

Abbeville County School District v. State of South Carolina

How Did We Get Here and
What Happens Now?

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SC Association of School Business Officials
November 2015

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**

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

Education Improvement Act (EIA) of 1984

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

Why a lawsuit?

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

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

Abbeville v. State of South Carolina

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

First Appeal

Abbeville I (1999)

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

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

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.**”

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.”

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**.

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.

Trial

The Plaintiffs

Eight trial plaintiff districts

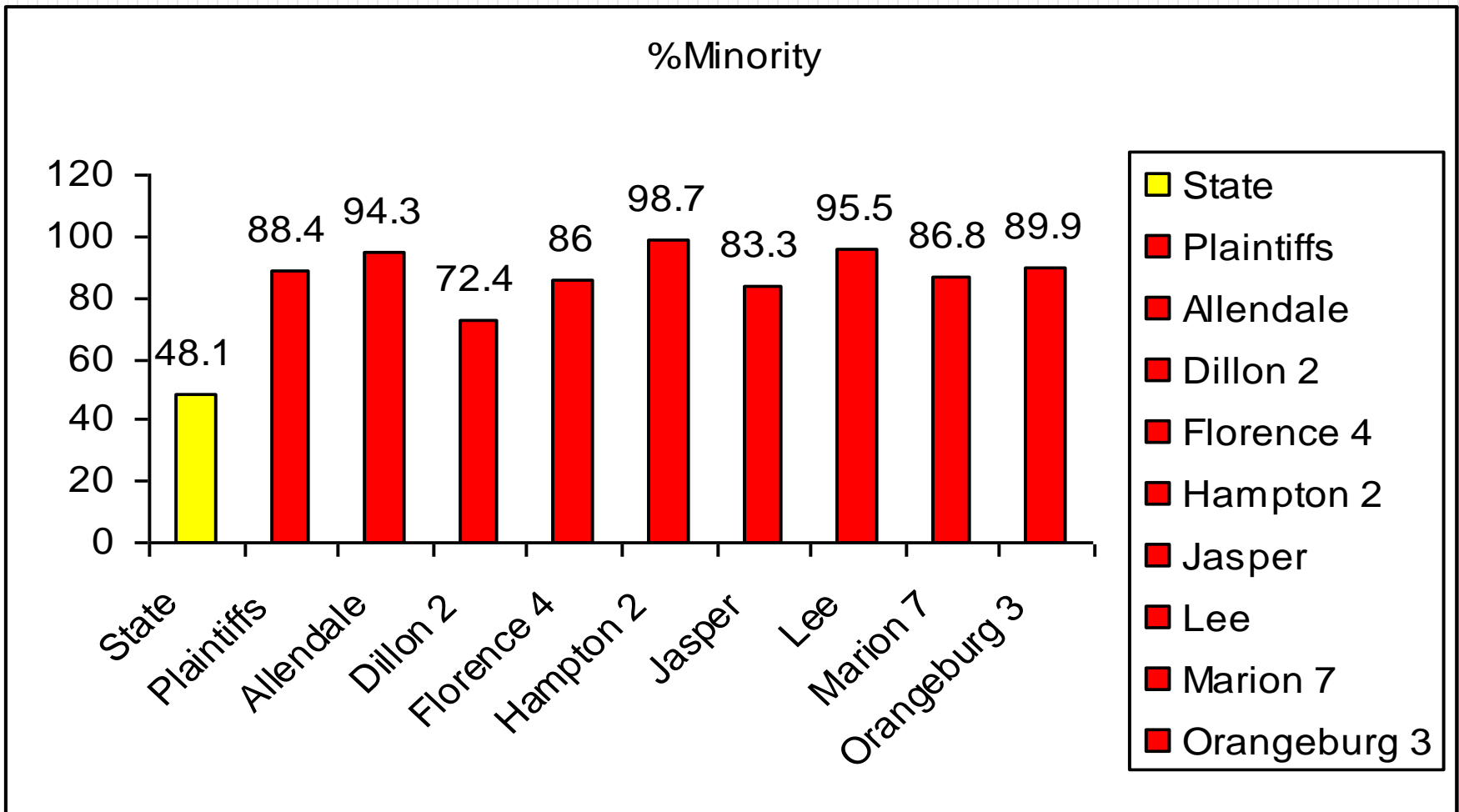
- Allendale
- Dillon 2
- Florence 4
- Hampton 2
- Jasper
- Lee
- Marion 7
- Orangeburg 3

Trial

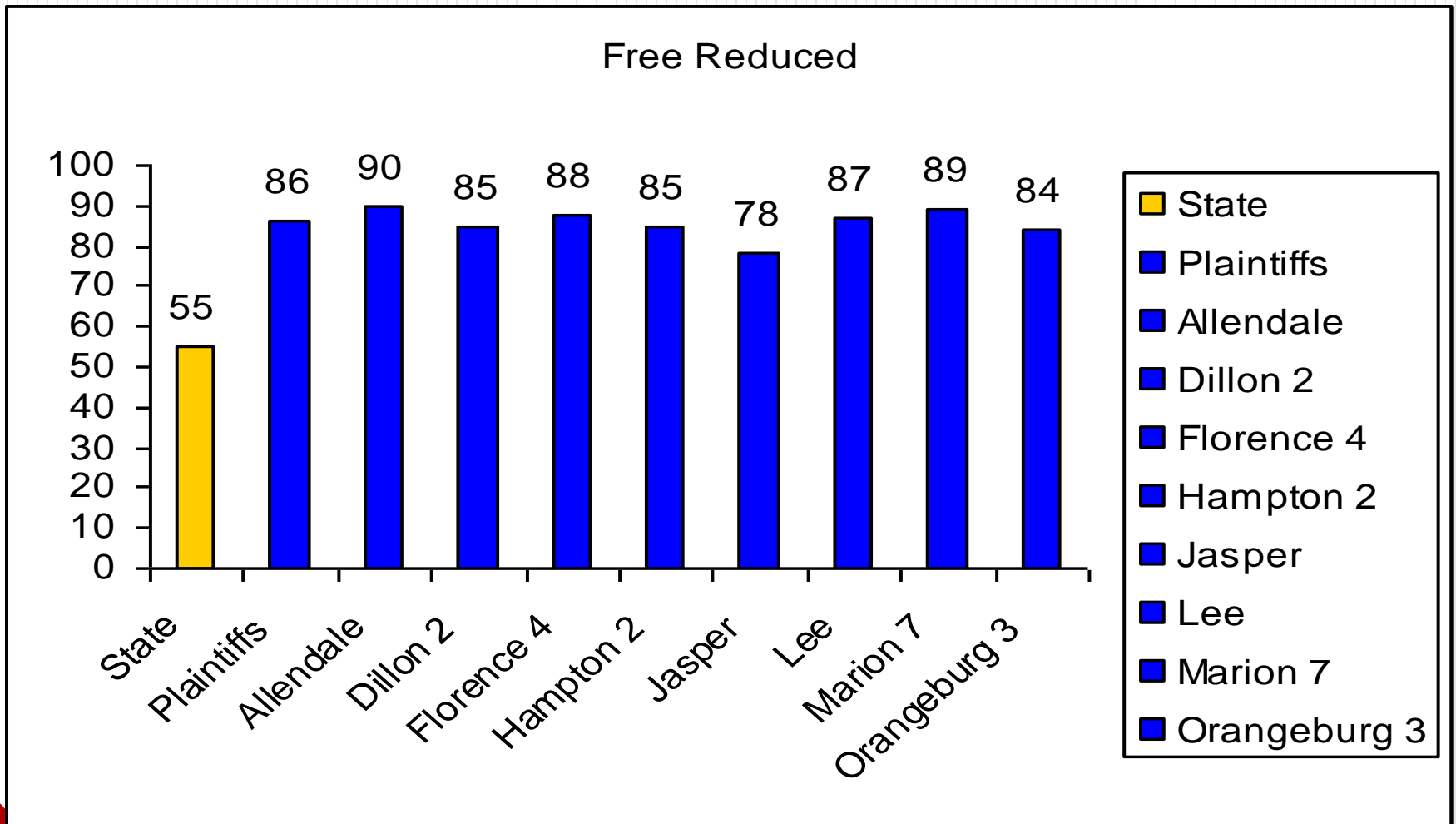
- Bench trial – Judge Thomas W. Cooper, Jr.
- Clarendon County – Manning
- July 28, 2003 – December 2004

Plaintiffs' Evidence and Arguments

The Plaintiffs: Mostly Minority



The Plaintiffs: Mostly Low Income

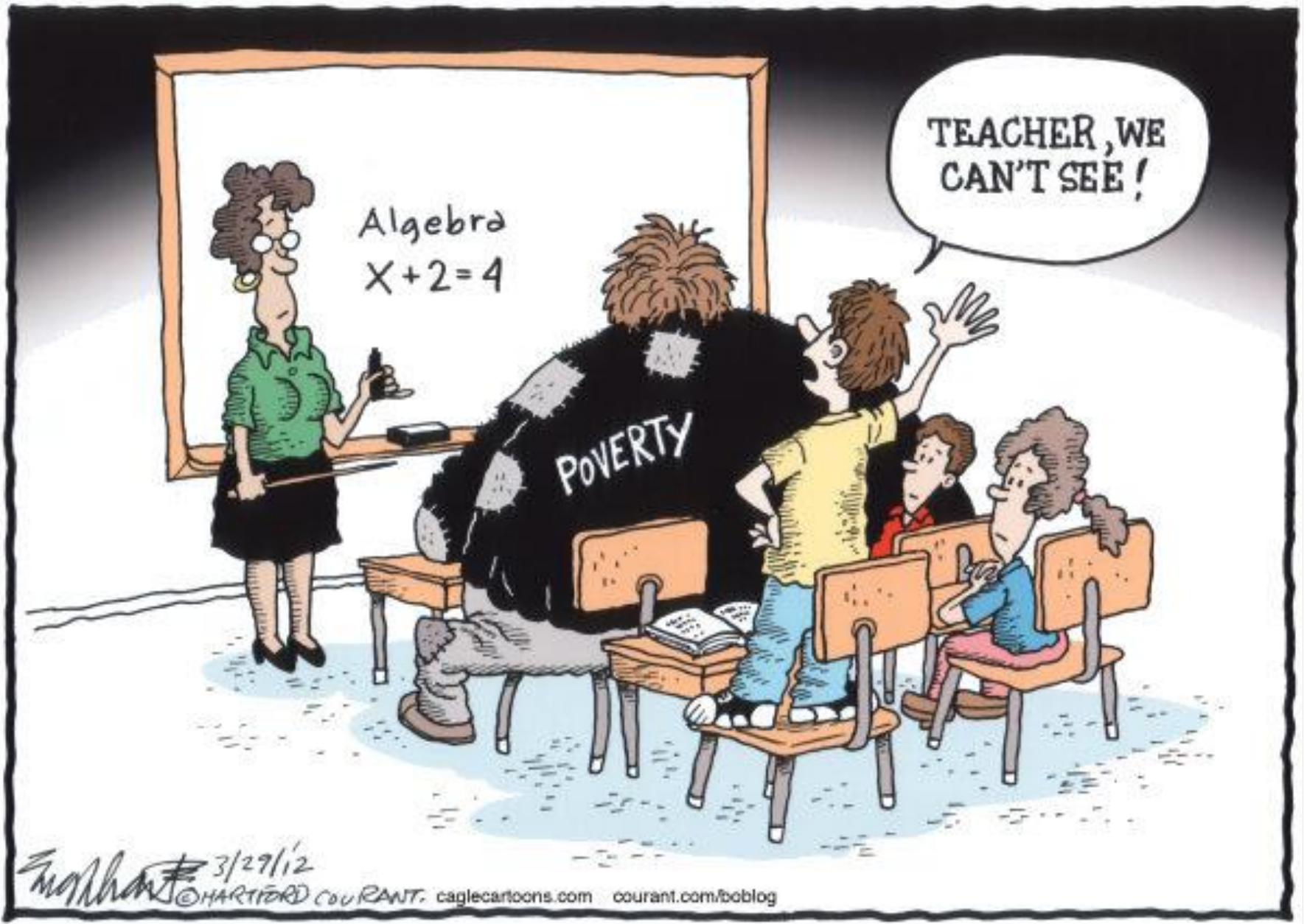


STAHLER.
GCOMICS.COM
2014.

WHAT KIND
OF CAMP ARE
YOUR PARENTS
SENDING YOU TO
THIS SUMMER?...
COMPUTER
CAMP,
SOCCER CAMP,
BAND CAMP,
COOKING
CAMP,
S.A.T. PREP
CAMP...

YES



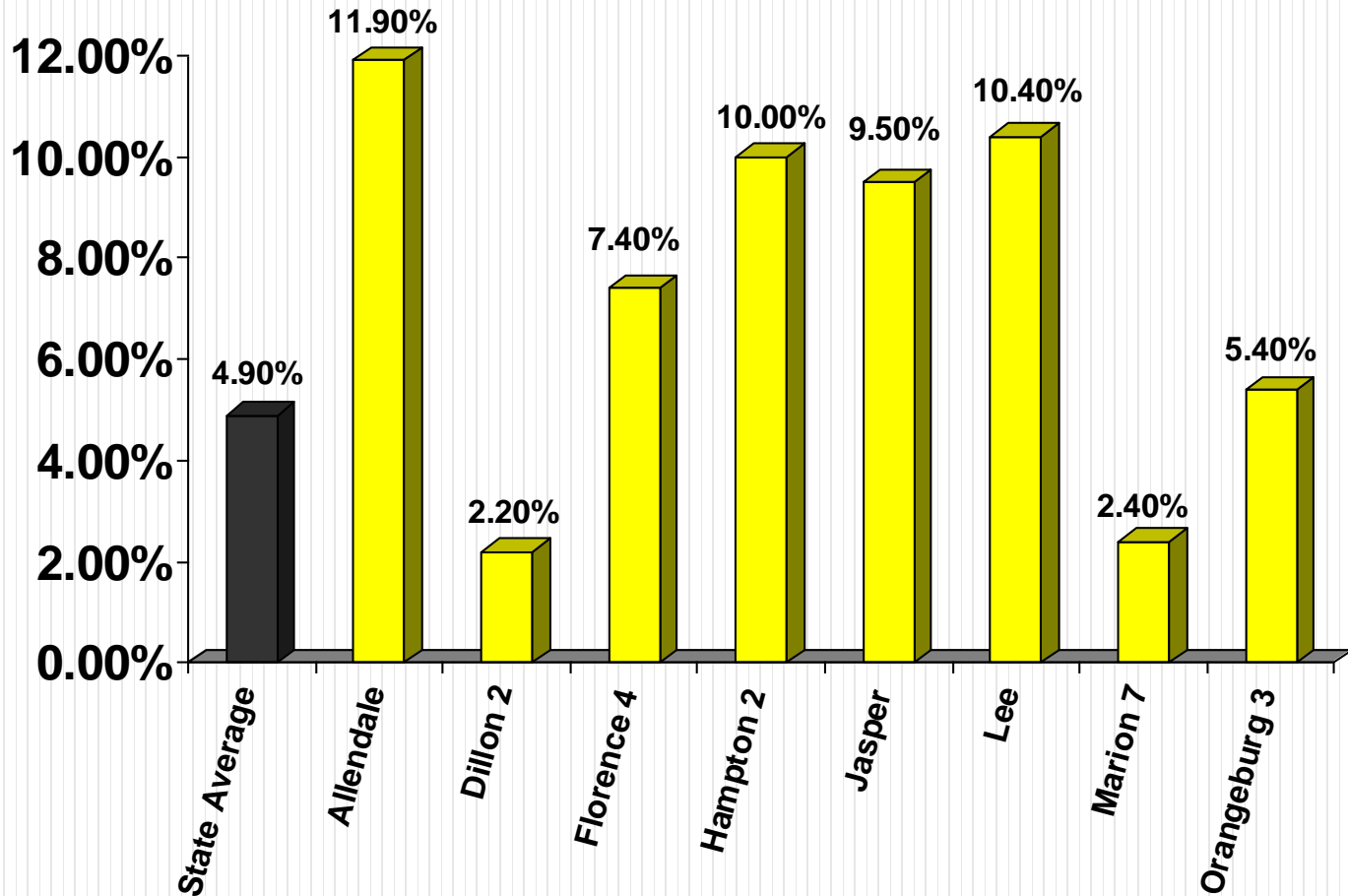


TEACHER, WE
CAN'T SEE!

Algebra
 $X+2=4$

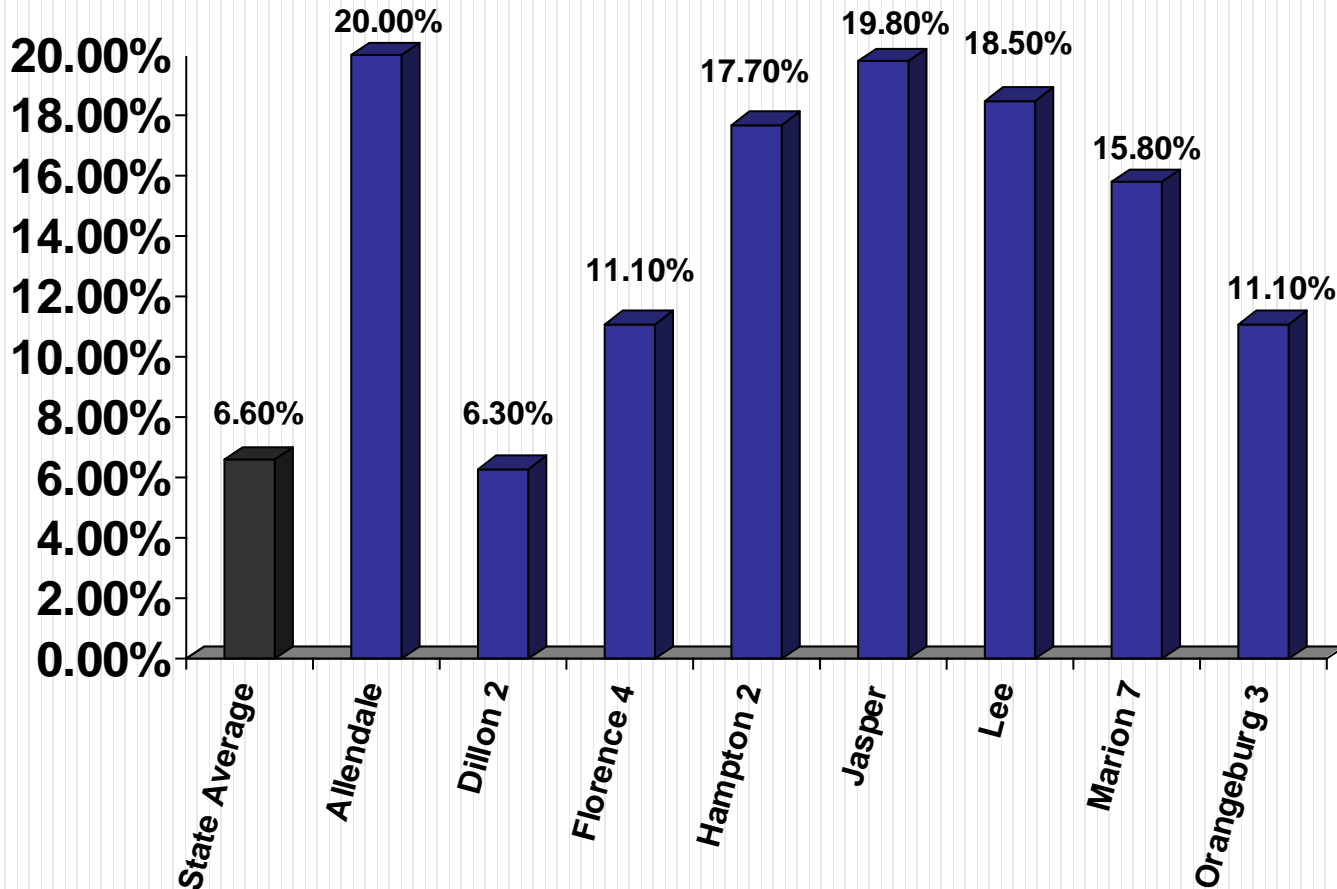
POVERTY

Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



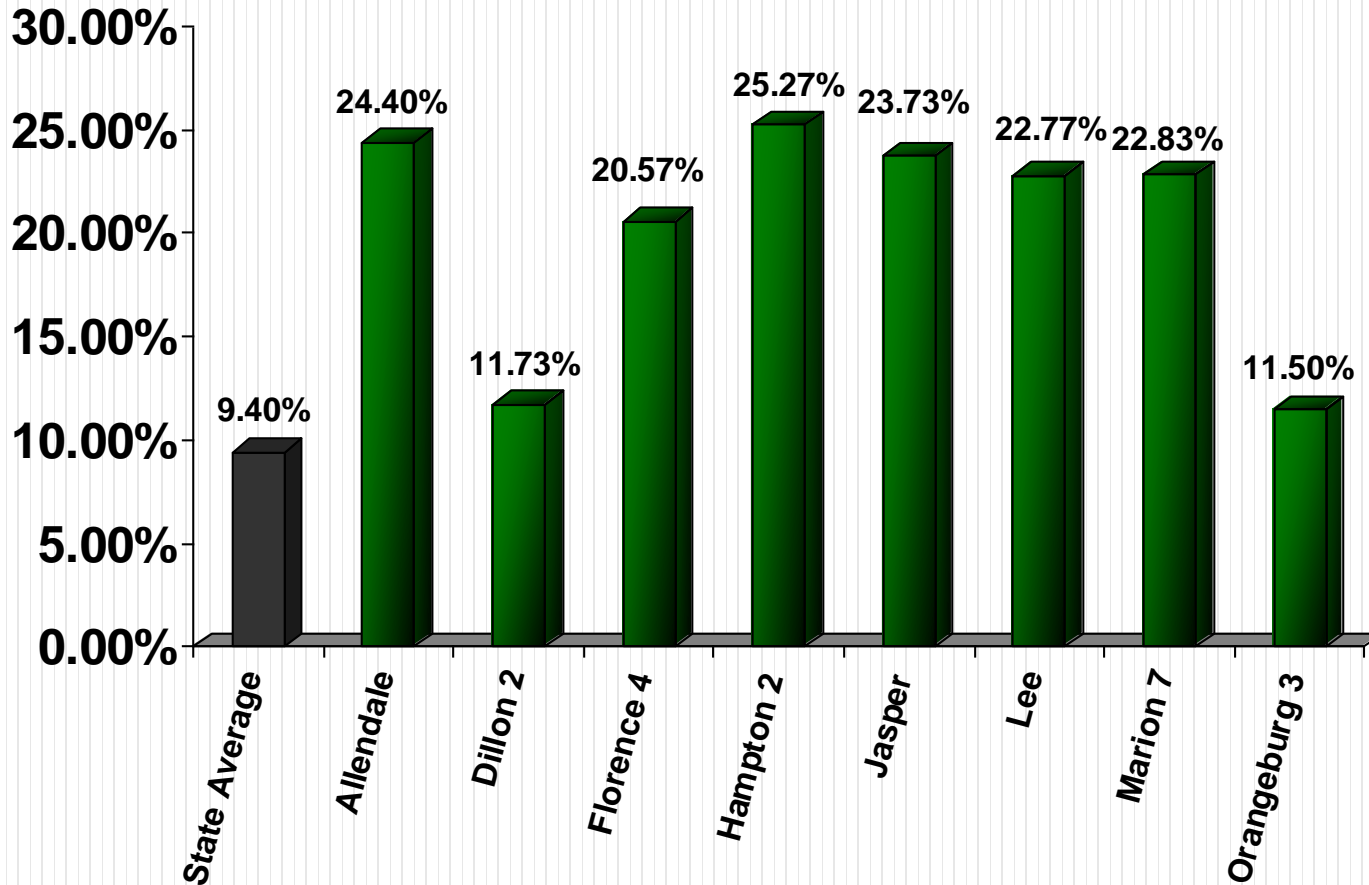
Induction Contract Teachers

Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



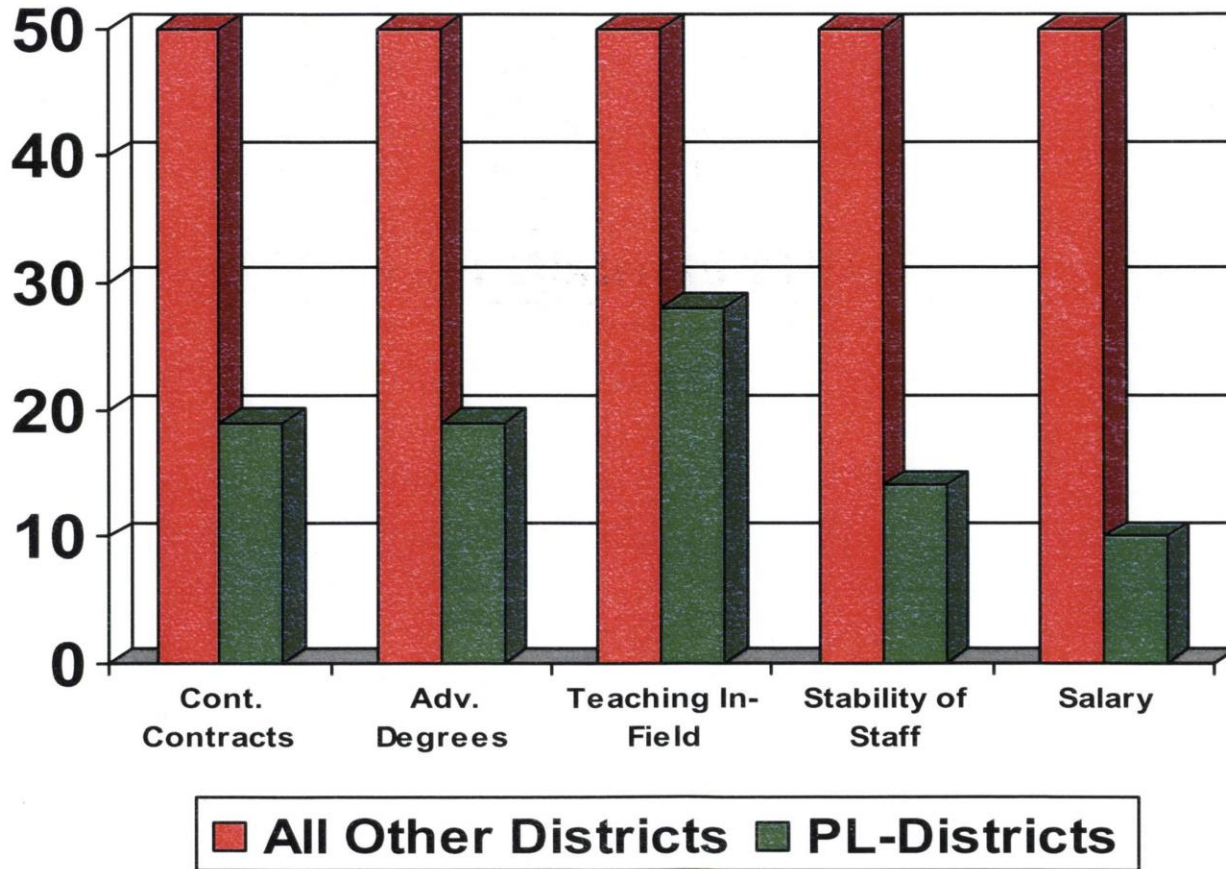
Substandard Certificates and Out-of-Field Permits

Teacher Qualifications: Plaintiff and Non-Plaintiff Districts



Three Year Average Teacher Turnover Rate

Elementary School Teachers by Percentile













Auditorium/classroom



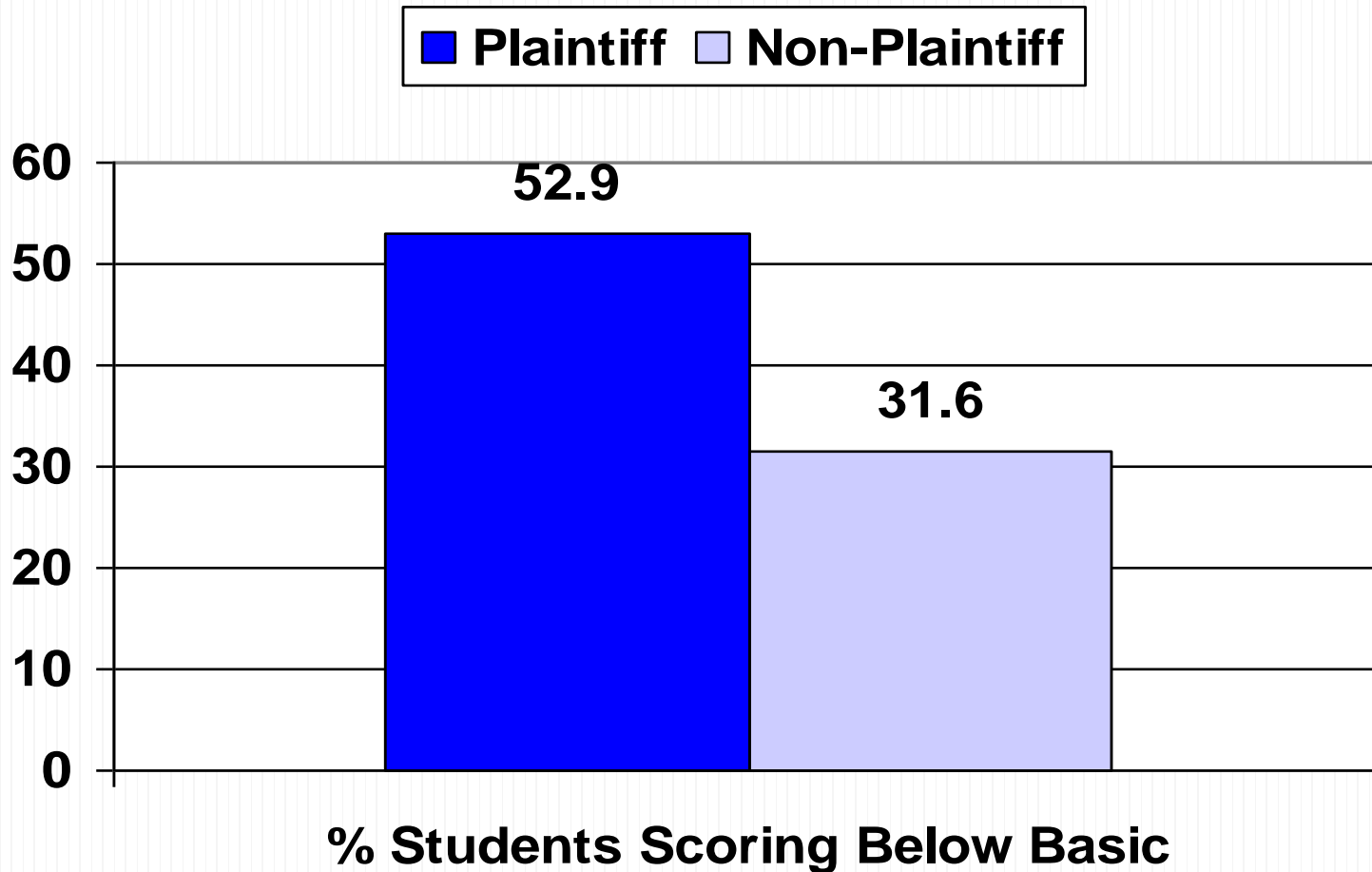
Media Center for 365 students



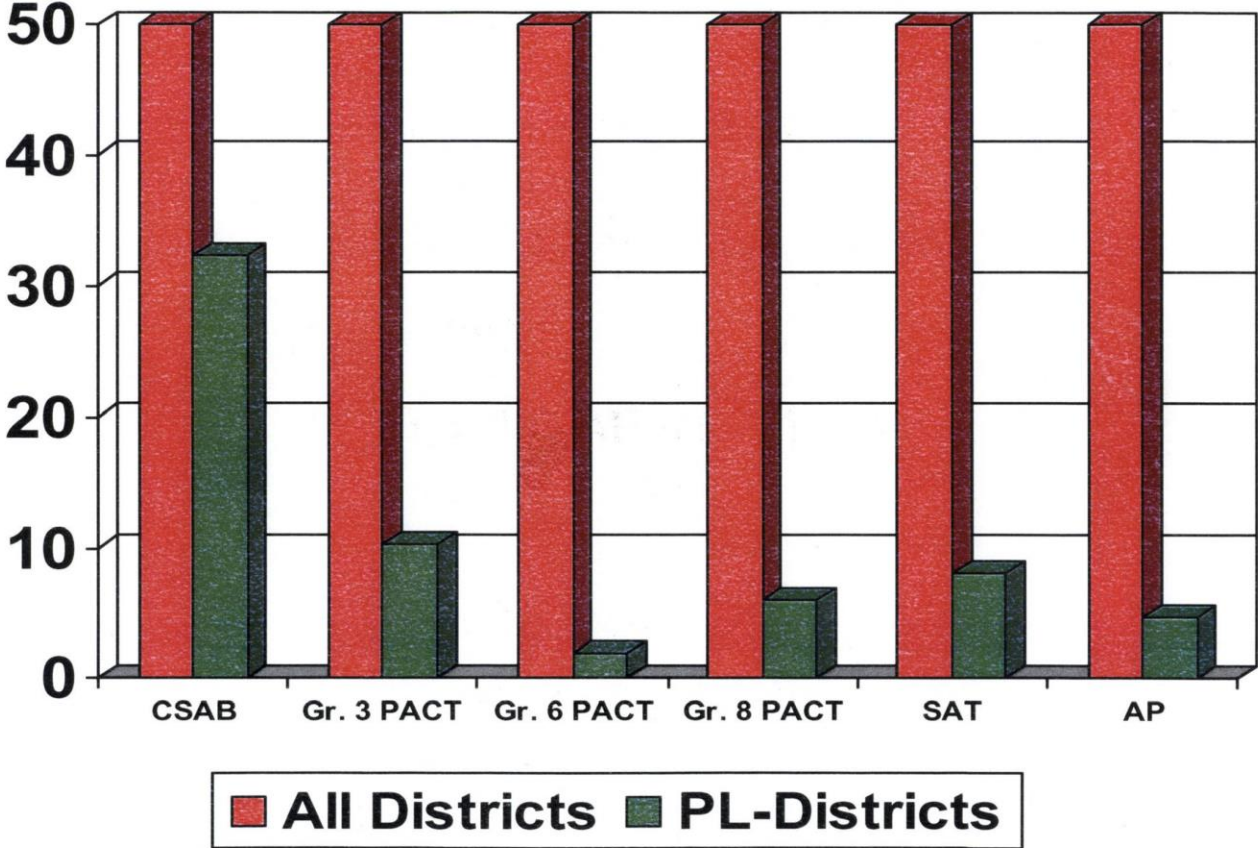
Cafeteria for 365 students



What Did the Test Results Show?



Comparison of Test Data By Percentile

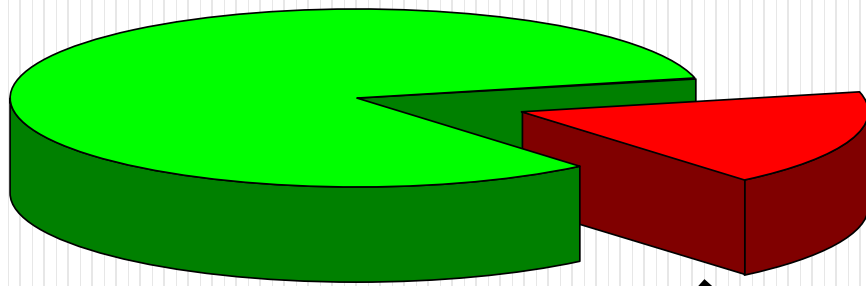


Note: Pact = 2002

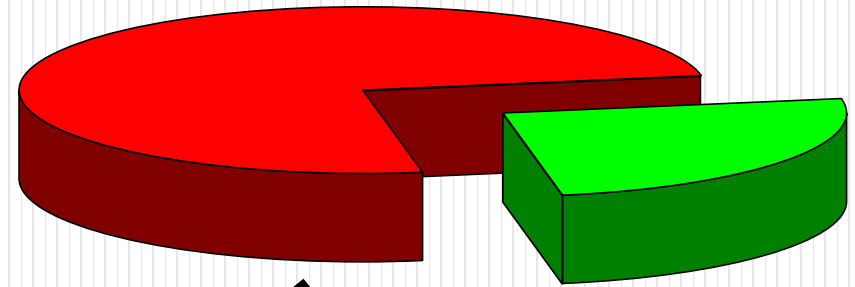
CSAB, SAT, AP = 2001

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

 Unsatisfactory and Below Average Schools



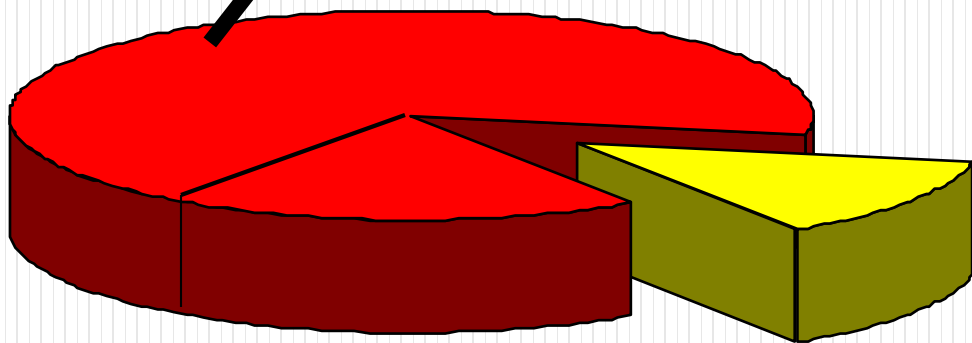
State
17.4%



Plaintiff Districts
75%

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

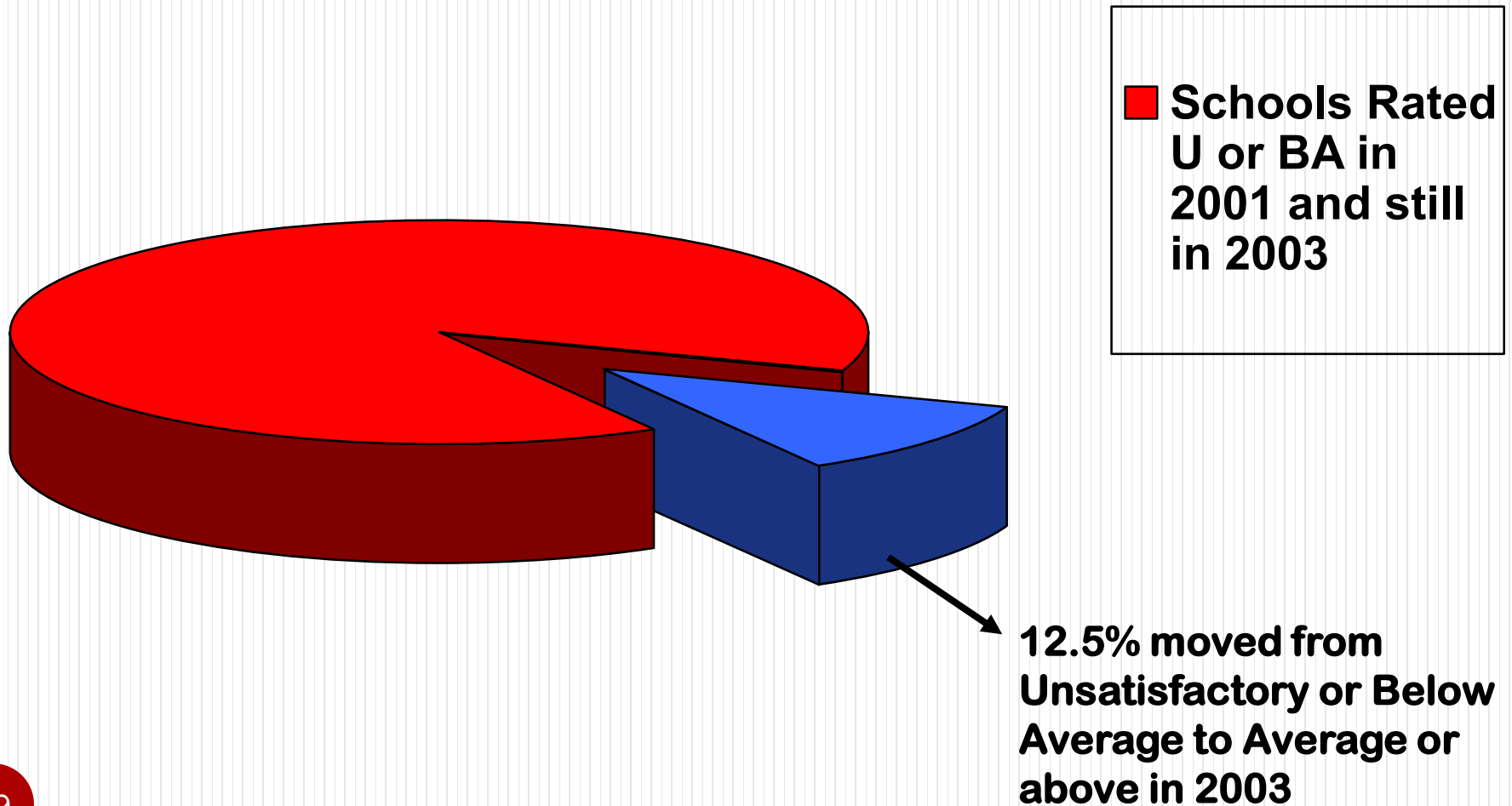
79% of schools in plaintiff districts rated Unsatisfactory or Below Average three years in a row



- Schools never rated BA or U**
- Schools U or BA at least once**

87% of schools in plaintiff districts rated Unsatisfactory or Below Average at least once over three years

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



Percentage of 9th 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%

Economic Base

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

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

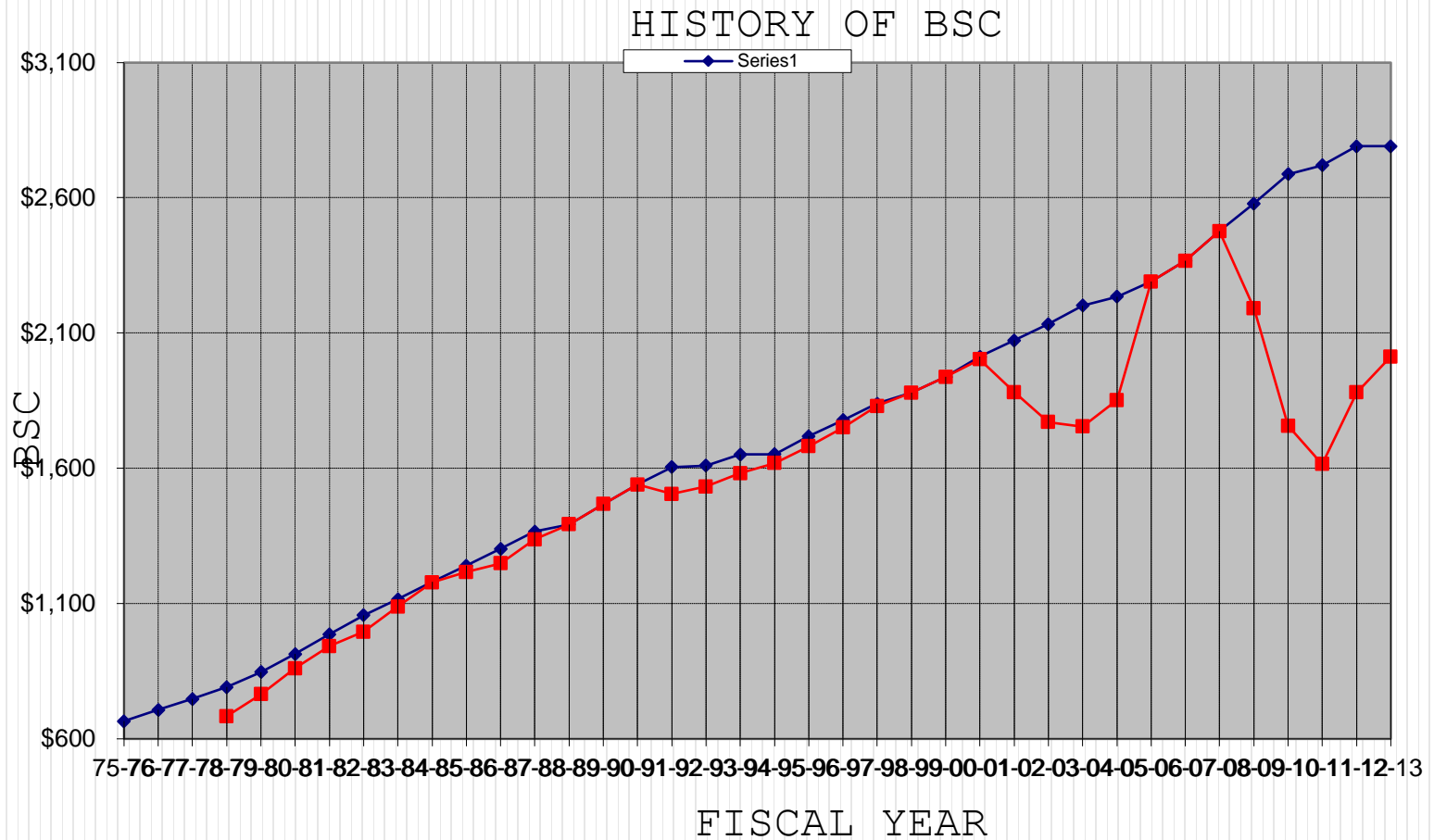
Funding: Eroded, obsolete, and complex

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

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

Funding Issues



Funding Issues

- Transportation
 - Bus driver salaries
 - Bus replacement
- Teacher salary supplements
- Employee fringe benefits
- Facility costs
- Etc., etc., etc.

Funding Issues

Per pupil expenditures (In\$ite data) do not accurately reflect funding needs and expenditures

- Maintenance of old buildings is included in In\$ite as an operating expense, but construction of new buildings is not (capital)
- Small districts have higher per pupil costs because of diseconomies of scale
- Restrictions on grants and categorical funds are not reflected
- Transportation costs are higher in poor, isolated areas



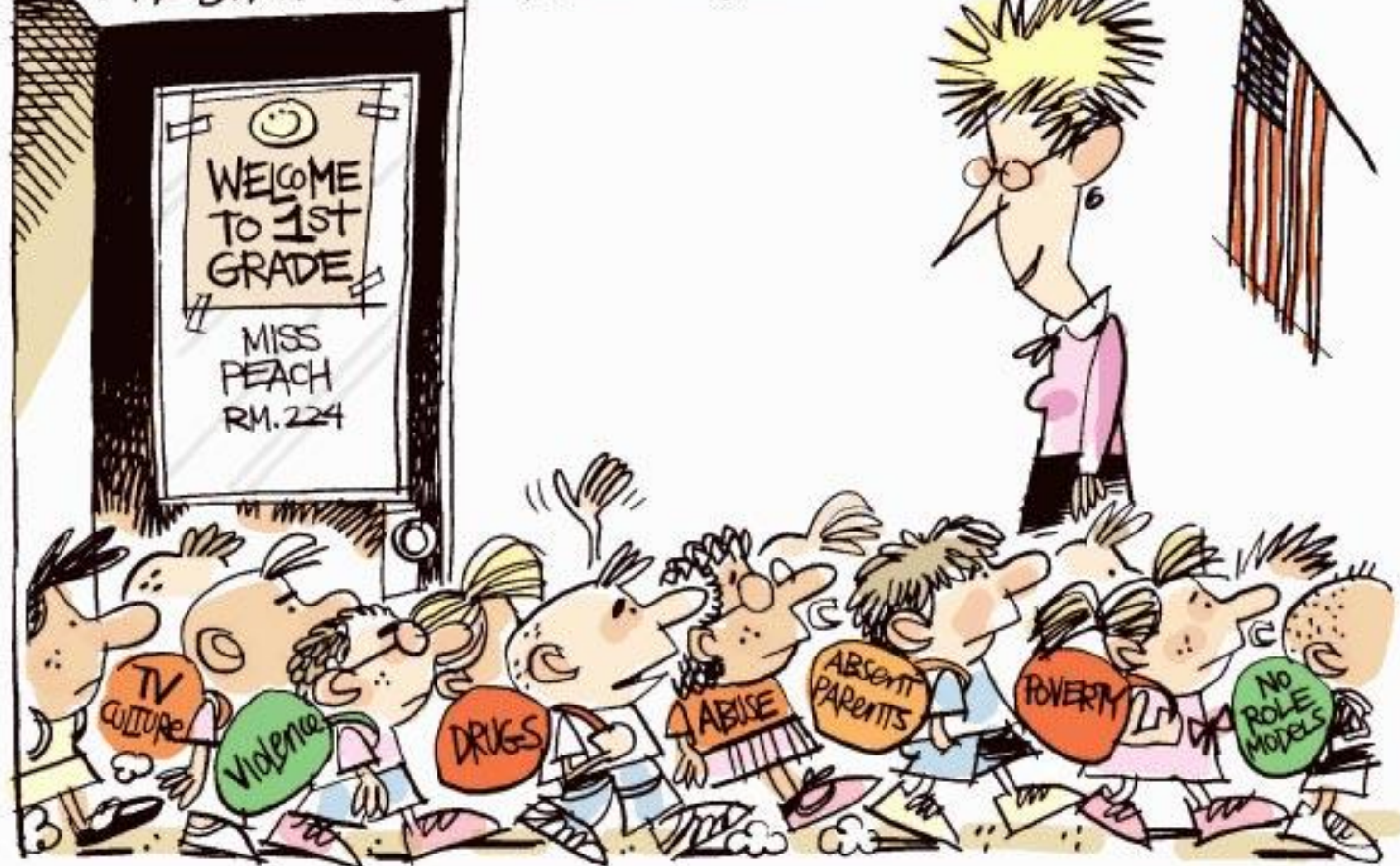
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Defendants' Evidence and Arguments

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

FTZSUMMERS@SIDEARCONATOLKASER 2008



HI! WE'RE EVERY SOCIAL PROBLEM IN AMERICA THAT YOU CAN NAME ROLLED INTO A HERD OF TOO MANY HUMANS FOR ONE MERE MORTAL TO MANAGE... LET ALONE TEACH. WHERE DO YOU WANT US TO SIT?

Trial Court Order

December 29, 2005

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

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.

Trial Court Order

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

Trial Court Order

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

Trial Court Order

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

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

Second Appeal

Appeal Issues

Plaintiffs appealed conclusions on

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

Appeal Issues

Defendants appealed the court's requirement that they do anything

- Separation of powers
- Legislative prerogative to decide

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.”

Abbeville II

**The November 12, 2014
Supreme Court Opinion**

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.”

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.”

Abbeville II

There is a clear disconnect between spending and results

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.”

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**

Abbeville II

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

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.”

Abbeville II

The Remedy

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

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.”**

Abbeville II

Charge to the Plaintiff Districts:

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

Abbeville II

- **Court retained jurisdiction.**
- **Court directed the parties to return to the Court; invited the parties to suggest a timeline for reappearance and specific, planned remedial measures**

2015: The Remedy

Not this way:



Plaintiffs' Strategy Group

- Education experts
- Package of systemic reforms

SC House Education Policy Review and Reform Task Force

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

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

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