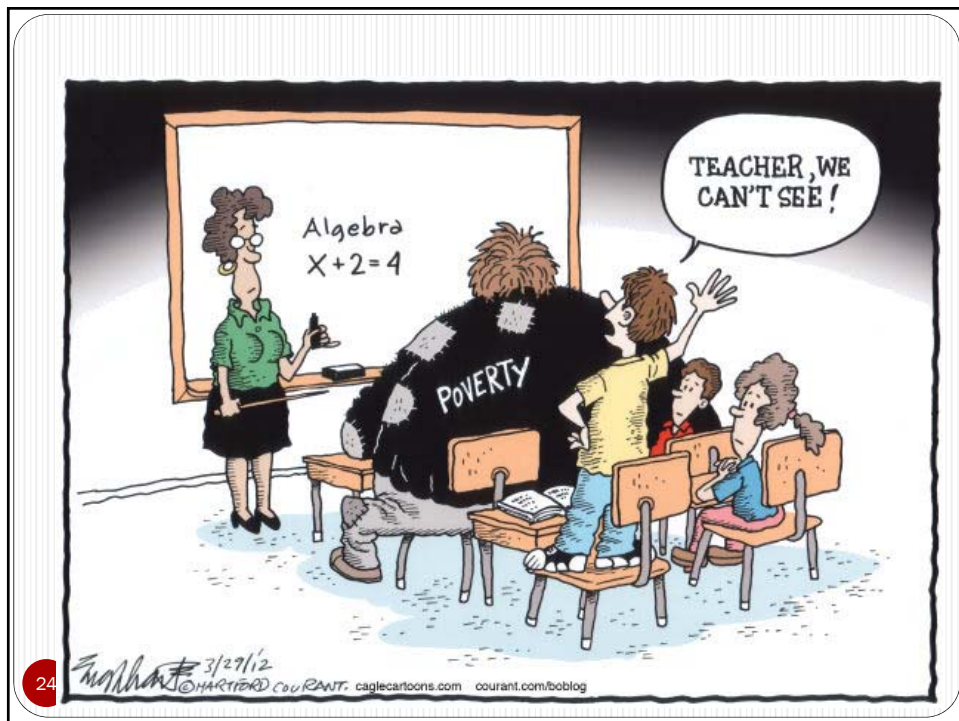


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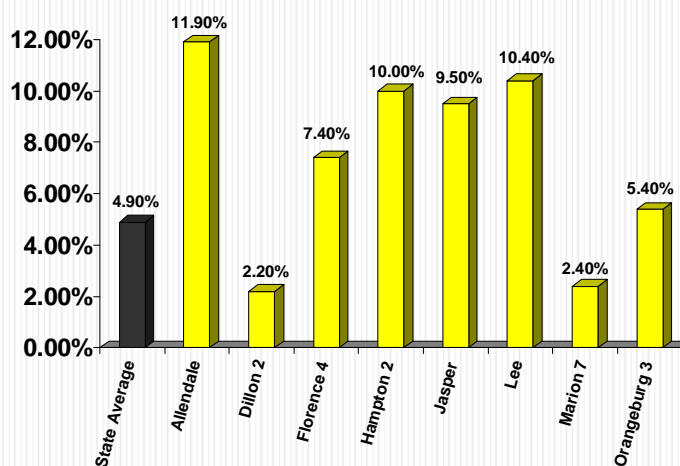
## The Plaintiffs: Mostly Low Income



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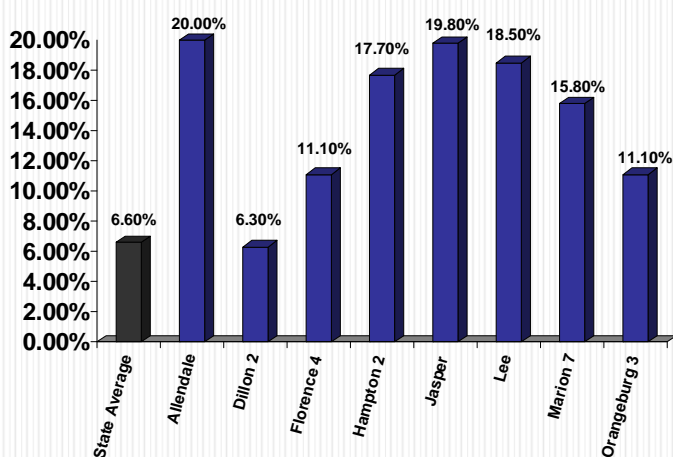
## Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



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Induction Contract Teachers

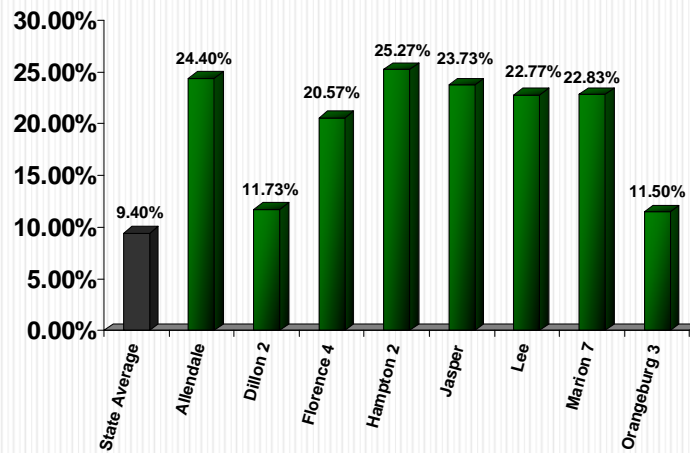
## Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



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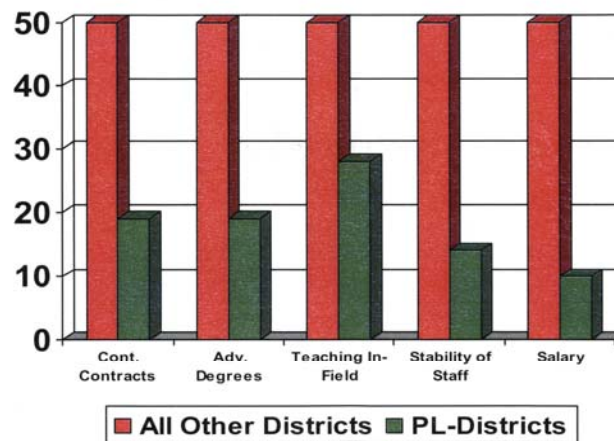
Substandard Certificates and Out-of-Field Permits

## Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



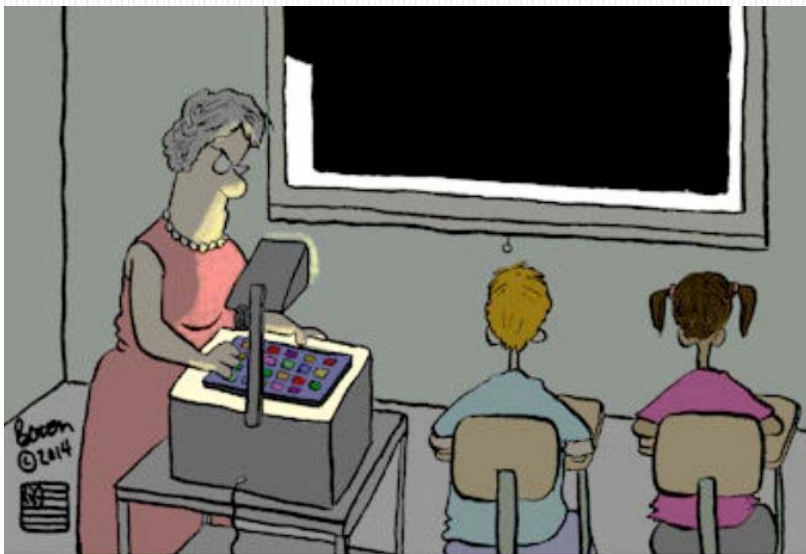
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## Elementary School Teachers by Percentile



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EXP/PLT-LA-0294



Miss Blanch demonstrates how to use a digital tablet.

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## Auditorium/classroom



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## Media Center for 365 students



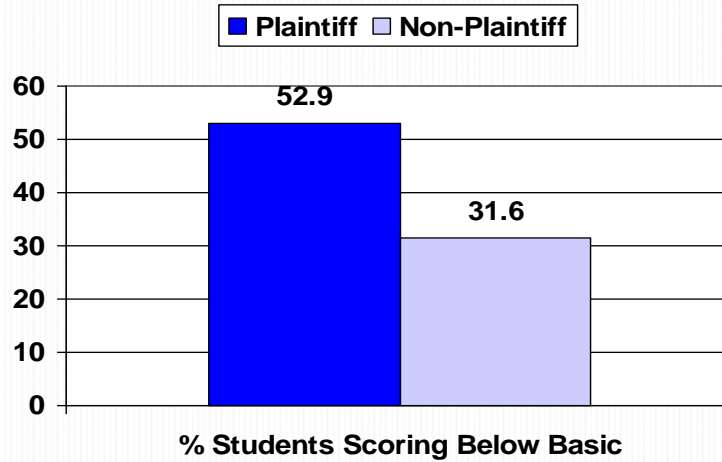
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## Cafeteria for 365 students



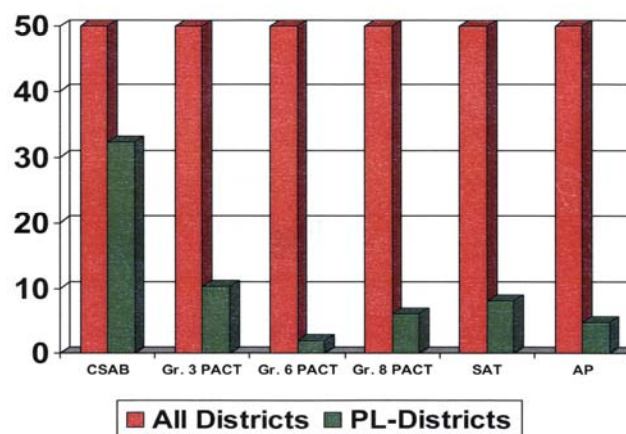
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## What Did the Test Results Show?



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## Comparison of Test Data By Percentile

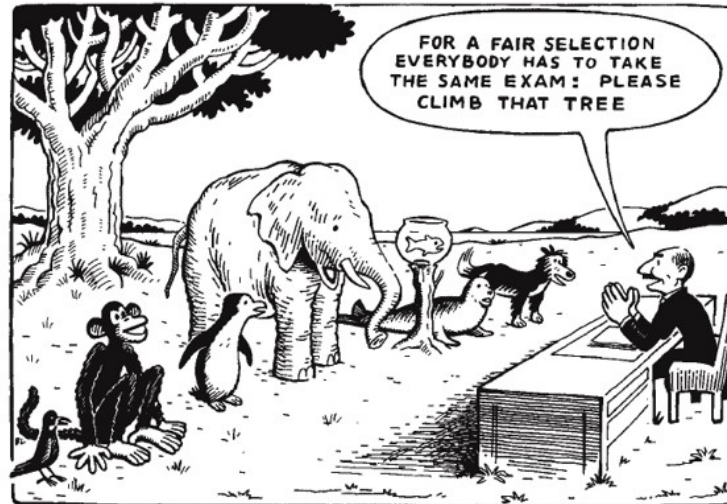


Note: Pact = 2002

CSAB, SAT, AP = 2001

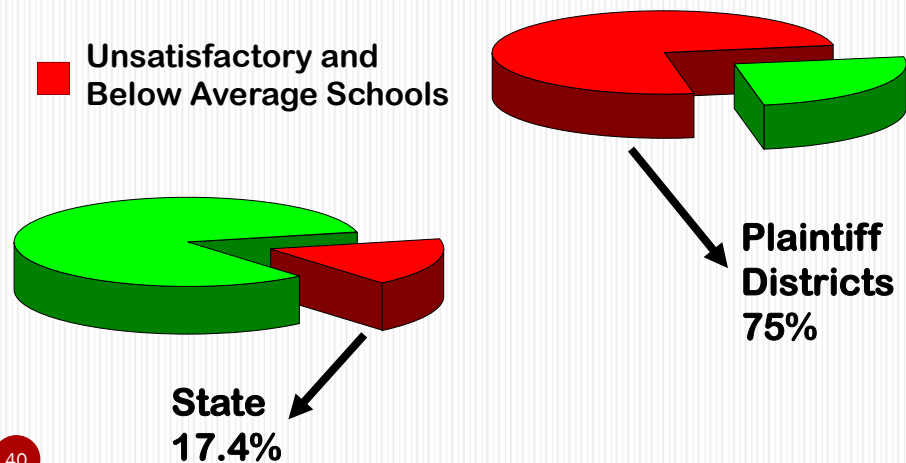
EXP/PLT-LA-0291

## What Did the Test Results Show?



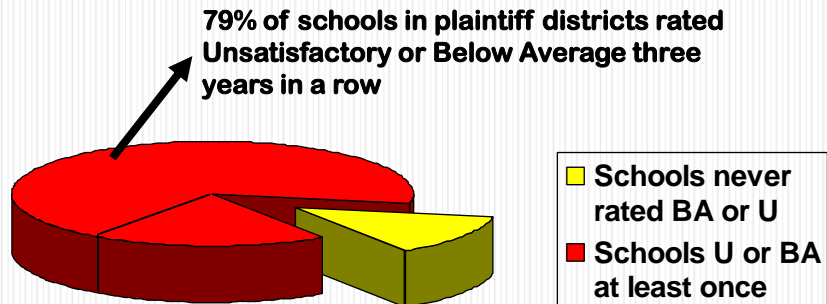
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## Unsatisfactory and Below Average Schools, State vs. Plaintiff Districts, 2003



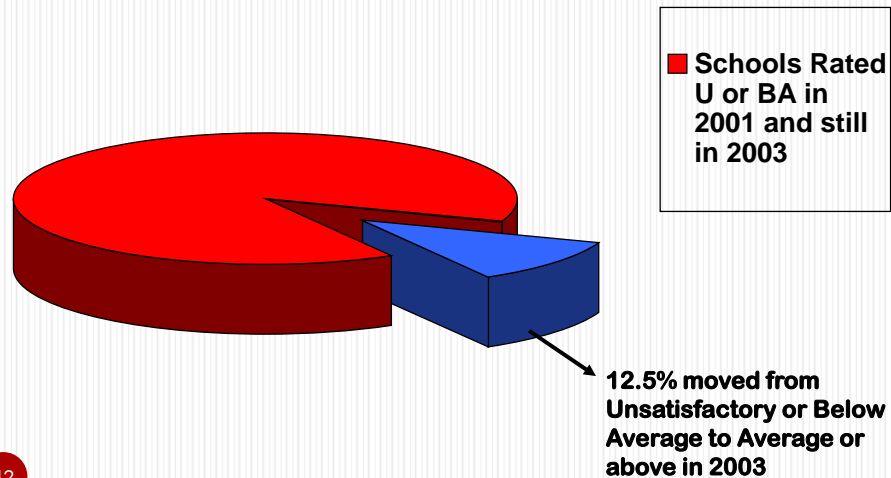
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### Plaintiff District Schools Rated Unsatisfactory or Below Average, 2001 to 2003



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### Plaintiff District Schools Moving out of Unsatisfactory or Below Average Ratings from 2001 to 2003



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Percentage of 9<sup>th</sup> graders who did not complete high school in four years

Allendale  
60%

Dillon 2  
43%

Florence 4  
66%

Hampton 2  
54%

Jasper  
61%

Lee  
67%

Marion 3  
44%

Marion 4  
44%

Orangeburg 3  
48%

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## Economic Base

- Textile and agriculture jobs disappearing
- Knowledge-based economy is our only choice

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## Roche Carolina's Hiring Efforts for 20 Job Openings

- 1,474 Applications Received
- 1,200 High School Graduates
- 737 Signed Up for Testing
- 549 Showed Up for Testing
- 63 Passed Test

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## Funding: Eroded, obsolete, and complex

- Base student cost, developed in 1974, excludes:
  - Transportation
  - Facilities
  - Fringe benefits
  - 4 additional Carnegie units
  - Technology
  - Other mandates

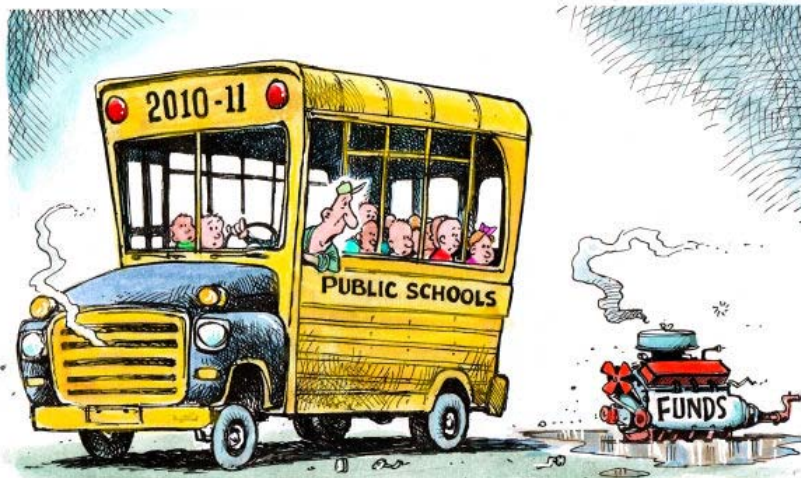
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## Funding: Eroded, obsolete, and complex

- EIA penny used for basics (not as designed)
- Teacher salary funding eroded
- Facility funding from Barnwell dried up
- Lottery money widely dispersed
- Tax reform, including Act 388 and exclusions

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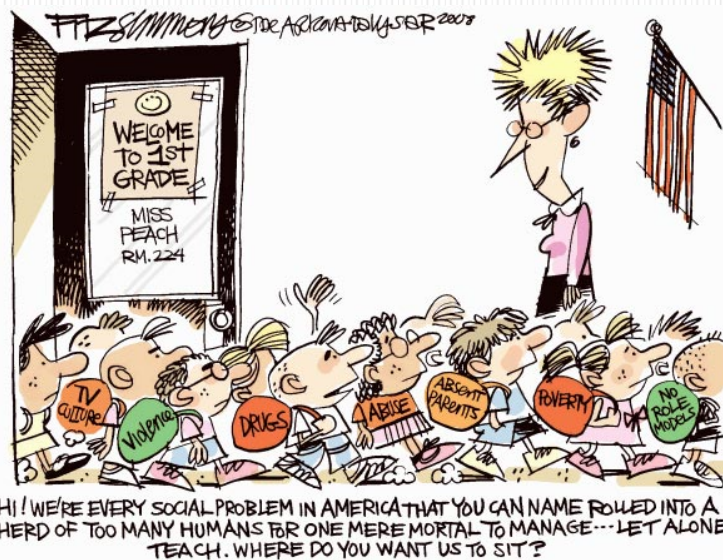


## Defendants' Evidence and Arguments

## Defendants' Evidence and Arguments

- Court has no role in education
- Legislative prerogative
- State required to provide only the bare minimum
- Poverty causes low educational achievement

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## Trial Court Order

December 29, 2005

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## Trial Court Order

Pieces of the education system are minimally adequate:

- Facilities
- System for training and distributing teachers
- Teacher compensation
- Teacher turnover (problematic, but not a constitutional issue)
- Physical supports (materials, technology, books)
- Instructional time (summer school, after school)

**BUT**

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## Trial Court Order

**Have the Defendants provided the children in the Plaintiff Districts the opportunity to acquire a minimally adequate education?**

**I find they have not.**

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## **Trial Court Order**

**Opportunity means a real chance,  
an education that will prepare  
children for life.**

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## **Trial Court Order**

**Poor children can learn, and their  
outcomes cannot be excused  
because they are poor.**

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## **Trial Court Order**

**The impact of poverty must be addressed in order to ensure the opportunity for a minimally adequate education to poor children.**

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## **Trial Court Order**

**The State is not ensuring that children in poverty have the opportunity to acquire a minimally adequate education because of the lack of early childhood interventions designed to address the impact of poverty**

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## Second Appeal

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## Appeal Issues

Plaintiffs appealed conclusions on

- Facilities
- Teacher quality issues
- Funding
- Other educational supports
- Remedy: What about the older children?

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## Appeal Issues

Defendants appealed the court's requirement that they do anything

- Separation of powers
- Legislative prerogative to decide

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## During the Appeal

- General Assembly enacted CDEPP (Child Development Education Pilot Program) via proviso for 4-year old children in the plaintiff districts.
- Note: Trial court did not limit “early childhood interventions” to 4-year olds. It referred specifically to “birth to grade three.”

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## *Abbeville II*

The November 12, 2014  
Supreme Court Opinion

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## *Abbeville II*

**“[I]nterpretation of the law – and evaluation of the government’s acts pursuant to that law – are critical and necessary judicial functions. As such, we find that judicial intervention is both appropriate and necessary in this instance.”**

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## *Abbeville II*

**“We hold that South Carolina’s educational funding scheme is a fractured formula denying students in the Plaintiff Districts the constitutionally required opportunity.”**

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## *Abbeville II*

**There is a clear disconnect between spending and results**

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## *Abbeville II*

Poverty – “the critical issue”

“[A] focus on poverty within the Plaintiff Districts likely would yield higher dividends than a focus on perhaps any other variable.”

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## *Abbeville II*

Other issues also cause negative impacts:

- Teacher quality - “a corps of unprepared teachers”
- Inadequate transportation
- Adverse impact of local legislation
- Small district size

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## *Abbeville II*

**“[O]ur State’s education system fails to provide school districts with the resources necessary to meet the minimally-adequate standard.”**

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## *Abbeville II*

**“[T]he cost of the educational package in South Carolina is based on a convergence of outmoded and outdated policy considerations that fail the students of the Plaintiff Districts.”**

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## *Abbeville II*

### **The Remedy**

- Separation of powers issue
- General Assembly is primarily responsible for schools and is proper institution to make policy choices

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## *Abbeville II*

### **Charge to the Defendants:**

- Take a broad look at principal causes of low student achievement
- Consider “the wisdom of continuing to enact multiple statutes which have no demonstrated effect on educational problems, or attempting to address deficiencies through underfunded and structurally impaired programming.”

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## *Abbeville II*

### **Charge to the Plaintiff Districts:**

- **Work with the Defendants to chart path forward that prioritizes student learning**
- **Consider consolidation**

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## *Abbeville II*

- **Court retained jurisdiction.**
- **Parties invited to suggest a timeline for reappearance and specific, planned remedial measures**

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## 2015: The Remedy

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Not this way:



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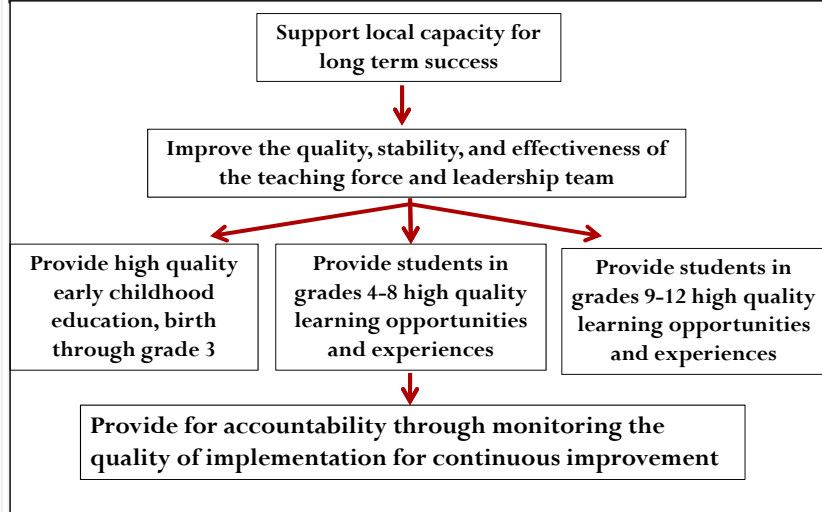


## Plaintiffs' Strategy Group

- Education experts
- Package of systemic reforms

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## Plaintiffs' Framework for Abbeville Remedy



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## SC House Education Policy Review and Reform Task Force

- Rep. Rita Allison – Chair
  - House members
  - Business representatives
  - Representatives of Plaintiff Districts

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## SC House Education Policy Review and Reform Task Force

- <http://www.scstatehouse.gov/committeeinfo/HouseEducationPolicyReviewandReformTaskForce/HouseEducationPolicyReviewandReformTaskForce.php>
- Plaintiffs' recommendations
- Dr. JoAnne Anderson's testimony on June 1, 2015

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### SC Senate Finance Special Subcommittee for Response to *Abbeville* Case

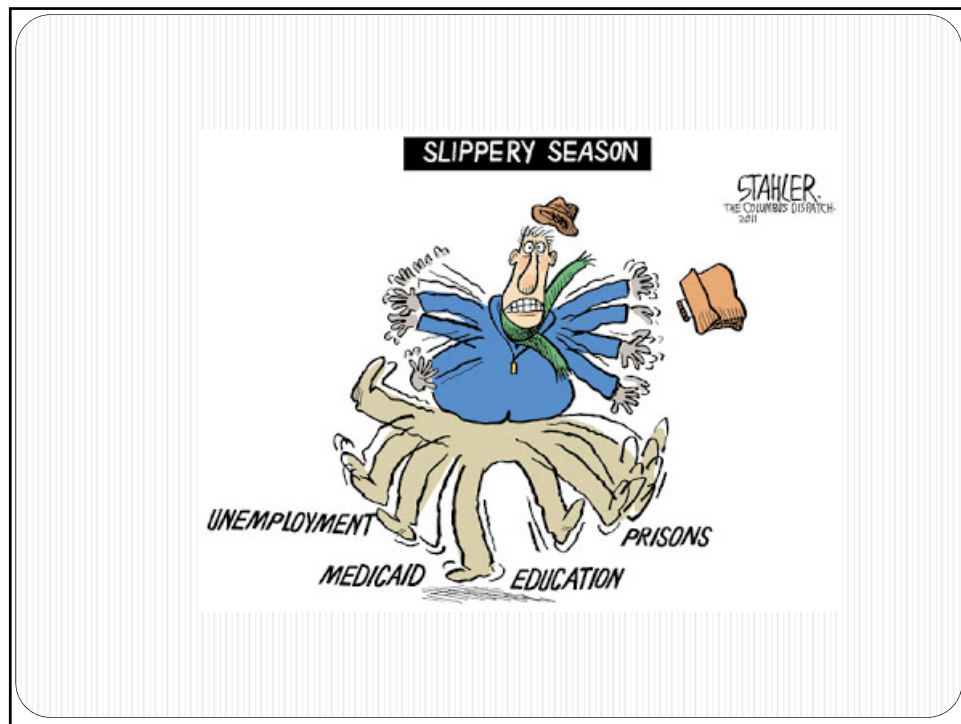
- Sen. Nikki Setzler (Co-Chair)
- Sen. Wes Hayes (Co-Chair)
- Sen. John Courson
- Sen. John Matthews
- Sen. Greg Hembree

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### When????????

- Plaintiffs filed motion with Supreme Court
  - June 18, 2015
  - Framework for legislative reform
  - Timeline: by end of 2016 legislative session
- Defendants oppose motion

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## Some Truths

### *Brown v. Board of Education*

“Today, education is perhaps the most important function of state and local governments. . . . It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principle instrument in awakening the child to cultural values, in preparing him for later professional training and helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.”

### Thomas Jefferson (1786), on education and democracy

“No other sure foundation can be devised for the preservation of freedom and happiness. . . . The tax which will be paid for this purpose is not more than the thousandth part of what will be paid to kings, priests and nobles who will rise up among us if we leave the people in ignorance.”

## Thomas Jefferson (1816)

"If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

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"It's funny how day by day, nothing changes. But when you look back everything is different."

-Calvin & Hobbes

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