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LITIGATION IN SEARCH OF EDUCATIONAL OPPORTUNITY: AN ANALYSIS OF ABBEVILLE COUNTY SCHOOL DISTRICT ET AL. V. THE STATE OF SOUTH CAROLINA ET AL.

A Dissertation Proposal
Presented to
The Faculty of the Educational Leadership Doctoral Program
Western Kentucky University
Bowling Green, Kentucky

In Partial Fulfillment
of the Requirements for the Degree
Doctor of Education

By
Jennifer M. Hein

December 2017
LITIGATION IN SEARCH OF EDUCATIONAL OPPORTUNITY: AN ANALYSIS OF
ABBEVILLE COUNTY SCHOOL DISTRICT ET AL. V. THE STATE OF SOUTH
CAROLINA ET AL.

Date Recommended 10-22-17

Sam Evans, Dissertation Chair

Tony Norman

Kristen Wilson

Dean, Graduate School

(Date)
DEDICATION

This work is dedicated to all those who believe in me, love me, forgive me, stand by me, hold me up, and feed my soul; each of you make up the rainbow of my life.

Before I set about dedicating this work to my tribe (the whole “save the best for last” thing), I want to say thank you to those who served as rain clouds in my life. I doubt that any of those people are reading this, yet I still feel compelled to offer a “thank you.” As they say, “You can’t have a rainbow without the rain.”

Now, on to my rainbows. This body of work is dedicated to many people, for many different reasons. First, this dissertation is dedicated to my two greatest accomplishments, my sons John and Jordan. Without a doubt, they have been on this journey with me and made sacrifices (one attended his own parent-teacher conference because I was at school and the other had to take a taxi home from school because-oops- I forgot to pick him up) so that I could set about my quest for an education and to make a difference in the lives of other people’s kids. Both of these men are talented, inspiring, fearless, kind people living beautifully authentic lives. They are most certainly blessings, the brightest sparkle in my life, and the very heart of me. Honestly, I will never know how I got so lucky to have these two.

This dissertation is also dedicated to my own “Amazing Grace.” My grandma, Genevieve Grace, the truest of true “chicken grandmas.” She is smart, sassy, and is the purest, most beautiful person God has ever created. Her presence, in my life, will forever be felt! This dissertation is also dedicated to my husband, Danny (Da) Hein, the kindest, funniest, Godliest man and leader I know. Danny is gracious, talented, forgiving, beautifully simple, loving, and is teaching me how to “be still and know.” This research
is also dedicated to my parents. While I know it wasn’t always (or almost never) easy putting up with my shenanigans, I hope it was worth it. I would have never accomplished my life’s purpose without their love, support, and belief in me. I am so very thankful that it wasn’t always easy, that I was loved, that I learned to love, and that I was blessed with opportunities to become who I am meant to be. This dissertation is also dedicated to my sister Cheryl. Our relationship prepared me for much of what life has to offer: the ups and downs, forgiveness, tears, laughter, and everything that happens in between. Although she rarely ever got caught (and I almost always did), she has been a good partner in crime (and co-rap artist). I also want to dedicate this dissertation to Gracie Jane and all those like her who learn to trust and take a chance, even when they are terribly afraid to do so. She has been a companion and a reason when, at times, I wasn’t sure I had either one.

This dissertation is also in honor of those who fight nobly for others who need someone in their corner and for those who seek to ensure opportunity, equity, and justice. Additionally, this body of work is for Abbeville kids and all those kids whose very destinies hinge on our nation’s public schools. May every human being have an education that provides them an opportunity to proudly stand in the light.

Jeanette Winterson wrote, “She must find a boat and sail on it. No guarantee of the shore. Only conviction that what she wanted could exist, if she dared find it.” Last, to those who have helped me find “it,” put wind in my sail, or at last prayed for me when I was adrift and looking for the shore line, this is also dedicated to you.
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Part of Western Kentucky University’s mission statement is that the university “enriches the quality of life for those within its reach.” My dissertation chair, Dr. Sam. Evans, has definitely enriched my life and those within his reach. He is a selfless leader, scholar, and advocate for ensuring educational opportunity. Without his patience, encouragement, help, guidance, and belief in me, this dissertation (and the numerous attempts before it) would not have been possible. Because of our many conversations about public education, education policies, and beliefs about what is best for kids, I have grown, changed, and am a better educator and leader. My professional journey, education at Western Kentucky University, and my relationship with Dr. Evans have truly shaped my beliefs about the moral imperative we have to ensure that public schools are so great that no parent or child has to choose an alternative and that educational opportunities exist for every child. I would like to, therefore, formally acknowledge Dr. Evans as he has helped me find my place on “The Hill” and I am forever grateful. I would also like to acknowledge my dissertation committee, Dr. Antony Norman and Dr. Kristin Wilson. I could not have been in better hands than to have this committee of leaders, scholars, and educators guiding my way and this work. I am so thankful they were excited about this research and came along on this journey with me.

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Like many southern states, South Carolina has a history permeated by issues related to race, equity, and educational opportunity. As early as the 1949 South Carolina court case, *Briggs v. Elliott*, South Carolina has had to address issues of equity and educational opportunity among its disenfranchised and marginalized citizenry. More than 60 years later, in *Abbeville County School District et al. v. the State of South Carolina et al.*, sectors of rural South Carolina, predominantly black and poverty laden, would unite and engage in a legal battle with the State over equity in public education and by judicial mandate, be forced to look inward for education reform.

The *Abbeville County School District et al. v. the State of South Carolina et al.* court case has shaped the legislative and education landscape throughout the entire state of South Carolina, and is poised to continue to do so. The South Carolina Supreme Court’s finding of an opportunity gap promulgated primarily by inadequate school funding resulted in the State of South Carolina failing to meet its constitutional burden to provide a minimally adequate education. The response of the Plaintiffs and Defendants to the South Carolina Supreme Court’s ruling and order to reform education places education at the forefront of issues facing South Carolina and its most vulnerable children, schools, and communities.
The purpose of this case study is to document the history of the inception of *Abbeville County School District et al. v. the State of South Carolina et al.*, outline the judicial action and South Carolina Supreme Court’s final ruling in the case, and analyze the response of the Plaintiffs and Defendants in relation to the court’s ruling and mandate. This case study is supported by a document analysis comprised of primary and secondary sources related to the *Abbeville* case. This case study is intended to be a complete historical study of *Abbeville County School District et al. v. the State of South Carolina et al.* (through the South Carolina Supreme Court’s final ruling and the Plaintiff and Defendant court mandated response) and to provide insight into the issues facing the “Corridor of Shame” Plaintiffs and students in poverty and the schools that serve them. Further, this research is intended to be a study of judicial finding, legislation, policy, and educational plans meant to remedy educational inequity. Last, this study is intended to shine a light on the “Corridor of Shame” court case so that those children, schools, and communities may become children, schools, and communities in a “Corridor of Hope.”
CHAPTER I: INTRODUCTION

The South Carolina Supreme Court finding, in the landmark court case *Abbeville County School District et al. v. the State of South Carolina et al.*, has shaped and will continue to shape the education landscape, not only in the court case’s Plaintiff Districts, but throughout the entire state of South Carolina. This case study relies on document analysis to inform the historical account of the *Abbeville County School District et al. v. the State of South Carolina et al.* court case, the findings of the Trial Court and South Carolina Supreme Court, and the response of the Plaintiff Districts and the Defendants to the South Carolina Supreme Court's mandate to reform education. The purpose of this study is to contribute to and update existing scholarship on the *Abbeville County School District et al. v. the State of South Carolina et al.* court case and to analyze the responses of the Plaintiff Districts and the Defendants to the South Carolina Supreme Court’s final ruling. This researcher hopes this study will highlight the responsibility of the State to ensure equity and opportunity to the State's most vulnerable students, those in poverty, and shine a light on the legal case of *Abbeville County School District et al. v. the State of South Carolina et al.* in order to illuminate a change agenda for educators, leaders, policymakers, public school advocates, and those dedicated to ensuring all children, especially those who are marginalized, have a path out of poverty.

Statement of the Problem

Like many southern states, South Carolina has a history permeated by issues related to race, equity, and educational opportunity. As early as Thurgood Marshall’s appeal of the 1949 South Carolina court case, *Briggs v. Elliott*, South Carolina has had to address issues of equity and educational opportunity among its disenfranchised and
marginalized citizenry. More than 60 years after *Briggs v. Elliott*, in *Abbeville County School District et al. v. the State of South Carolina et al.*, sectors of rural South Carolina, predominantly black and poverty laden, would unite and engage in a legal battle with the State over equity in public education, and by judicial mandate, be forced to look inward for education reform.

The case of *Abbeville County School District et al. v. the State of South Carolina et al.* focused originally on more than 40 high-poverty, predominantly black, rural school systems, taxpayers in those districts, and parents and guardians representing students served in the public schools located in the Plaintiff Districts. The case, initiated in 1993 by superintendents and other school leaders in the case’s Plaintiff Districts, claimed South Carolina’s public education funding system was unconstitutional, as it was based on property tax generation. The foundation of South Carolina’s education funding system prevented rural schools from achieving necessary education funding levels. This lack of adequate funding created disproportionate and unequal educational opportunities between poor rural districts and wealthier urban districts.

The initial question in the *Abbeville County School District et al. v. the State of South Carolina et al.* case was not whether achievement gaps or opportunity gaps existed in the state’s I-95 corridor schools, but on what level of education the State is constitutionally burdened to provide. Additionally, the questions brought in the case sought to answer whether the State met that constitutional responsibility equally and with a focus on equity in South Carolina's most impoverished, rural, predominately black school districts. The Constitution of South Carolina articulates,
The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable. (S.C. Const. art. XI, § 3)

Ultimately, the South Carolina Supreme Court held that the South Carolina Constitution's education clause requires the General Assembly to provide the opportunity for each and every child to receive a “minimally adequate education” and defines a minimally adequate education as,

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 of history and governmental processes; and academic and vocational skills. (Abbeville v. South Carolina, 2014, p. 8-9)

After 21 years of contention, several rulings and appeals in 2014 took the case all the way to the state's highest court, the South Carolina Supreme Court, which made a final ruling. Click and Hinshaw’s (2014) summary article provided:

In a legal decision that could redefine South Carolina’s public education system, the S.C. Supreme Court ruled . . . that the state has failed in its duty to provide what it says is a minimally adequate education to children in the state’s poorest school districts. The 3-2 ruling in Abbeville County School District v. State of South Carolina reverberated across the political landscape and promised to provoke renewed legislative arguments over the state’s controversial education
funding formulas and the financial plight of poor, rural districts, whose superintendents joined together years ago to seek more equitable funding. The ruling comes after 21 years of contentious courtroom battles and legislative debate over the state’s responsibility to educate those who live in what became known, thanks to a documentary, as South Carolina’s “Corridor of Shame.” (p. 3)

The final legal ruling in Abbeville County School District et al. v. the State of South Carolina et al. by South Carolina's highest court articulated that an achievement gap existed in the Plaintiff Districts. The court found that the achievement gap, in part, stemmed from an opportunity gap created by the State. The South Carolina Supreme Court further found this opportunity gap, promulgated by inadequate school funding that created many other issues, was unconstitutional and resulted in South Carolina failing to meet its constitutional burden to provide a minimally adequate education to all students. The final ruling and the South Carolina Supreme Court’s order to reform education places education at the forefront of issues facing South Carolina and its most vulnerable children, schools, and communities.

Purpose of the Study

There is limited scholarly research on the landmark case Abbeville County School District et al. v. the State of South Carolina et al. and no known holistic scholarly research since the South Carolina Supreme Court’s final ruling and response of the Plaintiffs and Defendants to the Court’s mandate. Therefore, it is this researcher's intent to provide a comprehensive and foundational case study that examines (1) the history of the case; (2) the Trial Court’s and South Carolina Supreme Court’s findings; and (3) the response of the Plaintiffs and Defendants to the State Supreme Court’s Order and final
ruling. Furthermore, this study is a look into adequacy, equity, and the role of education in ensuring opportunity centered on a historical account of the pivotal education court case, *Abbeville County School District et al. v. the State of South Carolina et al.*

**Research Questions**

The intent of this case study is to contribute to and update an already existing, yet limited, body of scholarship related to the history of *Abbeville County School District et al. v. the State of South Carolina et al.* by conducting a document analysis. A secondary intent is to provide an analysis of the Plaintiffs’ and Defendants’ response to the Trial Court’s and South Carolina Supreme Court’s Order mandating education reform in order to ensure educational equity and to close the opportunity gap found in the I-95 corridor schools. The following research questions guide this case study:

1. How did the *Abbeville County School District et al. v. the State of South Carolina et al.* court case originate, progress, and conclude?

2. How did the Plaintiffs and Defendants in the *Abbeville County School District et al. v. the State of South Carolina et al.* court case respond to the judicial findings of the Trial Court and South Carolina Supreme Court final Order?

**Methodology Overview**

The qualitative methodology supporting this research is centered on a document analysis to ensure a descriptive, historical case study focused on explaining events and the outcomes of those events. Case study research allows for an in-depth analysis of complex issues or complex cases. Slavin (2007) defined case study research as “an evaluation of a single example of a program or setting through extensive research” (p. 150). Yin (1984) defined a case study as, “inquiry that investigates a contemporary
phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident and in which multiple sources of evidence are used” (p. 23). Schramm (1971) published a series of notes on case study research in which he outlined the inclusive nature of case studies and argued that case studies “can afford to consider a large number of details, so as to consider their possible relation to a decision or a pattern of events” (p. 4). Schramm further related:

A case study is centrally concerned both with time and with description. It seeks to record why a given decision was taken, how it was worked out, and what happened as a result. . . . A case study of any size will deal with a number of decisions taken in the course of carrying out the original decision, will describe the situations in which they were taken and the procedures involved in carrying them out, and the effects of doing so. It is therefore free to cover a wide time span and to describe a variety of situations and relationships. (p. 5)

He argued a case study’s central purpose is to answer what happened by describing in depth the case, people involved, situation, and all that makes a case whole. Further, he related, “The essence of a case study, the central tendency among all types of case study, is that it tries to illuminate a decision or set of decisions; why they were taken, how they were implemented, and with what result” (p. 6).

Yin (1984) explained that case study methodology is meant to address how or why research questions and noted case studies are useful when “the investigator has little or no control over events, and when the focus is on a contemporary phenomenon within some real-life context” (p. 1). Case study methodology provides an in-depth understanding of the Abbeville County School District et al. v. the State of South Carolina
et al. court case, as well as explores the connection between the South Carolina Supreme Court’s findings, the South Carolina General Assembly’s legislative response, and the South Carolina Department of Education’s policies focused on remedying the education opportunity gap associated with the Plaintiff Districts in the *Abbeville County School District et al. v. the State of South Carolina et al.* court case.

The document analysis associated with this case study is central to the purpose of this work, as it creates a historical roadmap from the past to the present. Education historian Sterns (1998) noted that history provides evidence related to national institutions, problems, and values. According to Sterns, “studying history helps us understand how recent, current, and prospective changes, that affect the lives of citizens, are emerging or may emerge and what causes are involved” (p. 2). This focus on history, and specifically that of the *Abbeville County School District et al. v. the State of South Carolina et al.* case, is essential to understanding South Carolina’s legislative school funding and education policy shifts, as well as the future landscape in South Carolina related to public education and the state’s Supreme Court mandate to remedy the education opportunity and achievement gaps found in *Abbeville*.

**Significance of the Study**

Many of South Carolina’s budget decisions, legislative actions, and education policies have been born from the judicial rulings and findings in the *Abbeville* case. Therefore, study of the Abbeville case is important to the understanding of the state of education and education equity in South Carolina. In *Education Policy: Globalization, Citizenship and Democracy*, Olssen, Codd, and O’Neill (2004) elicited the idea that, to understand the context of state level legislation and education policy, one must
understand the context of policy. These authors noted, “Policy documents are discursive embodiments of the balance of dynamics as they underlie social relations or problems, at a given point in time” (p. 2). Permuth and Mawdsley (2006) defined policy as a “vision of where to go and guidelines for getting there” (p. 133). In his text, Policy Studies for Educational Leaders: An Introduction, Fowler (2009) explained that legislative acts and public policy are both official and unofficial enactments and practices, or a lack thereof, by government entities. He articulated, “Public policy is the dynamic and value-laden process through which a political system handles a public problem. It includes a government's expressed intentions and official enactments, as well as its consistent patterns of activity and inactivity” (p. 4). Borman and Dowling’s (2008) meta-analytic and narrative study related that researching public policies and issues guides an understanding of ways in which our political bodies address, or to what extent they respond to, issues. Because of the South Carolina Supreme Court's ruling, that the state of South Carolina acted unconstitutionally by failing to provide a “minimally adequate” education for children in 40 of its most impoverished districts, education reform and policy issues are at the forefront in South Carolina.

There is little current academic research on the education court case Abbeville County School District et al. v. the State of South Carolina et al., its complete chronology, the Trial and Supreme Courts’ final ruling, or the case’s legislative and policy impacts. Published dissertations related to Abbeville v. South Carolina have focused on education finance and the case's outcome as of 2007 and 2009, well before final appeal, the 2014 final ruling, and the Court’s mandate for a joint reform plan. This study is significant, as the South Carolina Supreme Court’s final decision and final Order
mandating reform has an impact on South Carolina education legislation, budget decisions, and policies. The Order of the Court, meant to remedy the findings of a constitutional violation, have had and will continue to have an impact on the future of education in the state and the students in the Plaintiff Districts.

Undoubtedly, the purview of public education falls to the state. Even though each state is granted legislative autonomy and public education is a state issue, an in-depth look at what one state is doing can guide actions and inform practices in other states. The South Carolina Supreme Court recommended in the final order that the state of South Carolina, as Defendants in the Abbeville case, review decisions from other states in order to seek remedying action related to the finding. The Court noted:

As we explicitly acknowledged . . . the Defendants are the sole arbiters of educational policy choices. Rather than dictating that the Defendants follow our own views on how to fix the problems faced by the Plaintiff Districts, which would grossly exceed our judicial authority, we merely offer our discussion of other cases as a suggestion to the Defendants on where they might turn to obtain guidance in their future policy decisions. (Abbeville v. South Carolina, 2014, p. 32)

This suggestion of the Supreme Court of South Carolina that one state can benefit from findings, decisions, and case outcomes in others states contributes to the validity that this type of study has merit and significance. Additionally, if our nation's most vulnerable students are to have a path out of marginalization and poverty, and if we are to close achievement gaps and propel learning outcomes for students, there is a justifiable need to
study judicial decisions, legislative measures, policies, and plans that seek to rectify
issues related to education equity.

Acknowledgement of Delimitations and Limitations

This qualitative study was delimited by the selection of a single court case and a
narrowed focus on the scope of the case's final ruling. The Abbeville County School
District et al. v. the State of South Carolina et al. case was selected for several reasons.
The plight of the Plaintiff Districts, the Abbeville case, and the court’s ruling are driving
forces in the State of South Carolina. One cannot truly engage in equity or poverty
scholarship or study current or future education legislation or policy in South Carolina
without making a connection to the Abbeville County School District et al. v. the State of
South Carolina et al. case. Additionally, the subjects of study (rural schools, education
equity, students in poverty, and remedying the opportunity gap of disadvantaged
students) are of great importance to our society. Last, primary and secondary source
documents related to the Abbeville County School District et al. v. the State of South
Carolina et al. case and the response of the Plaintiffs and Defendants are readily
available and can be triangulated to ensure reliability.

There are limitations to this study relative to both the content and purpose. In
regard to the first limitation based on content, this study, like others, has an intentionally
narrow scope in that it focuses on one court case in one state and that case's impact on
legislation, policy, and plans meant to remedy the Court’s findings. The second limitation
relative to content is that this study looks only at specific South Carolina legislative
measures and South Carolina Department of Education policies as they relate to the
specific findings of the South Carolina Supreme Court, in the case of Abbeville County
School District et al. v. the State of South Carolina et al. This researcher is not examining the cost of enacting legislation, levels of implementation, or effectiveness of legislation or implications of specific policies. The purpose of this study is to provide a historical analysis of the case from its initial filing to the South Carolina Supreme Court's final ruling and to provide an analysis of the response of the Plaintiffs and Defendants related to South Carolina Supreme Court’s mandate to create education reform in order to ensure educational equity and to close the opportunity gap found in the Abbeville districts.

**Definition of Key Terms**

*Achievement Gap:* (1) Refers to outputs; (2) Any significant and persistent disparity in academic performance or educational attainment between different groups of students, such as white students and minorities, for example, or students from higher-income and lower-income households; (3) Unequal or inequitable distribution of educational results and benefits. (Abbott, 2014, para. 2)

*Corridor of Shame:* A stretch of impoverished, largely black school districts running along Interstate 95 in southeastern South Carolina. The title of a documentary highlighting the area which comprises the Plaintiff Districts in the Abbeville County School District, et al. v. the State of South Carolina, et al. court case.

*Education Equity:* The process by which education raises the achievement of all students, while narrowing the gap between the highest and lowest performing students and eliminating predictability and disproportionality of which student groups occupy the highest and lowest achievement categories. (Linton & Singleton &., 2006)

*Equality:* One of the primary goals in a market model of society. When distributions contain or seek uniformity. (Stone, 2002, p. 42)
**Equity:** One of the primary goals of policy making in a polis model of society. When distributions are regarded as fair, even though they may contain equalities and inequalities. (Stone, 2002, p. 42)

**General Assembly:** Known as the South Carolina Legislature; This governing body consists of the lower House of Representatives and the upper State Senate.

**House of Representatives:** Legislative body; usually the body in a bicameral legislature that has the greater number of members. In South Carolina, this body has 124 members who are elected every two years (National Conference of State Legislatures).

**Legislature:** The branch of state government responsible for enacting laws. (National Conference of State Legislatures)

**Minimally Adequate:** (1) A level of education; (2) State constitutional requirement of the South Carolina General Assembly to educate each child; (3) To include the provision of adequate and safe facilities in which students 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 of history and governmental processes; and academic and vocational skills. (*Abbeville v. South Carolina*, 2014, p. 18)

**Opportunity Gap:** (1) Refers to inputs; (2) The unequal or inequitable distribution of resources and opportunities. (Abbott, 2014, para. 4)

**Senate:** A legislative body; usually the body in a bicameral legislature having the fewer number of members. In South Carolina, this body is comprised of 46 members elected every four years. (National Conference of State Legislatures)
Summary

This case study is comprised of a literature review in Chapter II, which focuses on the purpose of public education, the history of equity and education in the United States, the state’s role in public education, public education in South Carolina, and court cases cited by the South Carolina Supreme Court as particularly instructive. Chapter III includes a thorough explanation of the methodology, the research questions, data collection procedures, and data analysis aspects associated with this dissertation. Chapter IV outlines the findings of this research. As this chapter forms the heart of the case study, it is extensive and includes (1) the history and inception of the Abbeville County School District et al. v. the State of South Carolina et al. case; (2) South Carolina Supreme Court’s final ruling and mandate for reform; and (3) South Carolina education legislation and policies in response to the Court’s final ruling and mandate for reform. Chapter V, the final chapter, includes a summary, a discussion of outcomes, and recommendations for future research.
CHAPTER II: REVIEW OF THE LITERATURE

Introduction

This review of the literature is inclusive and mirrors the purpose and foundational aspects of the study. The first section includes an overview of the literature related to the purpose of public education. The second section offers an overview of education equity in the United States. The third section contains an overview of the state’s role in providing for a public education and ensuring educational opportunity. The fourth presents an overview of education in South Carolina related to the state’s history, public school financing, and education governance. The fifth section provides insight into two specific precedent setting cases, Campaign for Fiscal Equity, Inc. et al. v. the State of New York et al. and Campbell County School District et al. v. the State of Wyoming et al., mentioned by the South Carolina Supreme Court in the Abbeville County School District et al v. the State of South Carolina et al. case. The actual case study, to include the history and inception of the Abbeville case, the progression of the case through the South Carolina judicial system, the case’s final ruling, and resulting state responses, will be outlined in the findings. The summary highlights the importance and necessity of ensuring educational adequacy, equity, and opportunity.

Purpose of Public Education

Throughout our nation's existence, the purpose and tenants of public education have shifted. This circuitous path of the role and formation of public schools and educational opportunities provides a rich view of our nation's history and shifts in ideology. Historically, in the United States public education was a way to ensure the democratic participation of citizens, albeit, of a limited group of people. As early as 1796,
upon the completion of George Washington’s presidency, he “instructed American leaders to promote . . . institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened” (as cited in Avalon Project, 2017). According to Brackemyre (2009), Horace Mann was one of the earliest advocates for public education, evident in his support of the common school movement and belief that all people should be afforded an equal education. From George Washington’s view of education as enlightenment and essential to our modern perceptions about the purpose of education today, the nature and role of public education has evolved.

Public education historian and policy researcher Labaree (1997) examined the historical conflict of competing views of the role of public education. He articulated that defining the role of public schools has been and continues to be a point of contention. He asserted that, due to the lack of a single and agreed upon purpose of public education, three explicit purposes emerged. He noted that, in relation to these purposes, each role has exerted influence over the others without undermining them. The three purposes he identified are democratic equality, social efficiency, and social mobility. He expounded on this view by noting:

These roles differ across several dimensions: the extent to which they portray education as a public or private good, the extent to which they understand education as preparation for political or market roles, and the differing perspectives on education that arise, depending on one's location in the social structure. (pp. 41-42)
In respect to the democratic equality view, Labaree (1997) argued that a true democratic society cannot exist if all members are not afforded equal opportunities to be equal citizens. In this view, Labaree conjectured that schools must take on the role of promoting effective citizenship and ensure equality of opportunity. To support his second role of public education, social efficiency, Labaree surmised the role of public education is to “invest educationally in productivity” (p. 43) of a future workforce. He noted from this efficiency model, that education is a public good in which everyone benefits from a healthy, stable economy. Labaree’s third purpose or role of public education is to ensure social mobility. He argued this role provides individuals with the chance to move out of a struggling social class into a more comfortable one. In concluding his research, Labaree noted the role of public education is to provide every individual with the capacities required for full participation as informed citizens and as economic contributors.

Another researcher to address the lack of agreement regarding the role of education, Zion (2016) created a framework explaining the central purposes of education utilizing the 1995 research of deMarrais and LeCompte and the 2007 research of Kubow and Fossum. Zion argued that public education seeks to address four concerns. The first is an “egalitarian concern” which is connected to quality of educational opportunity and the idea that education is the greatest equalizer. The second is an “economic concern” which highlights the relationship between educational attainment and economic vitality and workplace skills and competencies. The third is a “civic concern” which informs that the purpose of education is to ensure all citizens are prepared and able to participate in public life and share in a national identity. Zion’s fourth area is a “humanistic concern.” This concern places education as a fundamental right guaranteed to all humans, as it is
the way to reach one’s highest potential. Darden (2006), a public education attorney and policy analyst at the Center for Public Education, shared his view that the success of our nation to maintain its democratic ideals, economic growth, and even our very liberty depends on our system of public education. He stated:

Public schools in the U.S. open their doors to all children, providing a learning and social environment guided by, on one hand, community consensus locally and, on the other, nationally shared values of how our children should be taught and raised as Americans. With the public watching and participating, each child has an opportunity for success no matter the circumstances of her or his family or the special needs. (p. 2)

**Equity and Education in the United States**

The Civil Rights Act of 1875 provided that Americans, regardless of race, would have equal access to public accommodations and sought to protect the rights of all Americans to serve as jurors in legal cases. The Act read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons within the jurisdiction of the United States shall be entitled to the full and equal and enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude. (Civil Rights Act of 1875)
This federally legislated act became the basis for a number of court cases that reached the United States Supreme Court. Gudridge (1989) noted the cases decided in 1883 were based on the United States Supreme Court’s finding that the act extended beyond the “constitutional grant of congressional power” (p. 539). This finding of the Court became the challenge of Homer Plessy, the plaintiff in *Plessy v. Ferguson*.

In 1892 Homer Plessy was jailed in New Orleans, Louisiana, for refusing to evacuate a white only railroad car. During his trial, Plessy argued the charge was “null and void because it was in conflict with the Constitution of the United States” (*Plessy v. Ferguson*, 1896, p. 163). After a number of appeals and state court rulings, the case was sent to the United States Supreme Court in 1895. In 1896, the United States Supreme Court, in a seven to one ruling, found the Louisiana law that required races be separated was not a violation of the United States Constitution, as long as the facilities were deemed equal. The Justices noted:

> The object . . . was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid
exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced. (*Plessy v. Ferguson*, 1896, p. 545)

The case of *Plessy v. Ferguson* gave legal standing to the separate but equal doctrine and would become precedent for a number of cases, until the 1954 United States Supreme Court decision in *Brown v. Board of Education*.

*Brown v. Board of Education* originated in the early 1950s when lawyers for the National Association for the Advancement of Colored People (NAACP) brought legal action against the Topeka, Kansas, school board on behalf of Oliver Brown, the parent of one of 12 children denied access to Topeka's white, neighborhood schools. The case was filed on the claim that Topeka's racial segregation of schools violated the Constitution's Equal Protection Clause “because the city's black and white schools were not equal to each other and never could be” (McBride, 2006, p. 2). According to McBride, a constitutional law attorney, the district court dismissed the claim, ruling that the “segregated public schools were substantially equal enough to be constitutional under the *Plessy doctrine*” (p. 2). Brown appealed to the Supreme Court, who then consolidated the Brown case with a number of cases, including the South Carolina case of *Briggs v. Elliott*.

One of the most famous quotes about the state’s role in ensuring educational opportunity is that of United States Supreme Court Chief Justice Earl Warren. In *Brown v. Board of Education*, Warren (1954) proclaimed:

> 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. Such an opportunity, where
the state has undertaken to provide it, is a right which must be made available to all on equal terms. (p. 493)

The role of the state to ensure educational opportunities to all, on equal terms described by Chief Justice Earl Warren, makes it the role of a state’s judicial system to hear cases if educational opportunity, equity, or constitutionality are challenged. Such cases heard in state courts, which have occasionally gone to the United States Supreme Court, have potential to shape legislation at the state level as well as directly impact policies developed in that State’s Educational Authority (SEA). Costner (2009) articulated that, in the very pursuit to equalize education for all children, school districts and private citizens utilize state judicial systems to seek equity in opportunity. There are many historic cases that create precedent for the judicial intervention in education equity cases. Boone (2014) outlined the long history of education litigation and noted that, in relation to education finance and issues of associated equity, this type of litigation began in the 1960s and “continues nearly unabated into the present” (p. 95). Some of the most pivotal state cases are centered directly on public education funding formulas and systems and the ways such public education funding mechanisms address or fail to address equity.

In his overview of education litigation, Darden (2006) argued that in order to ensure public school systems provide educational opportunities for all students, including those who require more resources, students may have to seek legal action based on state constitutional principles. He noted for public school districts and states, “the law is a constant companion, it works to serve students and ensure that public education as whole continues to meet the unique and necessary role it plays in developing an educated citizenry” (p. 3). Thro (1989), in his analysis of provisions found in state constitutions,
concluded it is essential to study other cases in order to determine the best argument to bring forth school finance cases. He ascribed this need to look at precedent because of the complex nature of public education finance as well as the complicated connection it has with adequacy. Thro believed the discrepancies and disparities between school districts in a state prevents overall effective systems of public education. He articulated:

As a result of legislative unwillingness or inability to equalize funding between districts, citizens of a number of states increasingly have challenged the constitutionality of public school financing. The public education finance reform cases attempt either to obtain greater funding for all schools, or, alternatively, to obtain a substantial equality of funding for all districts within a given state. (pp. 1639-1640)

Thro’s research, focusing on state level constitutions as they outline education and corresponding state courts’ rulings related to constitutionality, uncovered four main categories of education provisions in state constitutions. He indicated Category I constitutions contain an education clause that merely provides for a free public education. These clauses outline the most minimal obligation of a state to educate its citizens. Category II clauses mandate that the public education system meets a certain standard, generally that the education be sufficient, efficient, or thorough. Category III clauses include “stronger and more specific education mandates” (Thro, p. 1666). Finally, Thro described Category IV clauses as those that impose the greatest standard or obligation. Generally, these clauses provide that education is “fundamental, primary, or paramount” (p. 1668).
Thro (1989) asserted, for the most part, education finance cases are not won based on proving a state's legislature violated the language of its constitution related to education. Rather, he concluded these cases are won based on the plaintiff’s ability to prove that funding disparities create inequality or violate a state’s equal protection clause. Thro provided that, by analyzing state constitutions and associated legal cases, he could make a difference in school reform litigation. He shared his analysis with these words:

This note has sought to survey the various strategies adopted in recent years in order to give potential litigants a better overview of the issues involved in school finance reform litigation. In doing so, its goal has been to aid in the removal of obstacles that currently block the successful pursuit of such cases. Only with the removal of those obstacles will Thomas Jefferson’s goal, “to render them safe” from tyranny of ignorance, be achieved. (p. 1679)

In his review of education adequacy and equity court cases, Boone (2014) attempted to define adequacy. He surmised,

It is impossible to define adequacy in isolation, rather the concept must be understood in relation to external criteria, such as that offered by the language of a state constitution's education clause or a set of externally determined outcomes. Simply stated, the education clause of a state’s constitution commits to guaranteeing all students reach a minimum level of academic achievement and requires the state provide the level of spending needed for all school districts to produce a specified level of education and achievement. (p. 96)

Boone offered a distinction between adequacy and equity by noting adequacy ensures equity. He conceived a standard of equity requires a state to eliminate funding and
education spending variations between wealthy and impoverished districts. Juxtaposed with the equity standard is the adequacy standard, as it establishes the minimum spending level by which to ensure a specific or targeted learning outcome. Boone called on the work of Odden and Picus (2014) that asserted a measurement of adequacy. Boone articulated adequacy depends on setting a level or a standard based on the answers to four different questions. Those questions include: adequate to do what; adequate in relation to whom; adequate to what extent; and adequate for how long, what period of time?

Boone (2014), Heise (1995), and Thro (1989), all notable education and school finance legal scholars, divided the history of school finance and its connection to equity into three distinct periods or waves. The first period extended from 1970-1973 and, according to Boone, was “based on two sources, the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and the theoretical work of Coons, Clune, and Sugarman” (p. 96). Boone shared, “These authors contended state funding for public education should be both substantially equal among school districts and independent of wealth of the school districts in which students reside” (p. 96). Boone noted that at the state level this approach initially was successful until the 1973 U.S. Supreme Court decision in San Antonio Independent District v. Rodriguez, which set precedent that federal courts would not hear school finance cases. The second wave of school finance and equity cases, extending from 1973-1989, focused on legislating equity in public school funds distribution between school districts. Boone noted:

The purpose of such litigation was to convince courts to interpret the language of the education clause of state constitutions in ways that would recognize
differentials in need among school districts and free districts from dependence on local wealth to fund educational programs. (p. 96)

Boone furthered that most plaintiffs were unsuccessful in this argument. The last period discussed in Boone’s review is the third period, which began in 1989 with the state of Kentucky’s Supreme Court decision in *Rose v. Council for Better Education*. In the case of *Rose* the court ruled that Kentucky’s legislature failed to afford students an adequate education, as guaranteed to them in the state's constitution, and directed the state to remedy the found issues. Boone cited several legal scholars and surmised:

> To guide the legislature’s response, the court included in its decision a list of skills and knowledge that, in its view, constituted an adequate education. *Rose* is a landmark case and a turning point from a standard of equity to a standard of adequacy as a basis for challenging state school finance provisions. (p. 97)

In short, Boone asserted that, since 1989, there are explicit reasons why adequacy cases related to public education finance continue to be brought before state courts. One reason is that adequacy plays a role in ensuring equity and equality and those ideals are at the very heart of the American psyche. He noted, “Adequacy appeals to established United States norms of fairness and equal opportunity and seems to support education’s continued role as key to economic success and upward social-class mobility” (p. 97).

In his overview of adequacy and equity litigation, Heise (1995) also sought to divide the history of public education finance cases into the same three periods articulated by Boone (2014). Heise acknowledged the issues of public education finance are both complex and contentious. Heise concluded that the third wave of court cases, those beginning in the late 1980s, were centered on adequacy legal decisions.
focused on the sufficiency of public education funding formulas or mechanisms. He further argued that all children are entitled to an education of a certain quality guaranteed by the given state’s constitution education clause. He noted:

Adequacy decisions emphasize differences in the quality of educational services provided, rather than the resources provided to all school districts. As a result, adequacy decisions challenge school finance systems, not because some districts spend more money than others, but because the quality of education in some districts fails to meet a constitutionally required minimum. (p. 1153)

In explaining the links between adequacy and equity, Heise articulated the complexities associated with equity and equality, as they are connected to both education and school finance. He suggested that, equality might mean in terms of education generally in school finance equality is very different from equity. In short, according to Heise, the variations in student educational needs make attempts to equalize public education finance systems gravely complex. He concluded, “Students from different backgrounds and posing varying educational needs and learning styles impose varying costs for school systems constitutionally charged with the duty to educate them all” (p. 1169). Additionally, Chung (2015) indicated, “Low academic achievement and the disparities in achievement among income and racial-ethnic groups of students have been a major concern of educational policies” (p. 413). He further argued that education funding inequalities among school districts, are due to local districts reliance on “school districts’ revenue on local wealth” (Chung, 2015, p.413).
State’s Role in Education

By virtue of the Tenth Amendment and the Fourteenth Amendment of the United States Constitution, the responsibility to educate our nation's students belongs to the states. The Tenth Amendment of the United States Constitution articulates, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” (U.S. Const. amend X). Because public education was not an expressed power of the federal government, it was found to be a power delegated to the states. Additionally, the Fourteenth Amendment of the United States Constitution reads:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens in the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. (U.S. Const. amend. XIV)

This amendment brought about the inclusivity of public education and the call for equality and equity.

Boone (2014) noted, “Questions of the structure and content of publicly funded education are typically considered the province of state legislators, educational policy makers, and philosophers” (p. 95). It is the function of state government to ensure equity and education opportunity for all students. Each state has a State Educational Authority (SEA), which is generally known as the State Department of Education. This entity is awarded its authority and responsibility through the state's constitution. According to
Zion (2016), director of the Culturally Responsive Urban Education Center, SEAs are designed to guarantee compliance with regulations; assert control over public school funds and spending; ensure that infrastructure is safe; educational personnel are properly qualified and licensed; that all children are provided minimum educational opportunities; state educational standards and student performance measures are attained; and that schools are organized according to the law.

Wise (1983), author of *Educational Adequacy: A Concept in Search of Meaning*, outlined the role of the state to ensure its duty to educate all students. After reviewing several state legal battles involving the constitutional mandates of states to educate its citizens, Wise articulated, “When a state assumes a duty, its citizens assume a right” (p. 302). He concluded this legal principle has been established through court precedent and constitutional interpretation. Wise further described the responsibility of the state by noting the state's duty is to ensure students are prepared to be active citizens, can compete in the labor market, and can compete in the marketplace of ideas.

**Education in South Carolina**

**History of Public Education in South Carolina**

Hale, an assistant professor of educational history at the College of Charleston, wrote extensively about the formation of public education in the state. In his 2014 article about the origins of public education in South Carolina, he noted the birth of public education in the state began in 1865, at the end of the Civil War. Hale surmised, “the federal Reconstruction government forced states from the former Confederacy to reform their legal systems for re-admission into the United States” (p. 2). This mandate for reform, backed by the presence of federal troops, meant that former enslaved African
Americans would be able to vote, run for office, and eventually as a result be allowed access to public education. Hale noted:

In South Carolina, African American representatives elected during Reconstruction . . . took the lead in implementing progressive legislation through the 1868 state Constitution. The 1868 Constitution featured many groundbreaking amendments, including provisions for free public education for all children in the state, black and white. (p. 2)

This provision for public education, for white or black children, did not previously exist. White children were generally educated by tutors or in private schools, while legislation prevented children of slaves from learning to read or write. Hale (2014) concluded:

Poor whites either did not receive a formal education, or they only had access to informal schooling. This legislative move to write state-supported education into law reflected the aspirations of formerly enslaved people. Black South Carolinians saw newly acquired freedom and citizenship as an avenue to obtain formal schooling and literacy for all. (p. 3)

The next point in South Carolina history that shaped public education in the state was centered on the gubernatorial election of Wade Hampton in 1876 and on the Compromise of 1877, which brought Republican Rutherford B. Hayes to the office of President of the United States. According to noted American history researcher Burkin (2009), the contested presidential election of Rutherford B. Hayes by Democrats and Samuel J. Tilden was based on disputed election results in four states, one of which was South Carolina. The contested state election kept either candidate from earning the required Electoral College votes. Finally, Democratic leaders conceded the election and
Rutherford B. Hayes became the 19th president. The Democrats’ concession came as part of a deal to ensure the removal of United States troops from the South. According to Burkin (2009),

When the federal troops were withdrawn, the Republican governments in Florida, Louisiana, and South Carolina collapsed, bringing Reconstruction to a formal end. Under the Compromise of 1877, the national government could no longer intervene in state affairs. This permitted the imposition of racial segregation and the disfranchisement of black voters. (p. 12)

With the withdrawal of federal troops in South Carolina and the ensuing racial segregation, Reconstruction ended. Time would pass before another solid mark would be made on the history of public education in South Carolina.

In his 1994 article “Brown Revisited,” White noted that the Briggs v. Elliott case, which later became part of the Brown v. Board of Education case, shaped education in South Carolina and in the United States. The 1950 Briggs case, brought with support and organization of the NAACP, was based on a lack of public school transportation and inferior physical facilities for black students in Clarendon County, South Carolina. White noted:

The schools for blacks in the county were older hand-me-downs from the white community, and many lacked playgrounds, ball fields, cafeterias, libraries, auditoriums, and other facilities that were present in the newer schools serving whites. In addition, this case featured a whole new realm of social and psychological research that pointed to the low self-esteem of the black children who attended these inferior schools. (p. 14)
Mack (2005), a legal professor and historian, explained that both the Briggs and Brown v. Board of Education litigations cast a long shadow over the civil rights movement. He noted that the case became an “engine of social reformation” and created “formal conceptual categories such as rights and formal remedies such as school desegregation” (p. 258). The United States Supreme Court’s final ruling in the Brown case came in 1954, in what McBride (2006) called “one of the greatest Supreme Court decisions of the 20th century” (p. 3).

In the case of Brown v. Board of Education, the United States Supreme Court unanimously held that racial segregation of children in the nation's public schools was in violation of the Equal Protection Clause of the Fourteenth Amendment. As McBride (2006) noted, “the decision did not succeed in fully desegregating public education in the United States, it put the Constitution on the side of racial equality and galvanized the nascent civil rights movement into a full revolution” (p. 3). Chief Justice Earl Warren authored the decision for the Brown decision by explaining:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system. . . . We conclude that, in the field of public education, the doctrine of
"separate but equal" has no place. Separate educational facilities are inherently unequal. (*Brown v. Board of Education*, 1954, pp. 493-496)

According to noted South Carolina education historian Dobrasko (2009), even though the *Briggs* case became enveloped in the 1954 United States Supreme Court *Brown v. Board of Education* decision, South Carolina continued to segregate students based on race. She found, “the public-school system in South Carolina was not desegregated until 1963, and dual school systems based on race were not eliminated until 1970” (p. 1). The finding of the Supreme Court and the remarks of Chief Justice Earl Warren in the *Brown* case continued to be a pervasive theme throughout the history of public education in South Carolina and in the *Abbeville County School District et al. v. the State of South Carolina et al.* case.

In an article published in 1955, Solomon, the Executive Secretary of the Palmetto Education Association, described the condition of public education in the state. Solomon claimed Governor James F. Byrns foresaw the possibility that the U.S. Supreme Court would find school segregation unconstitutional and began to act on that insight. Solomon noted that, in 1951, Governor Byrns appointed a committee headed by Marion Gressette, the head of the Senate Education Committee, in order to:

study and report on the advisable course to be pursued by the State, in respect to its educational facilities, in the event that the federal Courts nullified the provisions of the state's constitution requiring the establishment of separate schools for children of white and colored races. (as cited in Solomon, p. 327)

In 1952, pending the findings of the Gressette Committee, Governor Byrns asked the South Carolina legislature to repeal Section 5 Article XI of the South Carolina
Constitution. Article XI read, “The General Assembly shall provide for a liberal system of public schools for all children between the ages of six and 21 years and for the division of the counties into suitable school districts” (as cited in Solomn, p. 327). This request was met by the people of the State in referendum and in November 1952 voters granted the legislature the power to repeal the public education provision of South Carolina’s Constitution. Solomon contended the state of South Carolina had a “wait and see” attitude and argued:

With every consideration to plan for desegregation discouraged on the basis that we are not now required to do it and may not in the not-too-distant future be required, apathy in public thought is promoted and the opportunity of preparation granted in the implementation delay is wasted. (p. 327)

South Carolina, while maneuvering toward noncompliance with a future Supreme Court mandate, was simultaneously taking steps to attempt to equalize segregation.

Solomon (1955) wrote that public education officials had not made any direct overtures toward desegregation, even in the wake of the 1954 United States Supreme Court ruling in Brown, which declared segregation unconstitutional. According to Solomon (1955), the Gressette Committee made a recommendation in July 1954 to continue school construction programs for separate races based on the 1951 public education three cents tax increase specified as state education equalization funds. These funds were earmarked for the construction of facilities and were meant to provide equal schools, transportation, and classroom resources for black students. The first equalization school, built in Charleston County in 1953, would be followed by more than 500
additional schools throughout the state. Dobrasko (2011), in her research on the South Carolina school equalization movement, noted:

While black students attended new schools throughout Charleston, their schools lacked many of the amenities given to white schools such as libraries, auditoriums and athletic fields. White resistance to the building program and equalization schools ensured that true equalization never occurred. (p. 34)

Dobrasko furthered that, for another 11 years, black South Carolina families and organizations that supported them would continue to challenge segregation at the county and state levels. According to Dobrasko, school officials ignored or evaded petitions for desegregation “until 1963, when a federal circuit court ruled in favor of the plaintiffs in *Millicent F. Brown et al. v. School Board District No. 20*, desegregating Charleston’s public-school system” (p. 35). Following the 1963 ruling in the *Brown v. No. 20* case, the South Carolina Department of Education took over the responsibilities of the Education Finance Commission. Dobrasko surmised school equalization programs continued to be justification for the state's refusal to integrate schools.

Education researchers and scholars Lindle and Hampshire (2016) contended that even after the United States Supreme Court's ruling in *Brown v. Board*, which included the *Briggs* appeal for South Carolina to integrate schools, the state’s politicians resisted the federal mandate. Lindle and Hampshire suggested, “The state's white politicians staged a number of legislative maneuvers to avoid desegregation” (p. 2). One example cited by Lindle and Hampshire was the removal in 1952 of the South Carolina constitutional requirement for the state provision of public schools. Lindle and Hampshire noted, “Although by 1970, courts mandated integration in South Carolina
schools, these court orders did not put an end to de facto segregation” and that not until
the 1970s did the South Carolina legislature restore “the education provision to the South
Carolina state constitution” (p. 2). Lindle and Hampshire (2016) surmised “South
Carolina’s political culture demonstrates a four-centuries-long, regressive tradition
minimally accommodating for the education of the general public’s children, many of
whom are black, low income or both” (p. 3).

**Public Education Finance in South Carolina**

The history of public school finance in South Carolina is directly linked to the
history of public education in the state. Throughout the history of South Carolina, a
number of school finance reforms have impacted distributions of revenues across richer
and poorer districts. The associated consequences of school financing mechanisms and
reforms lie at the heart of several court cases and shifts in South Carolina legislation
related to education financing and expenditure. In their report on school finance to the
United States Senate, Education advocates and researchers Seidman and VanSchaick
(1948) noted “One measure of a nation's interest in education is the proportion of its
income being devoted to educational purposes” (p. 7). This idea that the value of
education can be found in the financial commitments to it has played out in the history of
education finance reform throughout the United States and in South Carolina.

In his 1997 article “South Carolina’s New School Finance Law,” Kelly argued
that since the 1940s South Carolina had a number of initiatives and proposals related to
school funding sought to replace the flat funding structures utilized by the state to support
public education. According to Kelly:
While these proposals varied in scope and content, they all had two factors in common. First, they recognized a growing disparity in the expenditure rates among the districts as the percentage of locally generated revenue increased over time. Second all proposals were unsuccessful in bringing about a change in the system. (p. 515)

The South Carolina General Assembly Legislative Audit Council (1983) published its study entitled “A Review of the Education Finance Act of 1977.” In that report, the Council reminded:

The Constitution of South Carolina “requires the General Assembly to provide for the maintenance and support of a system of free public schools open to all children in the State” (Article XI, Section 3). In continuing to meet this responsibility, the General Assembly passed Act 163 of 1977, known as the Education Finance Act (EFA). The purpose of the Act is to provide equity of funding for a basic educational program, equity of effort for taxpayers, and the availability of comparable educational programs for all primary and secondary school students. Prior to the implementation of the EFA, the State relied on a "flat-grant" system to provide funding to schools. The "flat-grant" system allocated dollars to school districts based on pupils, staffing, or a percentage of a district's expenditures for an activity. However, this system resulted in inequitable funding for individual pupils among the State's school districts. Because local funds for education are derived from property taxes and the property wealth of districts varies, the funds available to operate school districts have varied. (p. 8)
Kelly (1997) opined that this attempt to reform education finance led to the 1975 executive order to convene the Governor’s Committee for Equalization of Education Finance. The findings of the Committee formed the basis of the South Carolina Education Finance Act (EFA) of 1977. Cohn and Smith (1989) indicted the new act “was designed to reduce inter-district disparities in educational revenues and improve equity and educational finance in the state” (p. 380). In 1983, the South Carolina General Assembly Legislative Audit Council’s report attempted to explain the funding mechanism of the 1977 EFA. The Council noted:

The amount of funding a school district receives from the State varies with each district's ability to raise local revenues for schools. By using an index of taxing ability, districts with a smaller amount of property wealth receive a larger percentage of state funding. This is to enable each district to provide a required minimum educational program for each student, with a more equitable tax burden for taxpayers. Inequities in education funding caused by variances in property wealth should be reduced with this method. By committing State funds toward ensuring that every school will live up to a specified set of educational standards, the Act is designed to provide equal educational opportunities for every student in the State. (p. 18)

Indeed, the very purpose for the finance reform passed and adopted in 1977 can be found in the Act’s introduction. The Act purposed:

To guarantee to each student in the public schools of South Carolina the availability of at least minimum educational programs and services appropriate to his needs, and which are substantially equal to those available to other students
with similar needs and reasonably comparable from a program standpoint to those students of all other classification, notwithstanding geographic differences, in varying local economic factors. (S.C. Education Finance Act, 1977, p. 1)

In essence, this Act sought to provide a set funding amount for each student in the state in order to ensure that the state’s school districts offered a standard education program and educational opportunity by providing a comparable funding level. Kelly (1997) explained that a standard program was the basic instructional program adopted by the South Carolina Department of Education. Any additional costs to ensure the basic instructional program, above the minimum set program, would be formulaically calculated. The formula was based on the cost for the extra item and a weighted factor based on average daily membership counts of the school district. According to Kelly, the South Carolina EFA of 1977 was projected “to increase appropriations for public elementary and secondary education by approximately $100 million dollars, or a 22% increase” (p. 517). The Act further outlined the portion for which the state and the local districts would be financially responsible. Under the Act, the state was required to provide 70% of all funds and districts were responsible for 30%. Each district’s portion of the required 30% was determined by the district's ability to pay for the allocated percentage. This was referred to as an “index of taxpaying ability” (as cited by Kelly, p. 517). The index was directly tied to property tax assessments and aligned with state granted impact aid received by a district to offset low property values. Kelly (1978) wrote about the education finance act in its initial year and forewarned there would be issues related to the new legislation, primarily the furthering of inequity across the state in the state’s poorer school districts.
According to Knoeppel, Pitts, and Lindle (2013) in their article “Taxation and Education: Using Educational Research to Inform Coherent Policy for the Public Good,” the EFA of 1977 was “a foundation program that includes a weighting system designed to equitably distribute funds among districts based on local property wealth” (p. 9). These education scholars found:

The EFA placed the determination of a per pupil cost each fiscal year based on revenue projections. The base student cost, initially provided to all students to ensure horizontal equity, is then weighted based on grade level, handicapping condition, homebound instruction, and vocational education as a means to provide a degree of vertical equity. This calculation provides a cost of the educational program for each district. Local districts must raise a portion of the total cost of the program in order to be eligible for state matching funds. (p. 10)

Knoeppel et al. (2013) argued that education finance systems dependent on property tax “historically remain vulnerable to challenges on the grounds of equity and adequacy tied to local wealth” (p. 1). They asserted that, since property wealth is unevenly distributed between and among geographic areas, the reliance on such ensures inequity. They surmised:

In the literature on school finance, myriad studies have been conducted to examine the equity and adequacy of revenue allocated in support of public education. . . scholars have both attempted to define and quantify the concepts of horizontal and vertical equity. Due in large part to judicial interpretations of state constitutions regarding the requirement to provide for a system of public
education, the debate has evolved from a focus on equity, defined as equal, to one
of adequacy, defined as sufficient. (p. 2)

Because of the financial mechanisms involved in the Act of 1977, the rural poverty
districts in South Carolina were unable to ensure levels of funding commensurate with
levels in more urban, affluent, white districts in the state.

Anderson, Barton, and Braman (2003) attributed the EFA of 1977 to the central
form of school funding in South Carolina. These researchers noted the Act was meant to
replace previous formulas and allocations and to provide each student with instructional
opportunities and programs specific to each student’s needs. Anderson et al. argued that
the EFA of 1977 was a progressive funding mechanism at both the state and local levels
and noted that, since its passage the “Education Finance Act has maintained the structural
elements of the base student cost, the weighted people unit, and the index of taxpaying
ability” (p. 26). Anderson et al. offered that, since the original passage of the act the state
made a number of detrimental budget cuts and greatly reduced allocations for the student
base amount with “the most drastic budget cuts occurring in the late 1980s and between,
2001 and 2003” (p. 26). Additionally, they noted that since the act’s passage in 1977,
little has changed in the distribution of education funds.

In 1984, South Carolina enacted new education finance legislation to bolster the
EFA of 1977. Knoeppel et al. (2013) surmised the Education Improvement Act (EIA) of
1984 “was an attempt to raise and distribute additional funds for education and to
improve the quality of the system of public education in South Carolina” (p. 10). The
EIA increased the state sales tax by one cent and specified that the state would bear any
and all costs for programs associated with the new Act. The new Act was meant to
support rigorous learning standards; additional course requirements for high school graduation; improvement in school level leadership; increases in teacher salaries and a focus on recruitment; the creation of effective partnerships between schools and stakeholders; and special programs for students, both gifted and those performing below expectations. Additionally, the Act included appropriations for school facilities and other infrastructure funds. According to Anderson et al. (2003), the EIA of 1984 was “constructed to supplement the foundation program by providing additional or specialized instruction so that all students acquired basic skills compensating or remediating for student academic deficiencies and making teaching a more attractive profession” (p. 27).

In 1987, a group of taxpayers in Richland County brought suit against the governor, his cabinet members, and a number of other state representatives in the legal action Richland County et al. v. Campbell et al. The basis of the case was that the state of South Carolina acted unconstitutionally by creating and enforcing a shared funding plan (the EFA and EIA) that, according to the plaintiffs, “denies students equal educational opportunities because the formula considers each school district's wealth, thereby depriving them of equal protection” (Richland County et al. v. Campbell et al., 1987, p. 2). The case moved back and forth through the South Carolina judicial system and was dismissed by the South Carolina Supreme Court in 1988. Anderson et al. (2003) noted the 1989 report by the South Carolina Chamber of Commerce and suggested:

Despite an increase in total dollars for education, the proportion of the state's budget dedicated specifically to public education, declined. This decline was
attributed to growth in the overall numbers of students, the weighted people unit figures and inflationary adjustment. (p. 28)

Knoeppel et al. (2013) contended the needs of South Carolina students were not fully met as a result of the state’s funding mechanism.

In 2006, the South Carolina Legislature passed Act 388, known as the Property Tax Relief Act. According to Knoeppel et al. (2013), “This Act changed the means by which localities could raise funds in support of public education” (p. 11). Previous to the 2006 Act, property taxes were the main source of public education funding at the district level in South Carolina. The authors noted the new Act created a change “to a reliance on ad valorem taxes, revenue transfers from the state in lieu of taxes, and revenues from fees” (p. 11). This change meant that LEAs could spend these dollars as they deemed necessary. Knoeppel et al. outlined the three main components associated with the new Act:

The first included a sales tax increase from 5% to 6%. According to the law, the revenue generated by this increase flowed into the newly created Homestead Exemption Fund. Secondly, all owner-occupied residential property became exempt from property taxes for school operations. By FY 2008, money in the Homestead Exemption Fund became the source for reimbursements to school districts for the lost property tax revenue. The last component . . . imposed millage caps for all local governing bodies including school districts. (pp. 11-12)

Revenue generated by the state and allocated to Act 388 for property tax relief funds was directed to go to LEAs as reimbursement for decreased collections and revenues associated with the change in property taxation.
Knoeppel et al. (2013), in their study of Act 388, noted “the law decreased the budget capacity of school districts thus impacting educational equity and adequacy” (p. 1). These researchers provided:

The goal of the proponents of Act 388 was to reduce the tax burden on the elites. Although the impact of Act 388 was exacerbated by the 2008 recession, the coincidence of the Act’s provisions and the economic downturn provided a dynamic illustration of the issues with replacing a relatively stable revenue stream with a volatile one, the sales tax. The responses from the political elites in this study revealed that the enactment of the law was not merely shortsighted economically, but also in terms of taxpayer equity. The proponents of Act 388 were primarily retirees, realtors, and developers with high-value waterfront properties intended for owner-occupancy. The taxpayers who lost in the burden shift were consumers and other businesses with large property sites for manufacturing and other purposes. The biggest losers were public schools and students along with local municipalities whose ability to raise revenues was curtailed by Act 388. (pp. 17-18)

South Carolina Education Governance

Government and politics scholars Tyler and Young (2007) described state level government and legislation as central actors in a representative democracy. The description was based on responsibilities the state has to confront pressing issues faced by its citizenry. South Carolina has a bicameral state government known as the General Assembly, which is comprised of an upper chamber, the Senate, and a lower chamber, the House of Representatives. Like other state legislative bodies, the South Carolina General
Assembly carries out many functions, chief among them the spending of public monies, raising of revenues, and lawmaking.

In her report to the Strom Thurmond Institute of Government and Public Affairs, Ulbrich (2010) noted that all South Carolina public schools are accountable to specific authorities: The State Board of Education, the State Department of Education, the South Carolina General Assembly, and Local Education Agencies (LEA) via their school boards. In South Carolina, the State Board of Education and the State Department of Education primarily provide oversight. The State Board consists of 17 members, each representing one of the state’s judicial circuits. The members are elected by delegations within the respective circuits. One member of the board, the member at large, is appointed by the governor. The State Department of Education has both academic and fiscal responsibilities. The Department is headed by an elected State Superintendent of Education who also serves as the secretary and administrative officer for the State Board of Education. According to Ulbrich, “The State Superintendent of Education has general supervision and management of all public-school funds provided by the state and federal government, and responsible for organizing, staffing, and administering the State Department of Education” (p. 4). In South Carolina, the General Assembly legislates public education funding in the form of a property tax.

**Particularly Instructive Cases**

In the final opinion of the South Carolina Supreme Court in *Abbeville County School District et al. v the State of South Carolina et al.*, Chief Justice Toal wrote:

> Several state appellate courts have addressed situations similar to this one.

> However, based on similar underlying facts and analyses, two cases stand out as

These cases and the legal precedents stemming from them supported the South Carolina Supreme Court’s final ruling.

In *Campaign for Fiscal Equity, Inc. et al. v. the State of New York et al.*, the challenge brought before the court was directly related to the state's burden, outlined by its constitution, to provide all students a standard of education. The *Campaign for Fiscal Equity* lawsuit originated in 1993 when a group of parents sued the state of New York for failing to provide an adequate education to their children. The New York Court of Appeals some 23 years later ruled in favor of the plaintiffs, finding that the state of New York violated the constitutional rights of students to a “sound and basic education” (*Campaign for Fiscal Equity v. New York*, 2006, p. 31) due to inadequate funding. Ananthakrishnan (2005), in her summary of the case, noted New York’s reliance on property tax revenues led to significant funding disparities between “property rich and property poor school districts” (p. 19) and that these disparities created libelous educational opportunities.

Another pivotal case included in the South Carolina Supreme Court ruling in *Abbeville County School District et al. v the State of South Carolina et al.* was that of *Campbell County School District et al. v. the State of Wyoming et al.* This case was also based on the question of educational opportunity and adequacy. The Constitution of Wyoming called for a complete and uniform system of public education open to all students. In 1995, school districts throughout the state sued on the grounds that Wyoming
did not meet its constitutional promise. Wyoming’s Supreme Court ruled that the state’s school funding system was unconstitutional based on the inequity it created. The court directed the legislature to determine the cost of a quality education and fully fund districts in order to ensure adequacy. In a 2001 follow-up suit, the Wyoming Supreme Court held the appellate court’s finding that, “While great effort has been made…, the constitutional mandate for a fair, complete, and equal education ‘appropriate for the times’ in Wyoming has not been fully met” (*Campbell v. Wyoming*, 2002, p. 57). The order of the appellate court to the legislature of Wyoming mandated education finance reform. The court ordered lawmakers to:

- design the best educational system by identifying the proper educational package each Wyoming student is entitled to have. The cost of that educational package must then be determined and the legislature must then take the necessary action to fund that package. Because education is one of the state’s most important functions, lack of financial resources will not be an acceptable reason for failure to provide the best educational system. . . . The state financed basket of quality educational goods and services available to all school-age youth must be nearly identical from district to district. If a local district then wants to enhance the content of that basket, the legislature can provide a mechanism by which it can be done. But first, before all else, the constitutional basket must be filled. (*Campbell v. Wyoming*, 2002, p. 57)

This finding by the Supreme Court of Wyoming was indeed a precedent that impacted the South Carolina Supreme Court ruling in the *Abbeville* case.
Summary

The opportunity gaps faced by students in poverty and the schools that serve them are pervasive and, if not remedied, crippling. Ensuring that all students have a bright, productive future and are fully served by our nation's public schools is a moral imperative and is in the best interests of our country. The covenant of public education is that it promises a chance for achievement; a chance for knowledge and skills; a chance to be an active, thriving citizen; and a chance for a better future. If students and our nation's communities plagued by poverty are truly to have a path out and a way up, they must be embraced by a public education system that ensures a level playing field. Senator Paul Wellstone said, in his 2000 speech at Columbia's Teachers College:

That all citizens will be given an equal start through a sound education is one of the most basic, promised rights of our democracy. Our chronic refusal as a nation to guarantee that right for all children. . . is rooted in a kind of moral blindness, or at least a failure of moral imagination. . . It is a failure which threatens our future as a nation of citizens called to a common purpose . . . tied to one another by a common bond. (para. 3)
CHAPTER III: METHODOLOGY

Introduction

This qualitative case study was an analysis of the Abbeville County School District et al. v. the State of South Carolina et al. court case and the state of South Carolina’s legislative and education policy responses to the South Carolina Supreme Court's final ruling meant to remedy the finding of the court. In his text Reframing Public Policy, Fischer (2003) addressed the discursive nature of policy and asserted that, because of the overarching reach and implications of government and policymaking bodies have on society, the study of policy making is a growing and important research field. Fischer linked our nation’s courts and legislative bodies to the development of policy and argued that actors in policy making have a distinct role in forming policy, and that policy has political implications. This case study centered on both a historical analysis and an analysis of resulting legislation and policy further supports Fischer’s research that a purposeful connection exists between courts, government bodies, and those impacted by political decisions.

Research Questions

Two research questions were developed in order to fully explore the intended purpose of this historical case study. The questions are centrally focused on a document analysis of Abbeville County School District et al. v. the State of South Carolina et al. and of the response of the state of South Carolina by its General Assembly’s legislative agenda and Department of Education policies resulting from the South Carolina Supreme Court's ruling and mandate to ensure educational equity and to close the opportunity gap...
found in the I-95 corridor schools and districts. The research questions guiding this study were:

1. How did the *Abbeville County School District et al. v. the State of South Carolina et al.* court case originate, progress, and conclude?
2. How did the Plaintiffs and Defendants in the *Abbeville County School District et al. v. the State of South Carolina et al.* court case respond to the judicial findings of the Trial Court and South Carolina Supreme Court final Order?

### Research Design

The methodology used in this research was guided by qualitative design. According to Cooley (2013), policymakers, and more specifically education policymakers, have historically viewed qualitative research rather suspiciously. He called on Kaestle and his 1993 publication, *The Awful Reputation of Education Research*, by noting:

> All social science research faces daunting skepticism and dubious reputation; if education researchers could reverse their reputation for irrelevance, politicization, and disarray however, they could rely on better support because most people, in government and the public at large, believe that education is critically important. (pp. 254-255)

Cooley suggested this skepticism is based on “the many factions in the policy community and politicians increasingly wanting simple answers to complex educational and social problems. They see complexity reflected in qualitative work” (p. 255). He described his experience working in state level policy making and noted that those working in the world of policy have “a fixation with simple language and statistics in order to get to the
point” (p. 255). He affirmed that qualitative research is essential to understanding public policy and that “qualitative work can have an effect on shaping the future of American public education” (p. 258).

In his research on public administration, policy, and political organizations, Lutton (2010) suggested that qualitative research approaches are an important part of public administration and policy research because of the theoretical underpinnings and traditions associated with the field. He sought to answer the question of why public administrators do qualitative research by outlining that public administrators do qualitative research to further a quest or search for knowledge. He argued that researchers should identify the elements central to the knowledge sought and then use that understanding to decide how research should be conducted. This focus on a historical and contextual understanding of a legal case, that of *Abbeville County School District et al. v. the State of South Carolina et al.* and a look at state level legislation and policy related to equity, laid the foundation for this research design and methodology.

**Case Study**

Case study research is found throughout many social science fields and is a predominant research method in the study of education and policies. This type of qualitative research is used to provide as complete an understanding of an event, phenomenon, or situation as possible. The quest for complete understanding is associated with a holistic explanation and an in-depth description of a study’s subject. Yin (2009), a qualitative researcher and education scholar, defined a case study as an empirical inquiry aimed at studying a modern or contemporary phenomenon in-depth and within its context “when the context cannot be separated from the phenomenon” (p. 18). He noted that a researcher's decision to engage in case study research should be based on the following:
“(a) the type of research question posed, (b) the extent of control an investigator has over actual behavioral events, and (c) the degree of focus is on contemporary as opposed to historical events” (p. 8). Yin expressly outlined that case studies and histories can overlap. He noted, “histories can, of course, be done about contemporary events; in this situation, the method begins to overlap with that of the case study” (p. 11).

Feagin, Orum, and Sjoberg’s (1991) text, A Case for the Case Study, outlined that case study research “enables a researcher to examine the ebb and flow” of people and events and argued that case studies illustrate a research method that “provides special insight into time and society” (p. 12-13). Noted case study researcher and education scholar Stake (1978) noted that case studies “are useful in the study of human affairs because they are down-to-earth and attention holding” (p. 5). He outlined the subject of case study research, the case, could be a person, group, situation, program, institution, or “whatever bounded system is of interest” (p. 7). Merriam (1998), an education researcher, author, and proponent of case study methodology, attempted to remove confusion surrounding the definition of a case study by providing a case study is “an end product. A qualitative case study is an intensive, holistic description and analysis of a single instance, phenomenon, or social unit” (p. 27). Merriam claimed a case study does not require a single or specific methodology or process for data collection or data analysis.

**Historical Analysis**

History is an account of the past and is relevant to not only the present but also the future. It is the role of a historian to retell the past in a way that maintains the integrity of the facts; honors the event, situation, or person being studied; and brings understanding and a connection to the present. In defining the role of a historical
researcher, noted British historian Edward Carr stated, “The function of the historian is neither to love the past nor to emancipate himself from the past, but to master and understand it as the key to the understanding of the present” (as cited in Itzkoff, 1962, p. 132). Historical research depends on the examination of evidence that is authentic and contextually relevant if the past and study of history is to hold significance.

In historical research, primary and secondary source data and artifacts guide the researcher in making meaning, retelling the story, and providing the in-depth analysis into an event or phenomenon. Generally, the goal of historical research is to bring to life those events through a collection and analysis of historical documents and artifacts. Historical research also may be part of a research agenda that seeks to add context to a current issue through a longitudinal lens. In *Educational Research in an Age of Accountability*, Slavin (2007) outlined:

> Historical research allows the investigation of evidence of the past to help inform current policy and practice. Often there is no other way to address some questions. The kinds of evidence used in historical research provide rich sources of information and reveal critical facts. (p. 155)

British historian Edward Carr wrote, “History is a continuing and unending dialogue between the present and the past with the historian serving as guide and interpreter” (as cited in Itzkoff, 1962, p. 132). Historian, educator, and researcher, Itzkoff (1962) believed that making sense of the past is essential to understanding the present. He relayed Carr’s quote that asserted:

> The historian distills from the experience of the past, or from so much of the experience of the past as is accessible to him, that part which he recognizes as
amenable to rational explanation and interpretation, and from it draws conclusions which may serve as a guide to action. (p. 133)

Itzkoff felt that Carr’s theory about the past was applicable to understanding the history and current nature of education. He acknowledged that those in education who researched the history of education or other aspects of their field and made connections from the past to current practice had to retain objectivity in order to ensure a quality study and accurate findings. He argued that, even though a “historian cannot hope to retain objectivity or neutrality” (p. 133), they could mitigate this by “becoming aware of biases and setting them within a theoretical, indeed philosophical, frame of reference” (p. 133).

McDowell (2002), author of *Historical Research: A Guide*, noted that the study of history is important and provides a practical, as well as educational, method by which to explore issues. McDowell asserted that the role of historians is to examine the past in order to offer an explanation of previous events and understanding of the context in which events took place. He surmised:

> At whatever level history is studied it is highly likely to result in more active inquiring minds, a more refined and critical judgement, a greater understanding of present day society, nationally and internationally, an increased enjoyment of the historical artifacts left by our ancestors, even better citizens. But none of these can logically be the reason for the study, they are bonuses of a human endeavor which is legitimate in itself and not because of its utilitarian function. (p. 4)

McDowell believed that the goal of a historical researcher is to uncover and provide accurate and coherent information about the past so that one can understand, not just the past, but the connection the past has to modern situations and circumstances.
In relation to the methodology associated with historical research, McDowell (2002) outlined that, while the pursuit of the researcher should be to ensure total objectivity, “all historians work with preconceived ideas, knowledge and values which are based on their own observations and experiences” (p. 33). To combat this, McDowell noted that historical researchers must not conduct experiments but, rather, they must study what exists of the past through “careful use and proper documentation of source materials” (p. 55). He specified that historical researchers should base their investigation on careful selection of primary sources and secondary sources so as to ensure variety and an ability for the researcher to compare sources. McDowell argued:

The principal points to observe when examining documents are to: consider whether documents were intended purely as factual record of events; observe whether documents were intended to be seen by the public or a much more restricted audience; determine whether the documents were expected to remain confidential; and decide whether the author of a document was an expert in relation to the issue or topics discussed. (p. 56).

By following these guidelines, McDowell asserted that researchers could determine the quality and validity of a document.

In order to create a holistic, richly descriptive case study of the Abbeville County School District et al. v. the State of South Carolina et al. court case, and the resulting South Carolina General Assembly legislative agenda and South Carolina Department of Education policies, a document analysis was essential. The case study included the origination of the Abbeville case; how the case progressed over time through the South Carolina judicial system; the conclusion of the case; and, finally, the legislative and
policy outcomes of South Carolina in response to the South Carolina Supreme Court’s mandate for reform. This analysis contained a narrative, detailed timeline of events, and a diagram of the case's progression through the South Carolina judicial system.

**Document Analysis**

The methodology associated with this document analysis and case study relied on the analysis of historical documents, narratives, summaries, institutional reports, previous scholarly works, articles, government reports, and judicial records. According to Bowen (2009), “Document analysis is a systematic procedure for reviewing or evaluating documents. Like other analytical methods in qualitative research, document analysis requires that data be examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge” (Corbin & Strauss, 2008; Rapley, 2007, as cited in Bowen, p. 27). Bowen (2009), in his article “Document Analysis as a Qualitative Research Method,” outlined Labuschagne’s (2003) explanation that “document analysis yields data” (as cited in Bowen, p. 28). Yin (1994) called upon historical researchers and those engaged in document analysis to seek triangulation through convergence and corroboration using different data sources. Bowen expressed that, although document analysis is a “complement to other research methods, it has also been used as a stand-alone method. Indeed, there are some specialized forms of qualitative research that rely solely on the analysis of documents” (p. 29). Bowen further argued that documents serve to provide information related to context about past events and historical insights. He noted, “Such information and insight can help researchers understand the historical roots of specific issues and can indicate the conditions that impinge upon the phenomena currently under investigation” (pp. 29-30). He asserted that
documents elicit information about change and surmised that the researcher could
“examine periodic and final reports to get a clear picture of how an organization or a
program fared over time. . . and documents can be analyzed as a way to verify findings or
corroborate evidence from other sources” (p. 30).

Additionally, Bowen (2009) outlined the process of document analysis as
“skimming (superficial examination), reading (thorough examination), and
interpretation” (p. 32). He emphasized:

The researcher is expected to demonstrate objectivity (seeking to represent the
research material fairly) and sensitivity (responding to even subtle cues to
meaning) in the selection and analysis of data from document and determine not
only the existence . . . but also the authenticity . . . of particular documents, taking
into account the original purpose of each document, the context in which it was
produced, and the intended audience. (p. 33)

The process outlined by Yin and Bowen form the adopted methodology associated with
this body or research.

**Data Management and Analysis**

Documents, the units of analysis used in this research, sought to outline the facts
in the *Abbeville County School District et al. v. the State of South Carolina et al.* case, as
well as South Carolina education legislation and policy related to the South Carolina
Supreme Court’s final ruling and mandate for education reform. Yin (2009) defined the
purpose of documents as the means by which researchers verify facts and provide
specific details, corroborate other sources or pieces of information, and make inferences.
He also noted that case study researchers must pay attention to both quality of evidence and completeness of the case study.

Yin (2009) warned that, due to the abundance of materials available through the internet, researchers can face problems with an overabundance of data or disjointed data. To mitigate that, he suggested that researchers triage sources or documents by their apparent connection to the study. In respect to completeness, Yin wrote that in relation to case studies “completeness can be characterized in at least three ways” (p. 186). The first manner of determining completeness is noted as:

One in which the boundaries of the case, that is, the distinction between the phenomenon being studied and its context are given explicit attention. . . . The best way to show, either through logical argument or the presentation of evidence, that as the periphery of evidence is reached, the information is of decreasing relevance to the case study. (p. 186)

A second way in which to achieve completeness according to Yin (2009) relates to evidence collection. Yin noted:

The complete case study should demonstrate convincingly that the investigator expended exhaustive effort in collecting the relevant evidence. . . . The overall goal, nevertheless, is to convince the reader that little relevant evidence remained untouched by the investigator, given the boundaries of the case study. This does not mean that the investigator should literally collect all available evidence (an impossible task) but that the critical pieces have been given “complete” attention. (pp. 186-187)
The boundaries of this case study included the courts’ findings, imposed deadlines and timelines, and the response of the parties involved in the case.

Finally, the third characterization of completeness articulated by Yin (2009) is related to the lack of artificial or imposed conditions. He noted that a complete case study is not based on an artificial timeline, specified quantity of evidence, or exhausting resources based on self-imposed constraints. Yin summated, “when a time or resource constraint is known at the outset of the study, the responsible investigator should design the case study that can be completed within such constraints” (p. 187). The constraints, the findings of both the trial and State Supreme Court and the Court mandated June 30, 2017, timeline for Plaintiff and Defendant responses, were known by this researcher and were taken into account when conducting this study.

Fusch and Ness (2015) in their work on qualitative studies noted that, in relation to case studies, researchers must be mindful of saturation. The authors argued that data saturation should be connected to data triangulation. They argued, “To be sure, the application of triangulation (multiple sources of data) will go a long way towards enhancing the reliability of results . . . and the attainment of data saturation” (p. 1412). The authors suggested, “There is a direct link between data triangulation and data saturation; the one (data triangulation) ensures the other (data saturation). In other words, data triangulation is a method to get to data saturation” (p. 1412). In relation to this case study, completeness was determined in respect to Yin’s guidelines. Figure 1 provides a diagram correlating Yin’s guidelines for completeness relative to indicators of completeness in this body of research.
Yin’s Guidelines for Completeness | Indicators of Completeness
--- | ---
**Boundaries of the Case** | • Inception of *Abbeville v. South Carolina*
• Judicial Progression of *Abbeville v. South Carolina*
• Trial Court and South Carolina Supreme Court Rulings and Orders
• *Abbeville* Plaintiff Responses
• *Abbeville* Defense Responses

**Collection of Relevant Evidence** | • Primary Source Documents related to *Abbeville*
• Secondary Source Documents Related to *Abbeville*

**Constraints** | • *Abbeville* Case Documents
• *Abbeville* Plaintiff Responses
• *Abbeville* Defense Responses

*Figure 1*. Table of case study completeness.

The units of analysis supporting this historical case study were the case, the Trial Court’s and South Carolina Supreme Court’s rulings, and the Plaintiffs and Defendants responses. These units were studied through analysis of documents and other forms of evidence. Atkinson and Coffey (1994) referred to documents as “social facts, which are produced, shared, and used in socially organized ways” (p. 47). Yin (2009) categorized sources of evidence as documentation, archival records, interviews, direct observations, participant observations, or physical artifacts. This study primarily used documentation and archival records. Yin noted strengths and weaknesses of documentation and archival records, outlined in Figure 2.

<table>
<thead>
<tr>
<th>Source of Evidence</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
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| Documentation | • Stable- Can be reviewed repeatedly  
• Unobtrusive-Not created as a result of the case study  
• Exact- Contains exact names references and details of an event  
• Broad coverage | • Retrievability- Can be difficult to find  
• Biased selectivity- If collection is incomplete  
• Reporting bias- Reflects author bias  
• Access- Maybe with help |
| Archival Records | • Same as those for documentation  
• Precise and usually quantitative | • Same as those for documentation  
• Accessibility due to privacy |

*Figure 2*. Sources of evidence: Strengths and weaknesses.
The units studied, documentation and archival records, included both primary and secondary sources. Primary sources included court documents throughout the life of the *Abbeville* case (transcripts, court orders, evidentiary pieces); South Carolina General Assembly documents; South Carolina Department of Education documents; and the documentary entitled *Corridor of Shame: The Neglect of South Carolina's Rural Schools*. Secondary sources included on-line articles, newspapers, peer-reviewed journals, dissertations related to the case, and other published works. The use of primary source documents and secondary source documents ensured triangulation. By cross verifying the units of analysis and data associated with this study, credibility and validity were assured.

The evidence associated with this study was catalogued in chronological order in connection with the *Abbeville* case’s inception, movement through the South Carolina judicial system, and final ruling. Additionally, all documents were archived in paper or physical form and each document or data piece was coded by source type, primary or secondary. All documents utilized to generate this researcher's findings were catalogued and available for inspection or perusal.

**Role of the Researcher**

Unluer (2012) argued that researchers, especially those engaged in qualitative research, must fully clarify their role to ensure their research is credible. He noted “researchers that undertake qualitative studies take on a variety of member roles” (p. 1) when they engaged in research. Bonner and Tolhurst (2002) identified three key advantages of being an insider-researcher:

(a) having a greater understanding of the culture being studied; (b) not altering the flow of social interaction unnaturally; and (c) having an established intimacy
which promotes both the telling and the judging of truth. Further, insider-researchers generally know the politics of the institution, not only the formal hierarchy but also how it “really works.” (pp. 8-9)

Smyth and Holian (2008) noted that case study researchers often “have a great deal of knowledge, which takes an outsider a long time to acquire” (p. 34) and argued this is a benefit for researchers engaged in emic studies. Juxtaposed with the benefits of an insider lens when conducting case study research are the problems associated with having an insider perspective. Unluer found that “To conduct credible insider research, insider-researchers must constitute an explicit awareness of the possible effects of perceived bias on data collection and analysis” (p. 2). He asserted:

There are no overwhelming advantages to being an insider or an outsider. Each position has advantages and disadvantages, though these will take on slightly different weights depending on the particular circumstances and purposes of the research (Hammersley, 1993). Whether the researcher is an outsider or insider, there are various issues one should pay attention to for valid data. Ethical considerations must be taken into account, with the benefits out weighing the displacement of subjects, setting and researcher. (p. 10)

Greenbank (2003) found that qualitative researchers need to explain aspects of their work and beliefs including biases and experiences. He noted, “Researchers should include biographical details and make a statement about their underlying values” (p. 795). Fusch and Ness (2015) also addressed the role of the research when the researcher has an inside lens of the body of work studied. They surmised that some researchers assume that they have no bias in data collection when in fact “the researcher’s bias or worldview is
present . . . both intentionally and unintentionally” (pp. 1410-1411). To address the personal lens of the researcher, Fusch and Ness contended that the “better a researcher is able to recognize his or her personal view of the world and to discern the presence of a personal lens” (p. 1411) the better interpret the data or evidence being studied.

This researcher approached this body of work as an insider with a strong emic lens. As a historian, I view issues through the contextual lens of the past and its relevance to current context. I see history as a way to provide insight into moral questions, issues of identity, and the attainment of deep knowledge. My views and beliefs about education are tightly woven with ideals of equity, opportunity, and a focus on all children receiving the best our public schools have to offer. I find education to be the greatest equalizer, a form of true social justice, and a path out of poverty and despair. Professionally, I have served public schools as a classroom teacher, building level administrator, and central office leader consistently focused on ensuring opportunities for all students, especially those marginalized by circumstances of poverty or other access issues. My research, policy, and advocacy work at a state department of education and at institutions of higher education are pivotal experiences that form the lens by which I view education and this body of work.

This researcher ensured authenticity of evidence and utilized balanced, comprehensive primary and secondary sources and documents to elicit findings. The data pieces, documents, and records were categorized and catalogued and were the basis by which the research questions were answered. Multiple types of evidence were used to ensure triangulation, completeness, and comprehensive findings. Additionally, this researcher utilized only the catalogued data to elicit findings. Opinions of other
educators; the researchers own beliefs, values, and professional experiences in public education and education policy and advocacy work; or any other beliefs related to the researcher's view of equity or equality were not a basis for the findings in this case study. They were, however, the passion that led to this body of research.

Institutional Review Board Statement

This study was a document analysis utilizing pre-existing data, legal sources, and public policy documents. This body of research did not involve the use of human subjects. In anticipation of submitting a formal request for official Institutional Review Board (IRB) approval, required online modules were completed. This researcher notified the IRB regarding the research protocol and procedures associated with this study; IRB deemed that approval was unnecessary, as this case study is historical analysis based on existing, publicly accessible documents.

Summary

This researcher provided a historical analysis of the *Abbeville County School District et al. v. the State of South Carolina et al.* case, as well as an analysis of the response of the Plaintiffs and Defendants to the South Carolina Supreme Court’s final ruling and Order. By shining a light on the *Abbeville* case, the students and schools in the Plaintiff Districts, and the state of South Carolina's response in remedying the issues found in the “Corridor of Shame” court case, this researcher hopes that the children, schools, and communities in the “Corridor of Shame” may become children, schools, and communities in a “Corridor of Hope.”
CHAPTER IV: FINDINGS

This chapter provides a holistic summary based on a document analysis of the Abbeville County School District et al. v. the State of South Carolina et al. case. The historical analysis of the Abbeville case provided a complete case study and outlined the inception of the Abbeville County School District et al. v. the State of South Carolina et al. case; the case’s movement through the South Carolina judicial system; and the rulings by the originating court and by the South Carolina Supreme Court. Additionally, the summary of findings included an analysis of the Plaintiff and Defendant responses to the South Carolina Supreme Court’s Order and mandate for reform sought to remedy the Court’s findings.

Overview of the Abbeville Case

South Carolina, one of the original 13 colonies of the United States, has a rich place in the history of our nation and as a state. The state’s geographic regions have played a significant role in the development of those histories and, to this day, have significant cultural and economic identities. Vail (2015), a South Carolina historian, noted “There are four basic regions in South Carolina: Low country, Pee Dee, Midlands, and Upstate” (para, 2). Vail reminded that the Pee Dee river region, located in the northeast part of the state, is named after the Pee Dee native American Indian tribe. According to the 1993-1994 South Carolina Directory of Public Schools published by the South Carolina Department of Education, there were 91 school districts in the state; 23 districts were found in the Pee Dee region. According to Click and Hinshaw’s 2014 article detailing the State Supreme Court’s eventual finding in the case, one of the Pee Dee superintendents’, Ray Rogers of Dillion 4, raised issues plaguing his district as early
as 1983. According to Click and Hinshaw, Superintendent Rogers professed, “A kid that is born in Dillon, South Carolina he or she shouldn’t have less of an education than someone born in a more affluent district” (p. 1).

Late in 1992, 17 of the Pee Dee superintendents began to formally discuss suing the state for failing to ensure equal education opportunities. Early in 1993 the Pee Dee superintendents appealed to the state’s other superintendents and requested that they join the suit; and an additional 23 school districts, more than 40% of the state’s districts, joined. On November 1, 1993, the legal suite was formally filed and the districts became the Plaintiffs in *Abbeville County School District et al. v. the State of South Carolina et al.* Costner (2009) in his dissertation *Equity to Adequacy: A Historical Analysis of the Litigations of Abbeville v. the State of South Carolina* outlined,

There have been taxpaying citizens, parents, students and groups of concerned citizens who have challenged different components of the South Carolina Constitution on behalf of improving the State’s education system. . . . In 1992 and 1993, there was a group of practicing administrators and school board members who set forth to find a solution to an educational funding problem that their school districts were going to have to face. These individuals, with assistance from other taxpaying citizens, made the decision to utilize the judicial system to resolve their problem and to sue the State of South Carolina. This suit became known as *Abbeville v. the State of South Carolina.* (p. 44-45)

The *Abbeville* lawsuit’s Defendants became the State of South Carolina, which included: Chairman of the Senate Education Committee, Chairman of the Finance Committee, President Pro Tempore of the Senate, Speaker Pro Tempore of the House of

The *Abbeville* case, brought to seek educational equity in the state's most impoverished districts along the I-95 corridor, would not have a final ruling for more than two decades. The plight of the school systems and students in the Plaintiff Districts gained national recognition, as well as the attention of President Barack Obama, when a middle school student in one of the Plaintiff Districts penned a letter to lawmakers in Washington, DC, asking why she and others were not receiving equal educational opportunities. According to Johnson (2014) in her first of three articles about the case, “Little did [the student] know that by speaking up she would become the face of ailing rural education in the U.S., the subject of a presidential speech, and the catalyst needed to begin to turn things around” (p. 7).

Some of South Carolina’s most deficient rural schools were found in a region of the state along Interstate I-95 called the I-95 Corridor. This area was also dubbed the, “Corridor of Shame,” based on the 2005 documentary directed by Charles T. “Bud” Ferillo entitled, *Corridor of Shame: The Neglect of South Carolina’s Rural Schools.* Ferillo, a former Deputy Lieutenant Governor of South Carolina and a human rights activist, sought to highlight the issues facing schools, educators, and students in the state's most impoverished region. According to Espinosa’s (2013) article, *Equality is Not Equity*, when asked why he was involved in the issues facing the I-95 Corridor schools Ferillo paraphrased a quote from Dr. Martin Luther King, Jr., saying, “I am here because injustice is here” (as cited in Espinosa, p. 3).
In the *Corridor of Shame: The Neglect of South Carolina’s Rural Schools*, Ferillo argued that the nearly 132,000 children of South Carolina represented in the *Abbeville* case attended school in buildings dating back to 1896 and added, “Diminished revenue sources and the passage of decades reduced the facilities to deplorable and often unsafe conditions” (Ferillo, 2005, para. 1-2). He further outlined that educators in the *Abbeville* Plaintiff Districts comprised less than 3% of the educators in the state, yet those educators held more than 11% of the substandard certificates or out of field permits issued by the State Department of Education. Additionally, Ferillo highlighted that teacher salaries in the *Abbeville* case districts ranged from “$3,000 to $12,000 less than neighboring, wealthier districts and that teacher turnover rates were the highest in the state, with a number of districts near 40% annually” (Ferillo, 2005, para. 4). His documentary further emphasized the educational outcomes of *Abbeville* students. Ferillo asserted:

In these 36-rural district, elementary, middle and high schools, academic performance consistently ranks “below average” and “unsatisfactory” among the state’s 85 school districts. Language and math scores in these schools are routinely the lowest in the state. By the time students in these poor districts reach the 8th grade, between 50% and 60% of them score below Basic on the state “PACT” tests. High school graduation rates in these districts range from 32% to 48%, all below the state average. . . . Piecemeal, short-term judicial and legislative remedies will remain woefully insufficient to address these obvious needs. Until these deficiencies . . . are comprehensively addressed, this state’s rural school children, over 132,000 of them, will continue to languish and South
Carolina’s educational rankings will remain among the lowest in the nation.

(Ferillo, 2005, para. 6-9)

The South Carolina School Board Association (2015) presented a summary of the case and provided descriptive data from 2003 to outline demographics in the Plaintiff Districts. These data were key pieces of evidence entered by the Plaintiffs during trial. Figure 3 provides minority status and socioeconomic (SES) percentages in the State and in the representative Plaintiff Districts. These data outline the heightened levels of poverty and the higher than state average percentages of minority students in the Abbeville case districts.

![Percentage of Minority and Low SES Students](chart.png)

**Figure 3.** Plaintiff districts: Minority and income demographics in 2003.

Figure 4 outlines teacher qualifications in South Carolina and in each of the Abbeville case districts. The data reveal higher percentages of teachers with out of field certifications in the Plaintiff Districts. In six of the eight Plaintiff Districts, the percentage of first-year teachers was greater than the state average.
Figure 4. Plaintiff districts: Teacher qualifications in 2003.

Figure 5 outlines three-year average teacher attrition rates. The data indicate that based on a three-year average, the Plaintiff Districts had a 20% average teacher attrition rate, with some districts as high as 24% and 25%, as compared to the 10% attrition rate across the state.

Figure 5. Plaintiff districts: Teacher attrition rate – 3-year average in 2003.

Figure 6 describes the academic achievement of students in non-plaintiff districts compared to Abbeville case districts. Additionally, Figure 6 provides data relative to school quality, as determined by the South Carolina Department of Education in non-
plaintiff districts compared to *Abbeville* case districts. The percentage of students scoring below basic on the Palmetto Achievement Challenge Test (PACT) in grades 3, 6, and 8 in the non-plaintiff districts was 31.6%, while the percentage of students scoring below basic on the same measures in the Plaintiff Districts was 52.9%. The percentage of schools categorized as unsatisfactory or below average in non-plaintiff’s districts was 17.4%, while the percentage of schools categorized as unsatisfactory or below average in Plaintiff Districts was 75%. Additionally, the South Carolina School Board Association (2015) outlined, “79% of schools in the Plaintiff Districts were rated unsatisfactory or below average three years in a row” and “87% of schools (in the same districts) were rated unsatisfactory or below average at least once over three years” (p. 41).

![Plaintiff Districts' Student Achievement and School Quality](image)

*Figure 6. Plaintiff districts: Student achievement and school quality in 2003.*

Figure 7 outlines the percentage of 9th graders who did not graduate in four years in South Carolina and in the Plaintiff Districts. In July 2003, the state percentage of 9th graders not finishing high school within four years was 16%, while the Plaintiff Districts had an average of 55%.
Figure 7. Plaintiff districts: % of 9th graders not completing high school in 4 years.

**Before Abbeville: The Case of Richland County et al v. Campbell et al**

*Abbeville County School District et al. v. the State of South Carolina et al.* was not the first case in South Carolina to center on the state’s system of public education finance. The case of *Richland County v. Campbell*, filed in 1986, heard in 1987, and decided by the South Carolina Supreme Court in 1988, was another such case. The Plaintiffs in *Richland County v. Campbell* included five taxpayers from Richland County, while the Defendants included Carrol Campbell as Governor and Chairman of the State Budget and Control Board, Nick Theodore as Lieutenant Governor President Pro-Tempore of the Senate and Robert Sheheen as Speaker of the House of Representatives. The Plaintiff’s filed the case on the grounds that South Carolina’s system of school finance, which relied partly on county funds, violated the South Carolina Constitution’s guarantee for State provided maintenance and support of a free and public-school system and deprived the Plaintiffs of their equal protection rights under the State Constitution.

The original trial court dismissed the case and the Plaintiffs request for a declaratory judgment action challenging the constitutionality of South Carolina’s public
education funding system. The Plaintiffs appealed the decision to the South Carolina Supreme Court, who found:

The shared funding plan implemented by the General Assembly through the Education Improvement Act and the Education Finance Act is a rational and constitutional means by which to equalize the educational standards of the public-school system and the educational opportunities of all students. We affirm the decision of the trial court. (*Richland County v. Campbell*, 1988, p. 7)

**Abbeville Lead Attorneys**

Lauderdale (2014) spoke of Carl Epps, the lead attorney representing the Plaintiffs in the *Abbeville* case, noting that Epps agreed to take on the *Abbeville County School District et al. v. the State of South Carolina et al.* case pro bono. Epps carried his leadership of the case with him when he joined the prestigious Columbia, South Carolina based law firm of Nelson, Mullins, Riley, & Scarborough. According to Lauderdale, Epps agreed to represent the districts after he was asked to meet with a group of school superintendents from the Pee Dee region. During that meeting the superintendents explained to Epps that they believed the funding structures in place in the state prevented them from having the fiscal means to “Educate their children, or pay good teachers competitive salaries” (p. 22). Lauderdale shared Epps beliefs that the Plaintiff districts appeared to have many struggles, some of which appeared to be insurmountable. In his interview with Lauderdale, Epps stated:

The kids were in isolated, rural areas living in what we call “generational poverty’ that could go back more than 200 years. I thought, “Wow, this sounds like a wonderful challenge.” It’s an opportunity few lawyers have a chance to undertake,
where you can make a difference to many, many people -- particularly children.

(p. 23)

In his article about the *Abbeville* case, Borden (2014) outlined Epps’ comments that, “If a U.S. Supreme Court justice from the 1950s Brown era walked into some of South Carolina's rural schools, they would wonder if their decision had any effect” (p. 2).

Bobby Stepp, the Columbia based attorney representing the Defendants in the *Abbeville* case, noted in Borden’s Post and Courier article: “There are no silver bullets. This is a very complicated, multi-faceted issue. You just can't legislate better student achievement” (p. 3). According to Click and Hinshaw (2014), Stepp contended that the *Abbeville* case was “about a distinction between aspirations and obligations” (p. 4).

**Abbeville Filed, Modified, and Dismissed**

Despite the precedent set by the South Carolina Supreme Court in *Richland County v. Campbell*, almost half of South Carolina's 91 school districts joined forces and initiated legal action against South Carolina. The map (Anderson, 2017) included in Appendix A outlines the school districts involved in the case, the school districts in the Pee Dee region that initiated the case, and the “Corridor of Shame.” The Plaintiffs’ argument alleged the State and its education finance system violated the state and federal Constitutions’ equal protection clause and the state’s funding statue. On November 1, 1993, these 40 school districts, along with representative taxpayers and parents on behalf of students, initiated an action for declaratory judgment in South Carolina’s Third Judicial Circuit Court (a Court of Common Pleas).

Weiler (2007), in his study of the *Abbeville* court case, noted “Between 1993, the year the suit originated, and 1995, the plaintiffs in the Abbeville case made three
modifications to the original suit” (p. 6). The first modification reduced the Plaintiffs in the case from 40 to 36 due to consolidation and districts withdrawing from the Plaintiff group. According to Weiler, the second modification came when “the attorneys for the Plaintiffs selected eight school districts to represent the other school districts in the suite as the trial Plaintiffs, or lead districts” (p. 6-7). The last modification formally amended the case more than a year and half after the case was originally filed. The Plaintiffs’ amended complaint filed on July 20, 1995, argued that, in addition to violations of the equal protection clauses of the state and federal Constitutions and the Education Finance Act of 1977, the State also violated the South Carolina Constitution’s education clause. Specifically, the Plaintiffs’ amended complaint alleged:

The State’s statutory scheme of public funding for education 1) was under funded, lacked uniformity and imposed unlawful tax burdens on Plaintiffs; 2) was not serving the purposes for which it was enacted; 3) had resulted in a disparity in the educational opportunities for students throughout the State; and 4) was not being funded at the level mandated by the EFA and the Education Improvement Act. Plaintiffs sought a declaration that the EFA was unconstitutional as implemented, as well as a declaration that the level of education funding was inadequate. Plaintiffs further requested that the Court order the General Assembly to draft a new system for education funding in South Carolina and to appropriate funds alleged to be necessary to remedy past alleged inequities in funding. (Abbeville v. SC, 1995, p. 3)

After the case was refiled by the Plaintiffs, the Defendants filed a motion for dismissal on the grounds previously found in the Richland case. The Defendants also
argued that judicial restraint, separation of powers, and the political question doctrine prohibited the Court from ruling in the case. In 1996, Circuit Court Judge Thomas Cooper granted the Defendants’ motion for dismissal for failing to constitute a sufficient cause of action, and the case was summarily dismissed.

**Abbeville Appeal**

In late 1996 the Plaintiffs filed an Appeal with the South Carolina Supreme Court and the case was heard by the state’s highest court in 1997. In 1999 the South Carolina Supreme Court issued its ruling and, according to Weiler (2007), “The Supreme Court remanded part of the case back to the Circuit Court because the higher court did not concur with the lower court’s interpretation of the South Carolina Constitution’s education clause” (p. 7). The official Order issued by the South Carolina Supreme Court noted:

> The Complaint alleges violations of the South Carolina Constitution's education clause, the state and federal equal protection clauses, and a violation of the Education Finance Act … We reverse the education clause ruling, and affirm as to the remaining issues. *(Abbeville v. SC, 1999, p. 3)*

The Order addressed the Plaintiffs’ challenges to Judge Cooper’s ruling, which included an argument that under the Education Improvement Act (EIA) and Education Finance Act (EFA) state education funds were distributed without regard to school district wealth which, according to the Appellants, violated state and federal constitutional equal protection clauses. The Court noted, “Unlike similar suits brought in other states, Appellants [the original Plaintiff’s in the case] do not seek equal state funding, since they already receive more than wealthier districts, but instead allege that the funding results in
an inadequate education” (Abbeville v. SC, 1999, p. 3-4). Thus, the Order dismissed the
Plaintiffs’ allegation that the Third Circuit Court procedurally erred by granting the
State’s motion for dismissal and also dismissed the Plaintiffs’ allegation that South
Carolina’s funding structures, the EFA and EIA, violated both the state and federal equal
protection clause. The Court Order upheld the lower court’s dismissal of the case noting,

Appellants’ federal equal protection claim, predicated on inadequate funding, is
foreclosed by the United State Supreme Court's decision in San Antonio
Independent School District v. Rodriguez…Appellants' state-based equal
protection claim that the EIA has a disparate impact on appellants since its funds
are distributed without regard to the individual district’s financial needs also fails.
A neutral law having a disparate impact violates equal protection only if it is
drawn with discriminatory intent. There is no claim of discriminatory intent here.
(Abbeville v. SC, 1999, p. 4-5)

The South Carolina Supreme Court further affirmed the Circuit Court's dismissal of the
Appellants' equal protection claims and dismissed the Appellants' EFA claim noting:

We agree with the Circuit Court that the EFA does not create a private cause of
action. Since the EFA does not specifically create a private cause of action, one
can be implied only if the legislation was enacted for the special benefit of a
private party. The purpose of providing a public education is to benefit not just
the individual receiving it, but also the public at large. Since the EFA was not
created for the special benefit of a private party, no private cause of action is
implied. (Abbeville v. SC, 1999, p. 4-5)
The Plaintiffs’ appeal also was also based on two other challenges. One of those challenges was based on Judge Cooper’s finding that the education clause of the South Carolina Constitution “imposes no qualitative standards, and that absent an allegation that there was no system of free public schools open to all children in the state that there was no valid claim of unconstitutionality” (Abbeville v. SC, 1999, p. 5). The Plaintiffs believed this was in error, as they contended the education clause contained a qualitative standard. Another challenge to Judge Cooper’s dismissal brought by the Plaintiffs was Cooper’s ruling that the Plaintiffs “did not state a clear and convincing constitutional claim, and concluded that judicial restraint, separation of powers, and/or the political question doctrine prevented it from considering this education clause claim” (Abbeville v. SC, 1999, p. 6). To the Plaintiffs’ arguments the South Carolina Supreme Court noted: “The novel issue in this case involves the education clause of the state constitution” and furthered “The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the state and shall establish, organize and support such other public institutions of learning as may be desirable” (Abbeville v. SC, 1999, p. 6).

The South Carolina Supreme Court contended that the Defendants’ argument, during the Third Circuit Court trial, that Judge Cooper was prohibited from ruling and therefore must dismiss the case based on judicial restraint, separation of powers, and the political question doctrine, was highly flawed. The South Carolina Supreme Court noted:

It is the duty of this Court to interpret and declare the meaning of the Constitution. Accordingly, the Circuit Court erred in using judicial restraint, separation of
powers, and the political question doctrine as the bases for declining to decide the meaning of the education clause. (*Abbeville v. SC*, 1999, p. 7)

The Court stated, “In determining the meaning of the education clause's language, the General Assembly shall provide for the maintenance and support of a system of free public education” (*Abbeville v. SC*, 1999, p. 7). In the South Carolina Supreme Court ruling regarding the State’s constitutional responsibility for education, the Court provided:

> We must be guided not only by the ordinary and popular meaning of the words used, but also by S.C. Const. art. I § 23: "The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or promissory by its own terms." Since the education clause uses the term "shall", it is mandatory. (*Abbeville v. SC*, 1999, p. 8-9)

The Supreme Court additionally noted that the Third Circuit Court erred in its finding that the phrase "maintenance and support of a system of free public schools" meant only that a system had to be provided. The South Carolina Supreme Court added:

> The Court held the clause does not require the schools be adequate or equal. The State does not defend the Circuit Court's conclusion that our Constitution's education clause does not impose a qualitative standard, but rather argues that the appellants have not properly defined it. According to the State, since the complaint does not contain the correct definition, it does not state a proper claim, and therefore we should affirm the Circuit Court, without interpreting the clause.
We will not accept this invitation to circumvent our duty to interpret and declare the meaning of this clause. (*Abbeville v. SC*, 1999, p. 8)

The Court found that the State had a constitutional responsibility and affirmed:

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. Further, the General Assembly itself has acknowledged the need to guarantee to each student in the public schools of South Carolina the availability of at least minimum educational programs and services. (*Abbeville v. SC*, 1999, p. 8-9)

The South Carolina Supreme Court outlined the definition of a “minimally adequate education” that would become the central definition in the case. The court provided:

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: 1) the ability to read, write, and speak the English language, and knowledge of mathematics and physical science; 2) a fundamental knowledge of economic, social, and political systems, and of history and governmental processes; and 3) academic and vocational skills. We are not experts in education, and we do not intend to dictate the programs utilized in our public schools. Instead, we have defined, within deliberately broad parameters, the outlines of the constitution's requirement of minimally adequate education. Finally, we emphasize that the constitutional duty to ensure the provision of a minimally adequate education to each student in South Carolina
rests on the legislative branch of government. We do not intend by this opinion to suggest to any party that we will usurp the authority of that branch to determine the way in which educational opportunities are delivered to the children of our State. We do not intend the courts of this State to become super-legislatures or super-school boards. (Abbeville v. SC, 1999, p. 8-9)

South Carolina Supreme Court Justice Moore offered a dissent, arguing the majority's analysis exceeded their judicial purview. Justice Moore stated:

As the majority notes, at the heart of the education clause issue is the question of what duty the constitution imposes on the legislature by mandating it "provide for the maintenance and support of a system of free public schools open to all children." The majority concludes this clause "requires the General Assembly to provide the opportunity for each child to receive a minimally adequate education" and proceeds to define what such a minimally adequate education is. The goal of ensuring all South Carolina's children an adequate education is unquestionably a laudable one. Under our system of government, however, it is not one entrusted to the judicial branch. Since neither this clause nor any other provision restricts the legislature's power to control the quality of public education, we may not impose judicial limits on that power by adding education requirements not found in the constitution. (Abbeville v. SC, 1999, p.11)

Justice Moore proffered that the General Assembly, and not the Court, had the authority to determine educational adequacy standards. With the South Carolina Supreme Court ruling, the case was remanded back to the Third Circuit Court for trial in what would be referred to as Abbeville I.
Abbeville I

In January 2001, before Abbeville County School District et al. v. the State of South Carolina et al. was heard on remand, the Plaintiffs again moved to amend their complaint. This amendment sought monetary damages, made a request for jury trial, and stated the Plaintiffs’ allegations of discrimination by the Defendant’s related to racial characteristics in the Plaintiff Districts. During June and July of 2001, Judge Cooper denied the request for a jury trial, finding the Plaintiffs had previously waived the right to a jury trial. He also denied the request for monetary damages noting, “South Carolina Constitution’s education clause is not self-executing and, as such, cannot serve as a basis for a cause of action for damages against the Defendants” (Abbeville v. SC., 2001, p. 7-8). On July 3, 2003, the Court granted the Defendant’s motion to strike the amended request introduced by the Plaintiff’s regarding the racial characteristics of the districts on the basis that “it was too late to inject those issues into the case” (Abbeville v. SC., 2003, p. 8).

In the matter of Abbeville County School District et al. v. the State of South Carolina et al, a non-jury trial officially began July 28, 2003, in the Third Circuit Court, 10 years after the case was originally filed and four years after it had been sent back to Judge Cooper. According to Weiler (2007), the “heart of the case” was the question of constitutionality. Weiler noted:

The equal protection clause of South Carolina’s Constitution copies the federal equal protection clause verbatim. Both clauses read, “nor shall any person be denied the equal protection of the laws.” In Abbeville, the use of both the federal and state equal protection clauses followed a logical legal argument. (p. 4)
In *Abbeville* I, the Plaintiffs argued that both the state and federal protection clauses were designed to ensure that legislative actions would provide for the equal treatment of all people. In regard to South Carolina’s funding mechanism, Weiler (2007) contended:

The system implemented by the General Assembly relied on local property taxes for a portion of the local school district’s revenues. The fact that property values fluctuate from one locale to another simply means the General Assembly has created a funding formula that fails to ensure equal protection, or funding in this situation, for all people under the law… In the end, a funding system that favors one group of people over another for such a capricious reason as parents’ income or geography is seen by many as a violation of the equal protection clause. (p. 5)

Weiler’s second concern with South Carolina’s public education funding mechanism centered on the state’s education clause. He argued that, if the funding mechanism was flawed, so would be the system supported by it. Weiler outlined his third problem with the state’s funding formula for public education and agreed with the Plaintiffs’ argument that the Education Funding Act of 1977 “failed to meet the purposes of the act” (p. 6).

The official court order noted one of the early case modifications and provided,

“As a result of district consolidation the number of Plaintiff Districts was reduced to thirty-six. Prior to trial, Plaintiffs’ counsel selected eight school districts as trial Plaintiffs for this proceeding” (*Abbeville v. SC*, 2004, p. 3). The eight districts acting as lead Plaintiffs included: Allendale, Dillon 2, Florence 4, Hampton 2, Jasper, Lee, Marion 7, and Orangeburg 3. The trial court order noted:

A non-jury trial commenced in this matter on July 28, 2003, and ended on December 9, 2004. During the course of 102 days of trial, 112 witnesses testified
in person or by deposition, generating approximately 23,100 pages of transcript. Approximately 4,400 evidentiary items were received into evidence. This Court carefully considered the testimony of the witnesses, all of the exhibits, and the proposed finding of fact and conclusions of law submitted by the parties. Generally, this Order does not formally distinguish between findings of fact and conclusions of law. Instead, this Order addresses the factual legal issues as they arise in context of this case. (Abbeville v. SC, 2004, p. 1)

Part one of Judge Cooper’s finding outlined the applicable legal standard and the measures of proof utilized by the Court. Judge Cooper’s Order noted that Abbeville, . . . creates but one issue for determination by this Court: Are the students in the Plaintiff Districts being provided the opportunity to acquire a minimally adequate education in adequate and safe facilities as defined by the South Carolina Supreme Court? Any attempt to answer this question must begin with consideration of the standard of proof. (Abbeville v. SC, 2004, p. 8)

Judge Cooper explained the measure of proof and legal standard associated with his deliberation and subsequent decisions. Cooper outlined the Plaintiffs’ argument that the “appropriate standard of proof is the preponderance of evidence standard usually applied in civil cases” and the Defendant’s argument that the Court “adopt a standard of proof beyond a reasonable doubt which applies in criminal cases and in cases which seek to have legislative enactments declared unconstitutional” (Abbeville v. SC, 2004, p. 8-9).

Additionally, Cooper explained the Plaintiffs’ request that the Court declare the State’s funding system and substantive components of the State’s education system unconstitutional. He maintained that the Plaintiffs did not raise the argument that the
statutes governing public education or public education funding in the State were unconstitutional. He noted:

They contend instead that the system of public schools in the Plaintiff Districts does not provide an opportunity for a minimally adequate education to each child and is, therefore, unconstitutional. The question therefore is not whether individual statutes affecting education in South Carolina are unconstitutional, but whether the educational opportunities presented by interplay and implementation of the system of free public schools developed by the General Assembly meet the constitutional mandate of offering each child in the Plaintiff Districts opportunity for a minimally adequate education. The question to be decided by this Court then, stated another way: Is the state meeting its constitutional obligation of providing to each child an opportunity for a minimally adequate education or is it not? (Abbeville v. SC, 2004, p. 10)

In order to address this question, Cooper asserted that education statutes may meet constitutional standards and yet, the system, as implemented based on the statutes, may not be constitutional. He reminded both parties that the question before the Court in the Abbeville case was centered on whether the system of public education, not the statutes around it, met the constitutional mandate of quality found by the South Carolina Supreme Court. Cooper stated:

This is an important distinction. In each of the cases cited by the Defendants to support their argument on the burden of proof, the constitutionality of a particular statute or ordinance was in question. Giving deference and great weight to the
Defendants does not require the Plaintiffs to prove their case beyond a reasonable

Cooper ruled that a preponderance of evidence would be the burden of proof used to
make his ruling in the Case.

In respect to the legal standard associated with the Abbeville case, Cooper added
that the Plaintiffs’ needed to prove that students in the Plaintiff Districts did not have “the
opportunity to acquire a minimally adequate education as defined in Abbeville County”
(Abbeville v. SC, 2004, p. 13). He defined the standard as “one of opportunity” and
surmised that the work of the Court was “to determine whether the opportunity to acquire
a minimally adequate education exists in the Plaintiff Districts or not” (Abbeville v. SC,
2004, p. 14). Cooper outlined a “three-prong test” to answer the question about
opportunity. He attributed prong one to South Carolina Supreme Court’s ruling that the
State is obligated to offer all children a public education based on the opportunity to
acquire the ability to do math, read, write, and speak the English language. Prong two
related to the State’s Supreme Court’s ruling that South Carolina was constitutionally
responsible to provide educational opportunity that allowed all students the opportunity
to acquire knowledge of history and economic, social, political, and governmental
processes. The third prong focused on the state’s obligation to ensure educational
opportunity for all students to acquire academic and vocational skills. Cooper noted that,
while the Supreme Court outlined these prongs as measures of opportunity, the Court did
not “declare the level of educational opportunities the State must offer” (Abbeville v. SC,
2004, p. 14). Cooper contended:
The court has given the educational opportunities offered to students in the Plaintiff District their plain and ordinary meaning and considered the testimony and other evidence describing the opportunities, and lack of opportunities, offered these students. . . . The opportunities described in Abbeville County are intended to give each child in South Carolina a chance at life: the opportunity to be a productive citizen, to engage meaningfully in the political process, to be adequately informed to serve intelligently on juries, to know his place in the world and how he can, through education, exercise choices in where to live and perhaps raise a family in short, to receive the opportunity for an education sufficient to join with all South Carolinians as they progress through school and life with an appreciation of this great state and nation. (Abbeville v. SC, 2004, p. 15)

The Order issued by Judge Cooper provided definitions of “opportunity” and “minimal adequacy,” as well as outlined substantive components of a minimally adequate education. In respect to opportunity, Cooper defined “opportunity” as the chance for advancement without guarantee that advancement or achievement would occur. He asserted that opportunity was subjectively measured and noted:

In determining whether opportunity actually accords the chance for progress or advancement to occur, one must examine not only the means by which the opportunity is offered, but also the characteristics of the one to whom it is offered. The stairway that is one child’s avenue to achievement and success is simply an obstacle to one unable to climb. So it is with opportunity, which cannot be measured or evaluated in some abstract qualitative way without taking into
account the characteristics of the ones to whom opportunity is offered. (*Abbeville v. SC*, 2004, p. 16-17)

In defining “minimally adequate,” Cooper posited that such a phrase “appears to be unique to the judicial lexicon of South Carolina” and surmised that evidence in the case “must take into account the implications inherent in this description of what is constitutionally required in South Carolina” (*Abbeville v. SC*, 2004, p. 17). Judge Cooper articulated the definition of minimally adequate to be “the existence of the least possible quantity of factors or conditions that are necessary to create the opportunity to acquire the fundamental skills outlined in *Abbeville County*” (*Abbeville v. SC*, 2004, p. 18). In respect to the standard of minimally adequate, Cooper provided that the state Constitution’s education clause “requires not a ceiling, but rather a floor upon which the General Assembly can build additional opportunities for school children in South Carolina” (*Abbeville v. SC*, 2004, p. 18).

In articulating the substantive components of a “minimally adequate” education, Cooper reiterated the South Carolina Supreme Court’s definition, which outlined a “minimally adequate” education to include: (1) the ability to read, write, speak the English language, and have knowledge of math and physical science; (2) the fundamental knowledge of economic, social, and political systems, and of history and governmental processes; and (3) academic and vocational skills. He provided that certain subjects, such as athletics, art, and music, are not included in the Court’s definition of “minimally adequate” noting, “while we may value these things as part of a rich educational experience they are not constitutionally required by *Abbeville County*” (*Abbeville v. SC*, 2004, p. 20). He asserted:
To be sure, it is desirable that the State provides more than whatever is deemed minimally adequate, and the evidence presented at trial establishes that the educational goals of the State extend far beyond minimal adequacy to the highest level of academic skills at each grade level. The constitutional question, however, is not whether additional funding by the State is necessary to reach this goal or whether more money could improve South Carolina’s schools, but whether current funding and policies are sufficient to provide the opportunity for South Carolina students to acquire a minimally adequate education. *Abbeville County* sets a constitutional floor below which the General Assembly may not fall, but beyond which the General Assembly is not constitutionally required to advance. *(Abbeville v. SC, 2004, p. 20-21)*

Cooper affirmed that the role of the Court was to discern whether the state ensured educational opportunities for all students in the Plaintiff Districts to acquire a “minimally adequate” education. He provided that the Court was without “mandate or authority to adjudicate what educational policies or programs would better serve the State” *(Abbeville v. SC, 2004, p. 21)*. He continued:

This Court would be remiss and would abdicate its responsibility under *Abbeville County* if, having found that the Defendants have failed to provide the opportunity for students to acquire a minimally adequate education, it did not point out where any such failure(s) might lie. Otherwise, the defendant would be forced to flounder in a sea of uncertainty in trying to determine what system are policies would need to be modified or adopted in order to ensure the existence of an opportunity for a minimally adequate education. *(Abbeville v. SC, 2004, p. 23)*
Judge Cooper’s Order outlined the measures used to determine whether there was a “minimally adequate” education afforded to the Plaintiff Districts’ students. He categorized those measures as inputs versus outputs, state versus federal education funding sources, and state versus local education funding sources. In respect to inputs versus outputs, Cooper asserted, “It is impossible to measure the presence or absence of an opportunity to acquire a minimally adequate education without some examination of the outcomes of the educational process” (Abbeville v. SC, 2004, p. 23-24). Cooper defined inputs as “Instrumentalities of learning that are provided to districts, schools and students” and outputs as “The success of the students in those districts and schools” (Abbeville v. SC, 2004, p. 24). Cooper asserted that poverty played a role in determining the impact of educational inputs and outputs noting, “Any analysis of the presence or absence of opportunity must be determined against the backdrop of poverty” (Abbeville v. SC, 2004, p. 25). He added that inputs, outputs, and the impact of poverty must be weighed collectively in determining whether South Carolina met its constitutional responsibility for educating its children.

Cooper viewed education funding as a principal input used to determine the opportunity for a “minimally adequate” education afforded to students in the Plaintiff Districts. Judge Cooper held that, “Federal revenue accounts for approximately 9% of funding for education in South Carolina, while local revenue accounts for approximately 40%, and State funding accounts for roughly 50% of the total revenue spent on education in South Carolina” (Abbeville v. SC, 2004, p. 26). Cooper dismissed the Plaintiffs’ argument that the State had used federal funds to supplant, rather than supplement, State funds, as well as the Plaintiffs’ argument that federal funding should not be considered in
the determination of South Carolina having met its financial and constitutional reasonability for ensuring educational opportunity. In respect to state and local education funding sources, the Plaintiffs contended that local funding sources should be excluded from determining whether the state met its constitutional responsibility. Judge Cooper found that any entity, in this case a school board, considered as a subdivision of the state and vested with taxing authority is acting as the State. Cooper noted:

While the State may have a constitutional duty to provide students in the State the opportunity to acquire an education, local school districts and other political subdivisions may be authorized to levy taxes as a means to assist in achieving this end. . . . There is no distinction between State and local funding as a matter of law, and funding from local sources is relevant to determining whether resources are sufficient to create the opportunity for a minimally adequate education.

(*Abbeville v. SC, 2004, p. 29-30*)

Part two of Judge Cooper’s ruling provided an overview of the principle components of South Carolina’s education system. This included: The Education Finance Act (EFA) of 1977; The Education Improvement Act (EIA) of 1984; The Early Childhood Development and Academic Assistance Act (Act 135); The South Carolina School-to-Work Transition Act of 1994; the Educator Improvement Act of 1997; The Education Accountability Act (EAA); Legislative Interventions for “At Risk” Students; Flexible Spending Provisions; the framework for Assisting Developing and Evaluating Professional Dispositions (ADEPT); and the approved versions of South Carolina Curriculum Standards. Cooper also offered a county-by-county examination of the
evidence in respect to county and student demographics, teacher characteristics and quality, facilities, and fiscal components in the Plaintiff Districts.

The Third Circuit Court Order outlined evidence and the individual characteristics of the eight Plaintiff Districts related to the 2002-2003 academic year. Judge Cooper noted that the Plaintiff Districts were mostly rural and located along the state’s I-95 corridor. He offered:

The Plaintiff Districts share common characteristics of high percentages of students who qualify for free and reduced lunch under the federal guidelines. . . .

Other characteristics of the Plaintiff Districts vary substantially. For this reason, the Court will address each District separately. (Abbeville v. SC, 2004, p. 57)

The Order first outlined student and district demographics and State performance measures by district. Cooper then outlined teacher characteristics and evidence relative to teacher quality for each district. The Order also summarized evidence relative to facilities in each of the Plaintiff Districts. Lastly, the evidence regarding the fiscal aspects of each district are provided in Cooper’s Order.

**Plaintiff District Characteristics and Demographics**

**Allendale**

Cooper described the Allendale County School District as “the most unusual district among the trial Plaintiffs” (Abbeville v. SC, 2004, p. 57). Cooper outlined the recent history of the school system and noted:

In 1999, the State Superintendent of Education took over control of Allendale from the Allendale County School Board under her statutory authority because Allendale was consistently performing below state standards, and had significant
financial, discipline, and student and teacher attendance problems which had not been resolved. (*Abbeville v. SC*, 2004, p. 57)

The state takeover of Allendale meant the South Carolina Department of Education managed the school district, appointed the Superintendent, and conferred with the district about the school district itself and decisions that needed to be made. Allendale had 1,815 students, 153 teachers, two elementary schools, one middle school, and one high school. Additionally, Allendale was ranked the fourth highest school district in the State for students in poverty, which was estimated at 87.3%, while the state average was 48.5%. Allendale’s student teacher ratio was 15 to 1, while the State median was 20.6 to 1.

All principals in the Allendale district were deposed and their testimony was entered as evidence during the trial. The principals testified that teachers taught approved curriculum standards and offered academic courses approved by the State Department of Education. The Palmetto Achievement Challenge Test (PACT) scores indicated that 49.5% of Allendale’s students met or exceeded minimum performance expectations in English Language Arts (ELA) and 52.9% met or exceeded minimum performance expectations in math. At the high school level, 83% of the 12th grade students passed the Exit Exam. As a district, Allendale was rated “unsatisfactory,” as was one of its elementary schools, its middle school, and its high school.

Per pupil expenditures in Allendale were “the second highest per pupil expenditures in the State and the highest among the Plaintiff Districts” (*Abbeville v. SC*, 2004, p. 61). During the 2002-2003 academic year, the state average of per pupil expenditure was $7,232, in Allendale the expenditure was $10,946. Additionally,
Allendale received additional funding from the State Department of Education, as a result of its unsatisfactory rating totaling $2,291,526 for 18 teacher specialists, three principal specialists, and one curriculum specialist. The district also received EAA funding which provided $265,500 for materials, supplies, retraining grants, and student support.

Dillion 2

Dillion County School District 2 was one of three school districts in Dillon County and consisted of four elementary schools, one junior high school, and one high school. Approximately 3,681 students were enrolled and 223 teachers were employed in Dillion 2. Nearly 80% of Dillion 2 students were eligible for free and reduced lunch, which ranked the district 11th in the state for children in poverty. The student teacher ratio in Dillion 2 was 20.7 to 1.

The principals in Dillion 2 affirmed, just as the Allendale County School District principals had, that teachers taught approved curriculum standards and offered academic courses approved by the State Department of Education. PACT scores indicated that 59.9% of Dillion 2’s students met or exceeded minimum performance expectations in English Language Arts (ELA) and 62.5% met or exceeded minimum performance expectations in math. At the high school level, 84.5% of 12th grade students passed the State Exit Exam. As a district, Dillion 2 was rated “below average,” two elementary schools were rated “excellent,” one elementary school was rated “good,” and one elementary school was rated “average.” Both the junior high school and high school were both rated “below average.” Per pupil spending in Dillion 2 was the lowest among the Plaintiff Districts, with spending at $6,255. Like Allendale, Dillion 2 received assistance from the South Carolina Department of Education and extra EAA funding allocations due
to its below average rating. The district received $708,844 to pay for four teacher specialists, one principal specialist, and one curriculum specialist. The additional EAA allocation provided $155,000 for materials, supplies, retraining grants, and student support.

**Florence 4**

Florence County School District 4 was one of five school districts located in Florence County. The school system employed 92 teachers and served 1,065 students. Florence 4 had one K-12 facility which housed one elementary, one middle, and one high school. In the year the case was heard, 77.3% of the school district’s students were classified as receiving free and reduced lunch, which ranked the district as the 16th highest in the state for students in poverty. The student teacher ratio 14.2 to 1, well below the state average.

The principals in Florence 4 testified that teachers in their schools taught the approved state standards and academic courses mandated by the South Carolina Department of Education. PACT scores indicated that 59% of the district’s students met or exceeded minimum performance expectations in English Language Arts (ELA) and 58.75% met or exceeded minimum performance expectations in math. At the high school level, 92.9% of 12th grade students passed the State Exit Exam. The district, as a whole, was ranked by the state as “below average,” as was the district’s elementary school and high school. The middle school was ranked “unsatisfactory.” At the time of the *Abbeville* trial, funding in Florence 4 was $8,964 per pupil. Florence 4 received an additional $418,336 to provide for extra staff to coach teachers and to offer curriculum support, as
well as $160,000 in EAA dollars for materials, supplies, retraining grants, and student support due to the districts below average rating.

**Hampton 2**

Hampton County School District 2 was one of two school districts in Hampton County. Hampton 2 served 1,427 students in one elementary school, one middle school, and one high school. Of the 1,427 students, 83.9% were deemed eligible for free and reduced lunch. As the other districts’ principals had done, the principals in Hampton 2 testified that teachers in their schools taught the approved state standards and offered academic courses mandated by the South Carolina Department of Education.

The State’s PACT scores indicated that 62.5% of the district’s students met or exceeded minimum performance expectations in English Language Arts (ELA) and 56.6% met or exceeded minimum performance expectations in math. At the high school level, 89.4% of 12th grade students passed the State Exit Exam. The student teacher ratio was 17.8 to 1, smaller than the 20.6 to 1 state ratio. Hampton 2’s school district was rated “unsatisfactory” on the 2003 State Department of Education district report card, as was its middle school and high school. The elementary school was rated “below average.” Per pupil spending in Hampton 2 was $8,437 per pupil, almost $1,200 higher than the state average of $7,232. As a result of the state’s rating of “unsatisfactory,” the district received $1,179,254 from the State Department of Education for eight full-time teaching specialists, two curriculum specialists, one principal specialist, and $235,000 EAA dollars to provide materials, supplies, retraining grants, and intervention support for students.
The Jasper County School District was a county-wide district that served 3,154 students, making it “one of the larger Plaintiff Districts” (Abbeville v. SC, 2004, p. 73). At the time of the Abbeville trial, the school system had two elementary schools, one middle school, and one high school. The school system was in the process of building two new PK-12 buildings, one in West Hardeeville and one in Ridgeland. Jasper County ranked 26th in the South Carolina for percentages of students in poverty, as 68% of the school system’s students were eligible for free and reduced lunch.

The principals of Jasper County School System testified that teachers taught the required standards and curriculum and that all schools offered academic courses mandated by the South Carolina Department of Education. PACT scores in the Jasper County School District indicated that 49.8% of students met or exceeded minimum performance expectations in English Language Arts (ELA) and 47.5% met or exceeded minimum performance expectations in math. At the high school level, 84.8% of 12th grade students passed the State Exit Exam. Jasper County was rated “unsatisfactory” on its state issued report card. Both its middle school and high school were ranked “unsatisfactory,” while one elementary school was ranked “below average” and two elementary schools were ranked “average.”

The district’s student teacher ratio was 18.2 to 1. Jasper County School District spent $8,058 per pupil. Due to Jasper’s “unsatisfactory” rating, the district received additional funding from the State Department of Education and under the EAA totaling $2,137,521. The majority of the funds, $1,802,521, were used for 12 full-time teacher specialists, three full-time principal specialists, and two curriculum specialists. The
remaining $335,000 was used for materials, supplies, and intervention support for students.

Lee

Lee County School District was a county-wide school system with 232 teachers serving 2,675 students in four elementary schools, one middle school, and one high school. The free and reduced lunch percentages for students in the Lee County School District was 81%, which ranked the county eighth in the state for the percentage of students in poverty. All principals in Lee County testified their schools were in compliance with State regulations and course offerings and their teachers were teaching state approved standards and curriculum.

PACT scores in Lee County indicated that 55% of students met or exceeded minimum performance expectations in English Language Arts (ELA) and 51.7% met or exceeded minimum performance expectations in math. At the high school level, 86.7% of 12th grade students passed the State Exit Exam. The student teacher ratio was 18.7 to 1 and per pupil expenditures were $8,650.

Lee’s 2003 state issued district report card rated the district “unsatisfactory” and rated two elementary schools “average” and one “below average.” One elementary school, the middle school, and the high school were rated “unsatisfactory.” As a result of the state ratings, the district received $1,331,983 for 11 teacher specialists, two curriculum specialists, and two instructional facilitators. An additional $310,000 in EAA funding was allocated to provide additional materials, supplies, and intervention supports for students.
Marion 7

Judge Cooper’s order noted Marion County School District 7 was “the product of a recent consolidation of Marion County School District 3 and Marion County School District 4” and its student enrollment was “the smallest of all the Plaintiff Districts” (Abbeville v. SC, 2004, p. 80). The court order noted that, during the district’s consolidation and throughout the case’s litigation, Marion 7 built and opened a new high school, as well as closed and combined other schools. The court order noted:

Some of the data for Marion 7 is unavailable for purposes of comparison to the other Plaintiffs Districts and both parties during trial averaged certain data for Marion 3 and Marion 4, to permit a reasonable comparison to other districts to be made for years prior to the consolidation. (Abbeville v. SC, 2004, p. 80)

Marion 7 had 905 students and employed 68 teachers. The student teacher ratio was 20.6 to 1 and per pupil spending was $9,213. Of the students in Marion 7, 91.7% received free and reduced lunch, placing the district third in the state for the percentage of students in poverty. As did the other Plaintiff Districts, the school principals in Marion 7 gave testimony that their schools were in compliance with South Carolina Department of Education regulations and their teachers were utilizing state approved standards and curriculum.

The percentage of students in Marion 7 meeting or exceeding minimum performance expectations on the PACT was 55% on the ELA assessment and 49.1% on the math assessment. At the high school level, 95.4% of 12th grade students passed the State Exit Exam. Marion 7 was rated on the state’s report card as “unsatisfactory,” as was its middle school. Both elementary schools were rated “below average” and, because the
high school was new, it was not rated by the state. Due to the state ranking, the district received $255,000 in additional EAA funds to provide materials, supplies, and intervention supports for students. An additional $411,934 was given to support four instructional facilitators, four teacher specialists, and one curriculum specialist.

**Orangeburg 3**

Orangeburg County School District 3 was another district formed by consolidation. As noted in the Court’s Order, “Most of the data utilized in this trial is from the post-consolidation period, so no adjustments were needed for comparison purposes” (Abbeville v. SC, 2004, p. 84). The district was comprised of four elementary schools, two middle schools, and one high school. Orangeburg served 3,572 students and employed 269 teachers. The district ranked sixth in the state for percentage of students in poverty with 84.4% of its students receiving free and reduced lunch. As did all of the other Plaintiff Districts, the principals in Orangeburg 3 testified their schools were in compliance with South Carolina Department of Education regulations and their teachers were teaching state approved standards and curriculum.

PACT scores specified 65% of students met or exceeded expectations on the ELA assessment and 61.4% of students met or exceeded learning expectations on the math assessment. At the high school level, 86.4% of 12th grade students passed the State Exit Exam. The student to teacher ratio was 17.1 to 1 and per pupil expenditure was $8,298, above the state’s average of $7,232. The district received a rating of “unsatisfactory,” as did the high school and one of the middle schools. The other middle school received a rating of “below average.” Two elementary schools received “average” ratings and two received “below average” ratings. Due to the Orangeburg 3 schools’ “unsatisfactory”
rating, the district received additional funding from the State Department of Education and EAA totaling $1,806,427. The majority of the funds, $1,321,427, were used for 10 full-time teacher specialists, two instructional facilitators, two curriculum specialists, and one principal specialist. The remaining funds, $335,000, were used for materials, supplies, and intervention support for students.

**Plaintiff District Teacher Characteristics and Quality**

Judge Cooper’s Order noted the evidence entered by the Plaintiffs that centered on the quality and effectiveness of teachers in the eight representative Plaintiff Districts. While the evidence outlined average teacher characteristics such as licensure areas, education levels, salary, and experience, evidence also was entered relative to teacher turnover. With regard to trial evidence, Judge Cooper explained that data represented by the Plaintiffs were compared to state averages and to district medians. He explained the Court record “contains testimony from each principal concerning teacher quality in that principal’s school” and the Defense “introduced evidence comparing teacher characteristics in Plaintiff districts as a group with the characteristics on non-Plaintiff Districts” (*Abbeville v. SC*, 2004, p. 88). The Plaintiffs called a number of witnesses who testified that teacher licensure requirements in the state were “inadequate to insure a level of quality commensurate with the opportunity for each child to acquire a minimally adequate education” (*Abbeville v. SC*, 2004, p. 88). Judge Cooper noted, “The Court, however, finds that the system of teacher licensure in South Carolina is more than adequate for this purpose” (*Abbeville v. SC*, 2004, p. 88). He suggested the process of attaining teacher licensure in South Carolina was:
More than sufficient to ensure that teachers who are certified in South Carolina are at least minimally competent to deliver instruction compatible with the constitutional requirements. There are also alternative routes to certification . . . for persons who wish to teach in a subject matter for which there is critical need. These alternative routes and the requirements thereof have been prescribed by the State Department of Education, and the Court necessarily defers to the state Department of Education as to the efficacy of those procedures. To the extent that the State Department of Education considers them to be insufficiently rigorous to ensure at least minimal teacher competency, the Court assumes that State Department of Education, consistent with its statutory mandate, will take steps on its own to adjust those procedures accordingly. *(Abbeville v. SC, 2004, p. 91)*

Judge Cooper’s Order noted that teacher quality was not associated with only preparation, but also with professional development. The Plaintiffs argued there were a number of impediments preventing them from being able to deliver effective, sustained professional development. Two issues they presented were that high rates of teacher turnover prevented ongoing, sustained professional development and the learning needs and poverty issues of many students drove specialized, expensive professional development. Judge Cooper provided:

> Plaintiffs have not established, however, that there is any impediment that prevents the Plaintiff Districts from providing higher quality, sustained professional development for their teachers. There is no evidence that high quality programs are more expensive, or more difficult to obtain. All of the Plaintiff Districts have received Retraining Grants under EAA. . . . To the extent that the
professional development that is being provided is not helpful, the Plaintiff
Districts can and should focus their efforts on programs that are calculated to
meet the needs of their teachers. (Abbeville v. SC, 2004, p. 98-99)

As with the Plaintiffs’ argument about teacher preparation, Judge Cooper found South
Carolina had an appropriate system of professional development. He provided, “The
Court declines to find that teacher quality in South Carolina is so low that a constitutional

The Plaintiffs further argued teacher salaries in the Plaintiff Districts were
“inadequate to permit the Plaintiff Districts to attract and retain qualified teachers”
(Abbeville v. SC, 2004, p. 91). They entered evidence that highlighted lower teacher
salaries in the eight representative districts, as compared to teacher salaries in other
districts within the state. The Defendants countered by offering evidence of teacher
salaries compared to other salaries for other professions in the county. Cooper noted the
Defendants’ evidence and surmised that in the Plaintiff Districts teacher salaries
exceeded “the average pay for all workers in the county which the district is situated by a
ratio of 1.5 to 1, which is higher in the Plaintiffs Districts than in the non-Plaintiff
Districts” (Abbeville v. SC, 2004, p. 92). He concluded:

While the court acknowledges that the average teacher salary is somewhat lower
in the Plaintiff Districts than elsewhere, this fact alone does not support the
conclusion that an individual teacher is paid less in a Plaintiff District than he or
she would be in another district. (Abbeville v. SC, 2004, p. 93)

He furthered there was no evidence that suggested compensation was a reason that
teachers leave a given district or the profession.
Additional evidence related to teacher characteristics was centered on teacher experience and turnover. The Plaintiffs argued teachers in the Plaintiff Districts had (relatively) lower levels of experience than non-Plaintiff Districts’ teachers. The evidence they presented outlined, “The average experience of teachers in the Plaintiff Districts was over 13.1 years, compared with 13.6 years in the non-Plaintiff Districts” (*Abbeville v. SC*, 2004, p. 97). Judge Cooper cited the requirements for teacher licensure, the evaluation of teachers, and the induction supports provided by the state and districts as the means by which South Carolina ensures new teachers are prepared to be effective. He stated:

Beyond the fact that Plaintiff’s intuitive conclusions regarding teacher experience is not borne out by the data, the court would be hard pressed to find that even brand-new teachers are necessarily inadequate to create the opportunity to acquire a minimally adequate education. . . . If new teachers cannot begin to teach without creating a constitutional violation, how can the teacher population in South Carolina be maintained? (*Abbeville v. SC*, 2004, p. 97)

He concluded by noting, “Plaintiffs’ assertions regarding teacher experience are not supported by the evidence, and the court declines to find that any particular level of teacher experience is constitutionally necessary” (*Abbeville v. SC*, 2004, p. 97).

The issue of teacher turnover, brought by the Plaintiff Districts, received considerable attention in the *Abbeville* trial. The evidence suggested that the Plaintiff Districts’ turnover ranged from 11.5% to 25.27%, higher than the state’s average of 9.4%. The superintendents in the Plaintiff Districts testified their districts were losing teachers to higher paying, wealthier districts because they were unable to offer high, locally funded salary supplements. The Plaintiff Districts argued:
The rate of turnover itself denies students in the Plaintiff Districts the opportunity to acquire a minimally adequate education, and that the higher turnover rates in their districts are caused by lower salaries relative to other districts in the State, particularly salaries provided in adjoining districts. (*Abbeville v. SC*, 2004, p. 94) The Defendants provided evidence that indicated, “The actual percentages of teachers who switched from Plaintiff to non-Plaintiff Districts is only slightly higher than the percentage of teachers who switched from non-Plaintiff to Plaintiff districts” (*Abbeville v. SC*, 2004, p. 95). Judge Cooper found that, while teacher turnover was an issue in the Plaintiff Districts, the turnover did not create a violation of the State Constitution. His finding noted, “The Court cannot and does not conclude that … turnover itself creates the absence of the opportunity for each child to receive a minimally adequate education” (*Abbeville v. SC*, 2004, p. 97).

Dr. Janice Poda, Senior Director of the Division of Teacher Quality at the South Carolina Department of Education, as well as each superintendent, entered evidence and testified to the quality and experience of each district’s teachers in relation to years of experience, educator preparation program quality, and licensure status. Additionally, each district entered evidence related to the districts’ three-year average teacher turnover rate and professional development days.

The Defendants entered evidence and called educational experts to testify about the relationship between teacher characteristics, reported by the Plaintiffs, and student achievement. The Defendants argued, “There is no empirical evidence of a direct relationship between teacher characteristics and student achievement (*Abbeville v. SC*, 2004, p. 110). The Defense offered an exhibit that referenced the work of Dr. Armor and
Dr. Podgursky, analyzing teacher characteristics and compared them to student learning and achievement. Judge Cooper noted, “Although employing different methodologies, each arrived at the same conclusion: there is no consistently, significant, positive relationship between teacher characteristics and student achievement” (Abbeville v. SC, 2004, p. 111). The Court transcript noted that the Plaintiffs’ expert witness, Dr. Lorin Anderson, undertook a similar correlation and regression analysis as Dr. Armor and Dr. Podgursky and found “less of a relationship between teacher factors and achievement” (Abbeville v. SC, 2004, p. 111). In response, Judge Cooper established:

Teacher characteristics in the Plaintiff Districts do not explain any deficits in student achievement in any significant and predictable way. This however does not mean that teachers are not important… Most experts from both sides opined that the teacher was the greatest single educational influence on the child’s academic development within the school itself. Thus, teachers do matter, but it is good teaching that makes a good teacher, not particular set of credentials or level of experience. (Abbeville v. SC, 2004, p. 112)

Cooper’s ruling also surmised that the data presented “suggests on its face that money and teacher quality are not directly related” (Abbeville v. SC, 2004, p. 102). He also ruled the Court “cannot and does not accept the assertion that large percentages of teachers in the Plaintiff Districts are incompetent” and the noted teachers in the Plaintiff Districts did not lack sufficiency “to create the opportunity for each child to acquire a minimally adequate education” (Abbeville v. SC, 2004, p. 110).
**Plaintiff District Facilities**

One of the arguments of the *Abbeville* Plaintiffs was that South Carolina’s General Assembly failed to uphold the State Constitution’s education clause because it did not provide adequate and safe facilities. To this argument the Court responded:

> It is necessary for the court to determine whether the facilities in the Plaintiffs’ districts are in fact adequate and safe. It is also necessary to address the question of whether the constitutional duty requires that the cost of facilities be paid exclusively by funds appropriated by the General Assembly for that purpose.  

(*Abbeville v. SC*, 2004, p. 113)

The Plaintiffs argued the Court should not consider local funding when ruling on whether the South Carolina General Assembly provided adequate and safe facilities to the students in the Plaintiff Districts. Judge Cooper relied on his previous finding that local funds, when raised through State granted powers, are deemed funds raised by the State. Judge Cooper ruled:

> Funding form local sources is relevant to determining whether resources are sufficient to create the opportunity for a minimally adequate education. The Court is aware of the fiscal limitations on the Plaintiffs’ districts which directly impacts the amount of funding available from local sources. (*Abbeville v. SC*, 2004, p. 114)

Judge Cooper noted the Court could not conclude that South Carolina’s Constitution required the total cost of school facilities to be the full responsibility of the General Assembly.
Testimony provided by Plaintiff Districts’ teachers, principals and superintendents, as well as 1,351 pictures submitted into evidence, highlighted cafeterias, restrooms, athletic facilities, offices, hallways, and classrooms. Many of the pictures showed leaking ceilings, rotting walls that provided little protection from outside elements, electrical issues, and restroom facilities that were not maintained. The Defense also entered photographic and video evidence of the Plaintiff Districts’ schools and facilities. Regarding both the Plaintiffs’ and Defendants’ evidence, the Court Order surmised, “Each side selectively depicts only the very worst and best conditions in each school” (Abbeville v. SC, 2004, p. 114). To refute the Plaintiffs’ arguments about unsafe and inadequate facilities, the Defendants provided the certified yearly assurance reports given to the South Carolina Department of Education. They also called South Carolina Department of Education personnel to testify that the State relied on the accuracy of the yearly facility assurances given by the districts. The Courts Order noted:

Each of the eight Plaintiff Districts certified to the State Department of Education that their facilities: (1) are maintained in accordance with standard requirements established by the South Carolina Department of Health and Environmental Control; (2) are adequate in size and arrangement to accommodate the programs offered; (3) comply with safety regulations compiled by the State Fire Marshal; (4) have safe and adequately maintained playground, physical education and play equipment; (5) have sufficient fire extinguishers . . . ; (6) are designed and equipped to serve the specific purposes for which each classroom is used; (7) have adequate light, ventilation, and heating in all utilized areas; (8) have properly maintained, safe and attractive facilities and grounds ; (9) and comply with all
OSHA standards in all educational laboratories and facilities. (*Abbeville v. SC*, 2004, p. 117)

The Defendants entered testimony from Dr. James R. Smith, a South Carolina Department of Education approved building inspector for the Office of School Facilities, who gave a summary of the facilities in the Plaintiff Districts. Smith provided that the facilities “were adequate for instructional purposes” and were “sufficient to permit learning to occur” (*Abbeville v. SC*, 2004, p. 117).

Judge Cooper outlined an overview of each school and contended that, when the case was filed, one school in Dillion 2 was unsafe but issues were corrected by the time the case came to trial. He furthered that, while many schools were aging and in need of repair, districts had a reasonability to ensure adequate maintenance and care. Judge Cooper’s ruling about facilities in the Plaintiff Districts read:

> This Court finds that any deficiencies in the facilities are currently being remedied by the school districts and those not being replaced or repaired are safe and adequate and are sufficient to provide students the opportunity to acquire a minimally adequate education. (*Abbeville v. SC*, 2004, p. 142)

**Plaintiff District Revenue and Spending**

During the *Abbeville* Trial, Defendants called the then Chairman of the House Ways and Means Committee Representative Harrell to testify. Harrell explained the State made education the top budget priority and that in 1994 the Committee “Moved education to the forefront of the budget bill so that it would be the first item that was taken up in the State budget every year” (*Abbeville v. SC*, 2004, p. 142). Judge Cooper provided, “Since this lawsuit was filed 1993, State revenues in the Plaintiff Districts have
more than doubled” (Abbeville v. SC, 2004, p. 142). Evidence presented indicated an increase in appropriations for education and the Court’s Order outlined, “Between 1994 and 2004, funding to education has increased from 33% to 36% of the general fund” (Abbeville v. SC, 2004, p. 143).

The Plaintiff Districts’ superintendents testified that, even with additional revenue, funding was inadequate and “insufficient to create the opportunity for students in the Plaintiff Districts to acquire a minimally adequate education” (Abbeville v. SC, 2004, p. 143). Judge Cooper noted the Court would have to determine whether a relationship existed between education spending and student achievement and furthered that, without a known relationship between spending and achievement, the Court could not find a connection between the lack of achievement by Plaintiff students to be connected to an issue with revenue. Testimony and evidence outlined that revenues in the Plaintiff Districts exceeded State median revenues. Additionally, evidence was introduced that compared Plaintiff District spending to districts rated on the South Carolina Department of Education as “Good” or “Excellent.” The evidence revealed that all of the Plaintiff Districts spend more on education, on average, than schools deemed “Good” and “Excellent.” The Court Order outlined:

“Per Pupil expenditures are less in the above 75% schools . . . referred to in the testimony as “gap closing schools.” . . . the fact that the Plaintiff school mean exceeds the gap closing school mean is consistent with higher per people expenditures at the district level for the Plaintiff District. (Abbeville v. SC, 2004, p. 144-145)
The Plaintiffs argued, that while this might be the case, the actual spending for instruction was significantly lower due to diseconomies of scale faced by small districts. They furthered that, because of these diseconomies of scale, they could not adequately be compared to other districts.

The Defense countered that diseconomies of scale do not impact instructional spending. In respect to the diseconomies of scale argument, Defense Witness Dr. Miley testified, “Higher correlations are in functional areas that have the least cost per pupil. The largest expense category, instructional [expenses], which is over half the cost of services, has the smallest correlations” (Abbeville v. SC, 2004, p. 145). Judge Cooper noted, while diseconomies of scale exist relative to certain expenses, those impacted expenses make up a small percentage of overall expenses. He noted:

Thus, the fact that small districts, which include some, but not all, of the Plaintiff Districts, spend more per pupil in fixed costs categories does not mean that all of their per pupil expenditures are affected by diseconomies of scale such that their spending cannot fairly be compared to other districts. (Abbeville v. SC, 2004, p. 145)

The Defense provided exhibits and entered testimony that called into question a direct relationship between spending and student achievement. The Plaintiffs final contention was not that the Plaintiff Districts were underfunded in relation to other districts in the state, but they argued their districts were “under funded in relation to the specific needs imposed upon them by the economic conditions of their districts and the socioeconomic status of their students” (Abbeville v. SC, 2004, p. 149).
Judge Cooper stated, “It is clear that there is little, if any, relationship between spending and achievement” (Abbeville v. SC, 2004, p. 145). He noted that the Court could not determine the level of spending necessary to ensure the constitutional obligation of the state to provide for students to acquire a minimally adequate education. He ruled that this court could not conclude that the allocation of educational funding alone would lead to student achievement. He added:

This court does believe that certain program funding which has been cut in the past, and that failure to fund other programs which have been adopted to deal with the specific needs of children in poverty in their early childhood years deprives those children of the opportunity to obtain a minimally adequate education. That is not to say that the allocation of additional funds, without directing those funds towards specific needs, will cure the constitutional deficit. (Abbeville v. SC, 2004, p. 150)

**Court’s Finding on Relationship Between Poverty and Achievement**

Judge Cooper found there was no relationship between educational inputs, such as teacher characteristics, per pupil spending, and facilities, and student achievement. However, his finding outlined the Court’s view that a relationship existed between poverty and student achievement. This finding became central to the Third Circuit Court’s ruling in the Abbeville case.

The Defendants asserted that, since some students in the Plaintiff Districts scored at least “basic” on the South Carolina mandated yearly assessment, the Palmetto Achievement Challenge Test, that all students in the Plaintiff Districts had the opportunity to obtain a “minimally adequate” education. Cooper responded by noting,
“The Defendants are correct in saying that bad outcomes alone do not mean that opportunity is not present and it is not possible to say that all students who fail to achieve were deprived of the opportunity to succeed” (Abbeville v. SC, 2004, p. 153). The Plaintiffs provided evidence that a strong relationship existed between poverty and student achievement. One such exhibit was the analysis of school report cards. Dr. Greg Hawkins, Director of the Jim Self Center for the Future in the Strom Thurmond Institute at Clemson University, provided an analysis that outlined: “Two-thirds of the differences in PACT scores at the district level are accounted for by differing percentages of students on free and reduced lunch” (Abbeville v. SC, 2004, p. 153). Additional testimony described the relationship between poverty and student achievement as the strongest in early years. Dr. Walberg testified that, for children in poverty, “Before schooling really begins, children are behind” and concluded, “The child’s ability affects achievement, but the other socioeconomic factors related to poverty have a continuing impact” (Abbeville v. SC, 2004, p. 154). The Defense entered into evidence Dr. Walberg’s analysis, which attempted to statistically factor out characteristics of poverty from other educational inputs. Judge Cooper provided:

While factoring out poverty is possible in a statistical analysis, poverty is a reality in the lives of the students and Plaintiff Districts which cannot be factored out. It is the most pervasive influence in their lives and in their educational abilities and achievement. Indeed, the record makes it clear that the principal factor that is directly associated with different levels of student performance is poverty. (Abbeville v. SC, 2004, p. 153)
Judge Cooper found that poverty was directly connected to student achievement. He argued:

The statistical analysis of the experts, as well as anecdotal evidence, indicates that poverty is, in turn, both the parent and child of poor academic achievement. Each follows the other in a debilitating and destructive cycle until some outside agency or force interrupts the sequence. (*Abbeville v. SC*, 2004, p. 155)

Judge Cooper noted that the central question in the *Abbeville* case was centered on the constitutional burden of the State to ensure educational opportunity for all students. He asked, “Although schools cannot reasonably be expected to eliminate poverty, can schools address in specific ways the effects of poverty on achievement, and if so, must they do so as a matter of constitutional obligation?” (*Abbeville v. SC*, 2004, p. 156). To that question Judge Cooper provided:

We hold today that the South Carolina constitution education clause requires the General Assembly to provide the opportunity for each child to receive a minimally adequate education. The modifier each is dispositive of the question. Each child refers to children born to poverty as surely it does to those born to affluence. The State’s obligation to provide an opportunity for a minimally adequate education is, in no way, reduced to children born in poverty. It is, in fact, enhanced for such children. The indisputable relationship between poverty and academic achievement and the magnified impact of poverty on the abilities of the very youngest, the most vulnerable, form the basis of the obligation. Should the impact of poverty not be addressed at an early age, in the educational process, there would be no constitutionally mandated opportunity. . . . The court therefore
finds that the education clause of the South Carolina Constitution as defined in
*Abbeville County*, imposes an obligation upon the General Assembly and the
State of South Carolina to create an educational system that overcomes, to the
extent that it is educationally possible, the effects of poverty on the very young
. . . to enable them to begin the educational process in a more equitable fashion to

Judge Cooper explained that the state had the obligation to ensure early educational
opportunities and ruled the State of South Carolina did not uphold the constitutional
mandate to provide an opportunity for a minimally adequate education.

**Third Circuit Court Ruling**

Judge Cooper ultimately asserted that the question at hand was whether the
Defendants provided children in the Plaintiff Districts the opportunity to acquire a
“minimally adequate” education, to which Judge Cooper ruled, “I find they have not.”

The Third Circuit Court Order reported Judge Cooper’s findings that expressed:

The Court concludes that the instructional facilities in the Plaintiff Districts are
safe and adequate to provide the opportunity for a minimally adequate education
as defined in *Abbeville County*. The Court further concludes that the South
Carolina curriculum standards at the minimum encompass the knowledge and
skills necessary to satisfy the definition for a minimally adequate education as set
out in *Abbeville County*. The Court further concludes that the South Carolina
system of teacher licensure, including the minimum passing scores on Praxis I
and the different Praxis II tests, is sufficient to ensure at least minimally
competent teachers to provide instruction consistent with the curriculum
standards. The Court further concludes that the inputs into the educational system, except for the funding of early childhood intervention programs, are sufficient to satisfy the constitutional requirement. The Court further concludes that the constitutional requirement of adequate funding is not met by Defendants as a result of their failure to adequately fund early childhood intervention programs. Finally, this Court concludes that the students in the Plaintiff Districts are denied the opportunity to receive a minimally adequate education because of the lack of effective and adequately funded early childhood intervention programs designed to address the impact of poverty on their educational abilities and achievements. It is therefore ordered that judgement shall be entered for the Plaintiffs consistent with the findings and conclusions set out above. (Abbeville v. South Carolina, 2004, p. 162)

Request for Amendment of the Order

On July 12, 2007, as a result of the Court’s Order, both the Plaintiffs and the Defendants filed a motion requesting Judge Cooper amend his findings. The Plaintiffs requested an amended Order similar to their amendment request in 2003. Their first argument for amended ruling was that curriculum standards and the teachers in the Plaintiff Districts were inadequate. The Court responded by noting evidence presented in the original case that indicated teachers were providing instruction by using the state’s adopted standards and the Plaintiff schools were offering required educational programs and courses mandated by the State Department of Education. Another basis for the Plaintiffs’ request that Judge Cooper amend his Order was their continued facilities and infrastructure concerns. The Court noted:
Plaintiffs have not conclusively shown that facilities have an impact on the quality of instruction or performance in the Plaintiff Districts. As noted in this Court’s order, “there is no empirical evidence that would support a finding that achievement is related to the condition of facilities.” Finally, the Plaintiff Districts have not satisfied their burden of proving that their facilities are unsafe. Each of the Plaintiff Districts certified to the State Department of Education that its facilities comply with state regulations; are adequate in size and arrangement to house its programs; comply with fire marshal regulations; have safe and adequately maintained playgrounds, physical education, and play equipment; have sufficient fire extinguishers; have adequate light, ventilation, and heating; and comply with all OSHA standards. (Abbeville v. South Carolina, 2007, p. 8)

The Plaintiffs also requested an amended Order and a grant of relief based on their earlier contention that the state racially discriminated against the Plaintiff districts’ students. The court did not uphold this basis for amendment or relief noting, “The issue was simply raised too late” and, in addition:

It was not necessary to consider race as a factor separate from poverty to grant relief to Plaintiffs because, in this case, race and poverty are practically synonymous. Certainly, race and poverty are collinear, in as much as the percentage of students on free and reduced lunch (the agreed-upon proxy for poverty) is very nearly the same as the percentage of African-American students in each district. Any remedy or relief accorded to those students in poverty will necessarily insure primarily to the benefit of African-American students as well. (Abbeville v. South Carolina, 2007, p. 9)
As part of the Plaintiffs’ argument that race should be considered by the Court, the Plaintiffs contended the lack of culturally relevant curriculum and instructional practices were significant issues. The Court disagreed, finding that no unique instructional program existed for specific races or ethnic groups of students in poverty. Judge Cooper wrote, “By and large, the baggage of poverty is the same despite differences in race” (Abbeville v. South Carolina, 2007, p. 9-10).

The Plaintiffs also asked Judge Cooper to consider an amended finding based on several factors they determined to be procedural. One such request asked the Court to “reconsider its decision not to require Defendants to take specific action to address the constitutional failure to provide the opportunity for a minimally adequate education as found by the Court” (Abbeville v. South Carolina, 2007, p. 12). Additionally, the Plaintiffs argued that the Education Finance Act and the Education Improvement Act were unconstitutional because both acts created inequalities. The Court discredited this reason, noting the 1988 South Carolina Supreme Court Case Richland County v. Campbell and the findings of the Court during the trial. The Plaintiffs concluded their request of an amended ruling by asking the court to require the Defendants to “draft a proposal for a new education system in South Carolina and to fund and support said system . . . within a court-mandated time frame” (Abbeville v. South Carolina, 2007, p. 13).

The Defendants cited 10 reasons in their request for Judge Cooper to amend his ruling. Their reasons ranged from the burden of proof associated with making a claim the public education system was unconstitutional to their belief that the Court erred in claiming the state was responsible to ensure students overcome the effects of poverty.
The first argument made by the Defense was that Judge Cooper erred in the 2003 trial when he defined the “burden of proof” to be used in the *Abbeville* case. The Defense argued that the “burden of proof” must be beyond a reasonable doubt. The Defendants also maintained the Court's finding which affirmed the state’s public education system was unconstitutional also required the Court to find that the statutes upon which the education system was based, also must be deemed unconstitutional. The Defense’s second argument for an amended ruling surmised:

The Court erred in concluding the State is required to overcome the effects of poverty, “to the extent that it is educationally possible,” on academic achievement, because such a finding is (1) outside the scope of the education clause, and (2) creates a standard that is higher than the one defined in *Abbeville County*. (*Abbeville v. South Carolina*, 2007, p. 14)

In response to the Defense’s argument, the Court stated:

In determining whether opportunity actually accords “the chance for progress or advancement to occur,” one must examine not only the means by which the opportunity is offered, but also the characteristics of the one to whom it is offered. . . . while factoring out poverty is possible in statistical analysis, poverty is a reality in the lives of the students in the Plaintiff Districts which cannot be factored out. The issue is whether each child is being offered the opportunity to acquire a minimally adequate education. This includes students who live in poverty, and just as adjustments need to be made for handicapped children, schools need to adjust to meet the educational needs of children raised in poverty. As this Court found, “the stairway that is one child’s avenue to achievement and
success is simply an obstacle to one unable to climb.” (Abbeville v. South Carolina, 2007, p. 14)

Additionally, in response to the Defense’s claim of the Court’s finding that South Carolina failed the Abbeville County test, Judge Cooper wrote, “Tradition is not the standard by which this Court judges constitutionality. The education clause in the South Carolina Constitution was designed to allow the General Assembly flexibility in meeting modern needs and changing conditions” (Abbeville v. South Carolina, 2007, para. 55).

In their motion to amend, the Defendants contended that early childhood intervention programs were not required in the state's education clause in order to ensure a minimally adequate education or to uphold the state’s constitutional responsibility. In response, the Court claimed, “beyond a preponderance of the evidence early intervention programs are required to educate children in poverty” (Abbeville v. South Carolina, 2007, p. 15). In response, Judge Cooper determined the “General Assembly has fallen below the constitutional floor established in Abbeville County” (Abbeville v. South Carolina, 2007, p. 15).

Another issue raised by the Defense was their belief the Court erred in using academic achievement to determine whether the state had met its constitutional responsibility to provide a minimally adequate education in the Plaintiff Districts. To this argument, the Court affirmed:

When those two factors [poor PACT test results and a high incidence of poverty] come together so dramatically as they do in the case of the Plaintiff Districts, this Court is led to the conclusion that the children of the Plaintiff Districts are not receiving the opportunity to obtain a minimally adequate education. This Court
did not, as Defendants allege, base its holding solely on academic achievement. This Court based its conclusion on the interplay between achievement and poverty. Thus, Defendants’ argument is without merit. (*Abbeville v. South Carolina*, 2007, p. 16-17)

The Defendants in the *Abbeville* case further argued that, if any student in the Plaintiff districts achieved success, all students in those districts have the *opportunity* to receive a minimally adequate education. Their request read:

Any level of achievement, by any number of students, is sufficient to demonstrate that the State has fulfilled its constitutional obligations, and that those students who are not performing well have simply chosen not to avail themselves of the opportunity to acquire a minimally adequate education. (*Abbeville v. South Carolina*, 2007, p. 18)

This line of argument was fully rejected by the Court. Another argument brought by the Defendants was that the interventions already existing in the Plaintiff districts were sufficient to ensure the state’s constitutional responsibility and further claimed the Court erred in finding the interventions ineffective. To this argument the Court ruled: “The intended benefits from these programs are not sufficient to overcome the effects of poverty or to meet the needs of the students in the Plaintiff Districts” (*Abbeville v. South Carolina*, 2007, p. 18-19). The Defendants also argued that the Court erred because “the Plaintiff Districts, students, and taxpayers do not have standing to maintain this action” (*Abbeville v. South Carolina*, 2007, p. 18). To this argument the Court found:

The purpose of providing a public education is a benefit not just to the individual receiving it, but also the public at large . . . because the questions involved in the
instant case are so important, the rules on standing should not be inflexibly applied. . . Therefore, Plaintiffs had standing to bring this action. (*Abbeville v. South Carolina*, 2007, p. 19)

In addition, the Defendants argued the Court erred in failing to enter judgment in their favor because legislative immunity protects claims made against representatives of the State and the Governor when they are acting within their legislative powers. The Court ruled that, since the Plaintiffs were not seeking monetary damages in this action, legislative immunity was not applicable. The Court, therefore, rejected the Defendants’ argument.

The final argument for an amended Order made by the Defense was based on their belief that allegations made by the Plaintiffs were “non-justiciable political questions” for which they believed the Court was “without the authority or power to resolve” and noted, “Because exercising such authority would violate the separation of powers doctrine” (*Abbeville v. South Carolina*, 2007, p. 20). In response, the Court cited its previous holding, noting, “The results of the legislative process are appropriate matters for the Court’s consideration . . . and does not violate either the separation of powers doctrine or the political question doctrine” (*Abbeville v. South Carolina*, 2007, p. 20). The requests by both the Plaintiffs and Defendants to amend the Court’s order were denied. In summation, Judge Cooper wrote:

As difficult as it may be to accept or understand, this case has never been about what is best for the children of the State. . . From the adoption of our state’s first constitution until the Supreme Court decision in *Abbeville County*, the education clause lacked any qualitative standard. The standard established within
“deliberately broad parameters” the right of each child to receive an opportunity to obtain a minimally adequate education. This standard created a “constitutional floor” below which the educational processes of the State could not sink. In the final analysis, the responsibility rests, as it should, upon the shoulders of the elected representatives of the people of South Carolina, to decide whether the educational futures of the children of the State will rest upon the constitutional floor established by the Court, or upon a higher level. (Abbeville v. South Carolina, 2007, p. 21)

As a result of Judge Cooper’s ruling, both parties appealed and the case of Abbeville County School District et al. v. the State of South Carolina et al. went before the South Carolina Supreme Court.

**Abbeville II**

The Abbeville County School District et al. v. the State of South Carolina et al. case again came to the South Carolina Supreme Court on Appeal. The case was brought and argued before the state’s highest court on June 25, 2008, and was formally heard and re-argued nearly four years later on September 18, 2012. Four central issues were presented to the South Carolina Supreme Court regarding the Third Circuit Court’s Abbeville ruling. Those issues included:

1. Whether the case was moot; 2. Whether the State’s education system affords students in the Plaintiff Districts the opportunity for a minimally adequate education; 3. Whether the Court should become involved in the controversy; and 4. Whether the Court may fashion a remedy. (Abbeville v. South Carolina, 2014, p. 7)
The Court’s final decision and mandate for remedy in the *Abbeville* case was filed and announced on November 12, 2014. The 3-2 Majority Decision was written by Chief Justice Toal and joined by Justice Gorenflo-Hearn and Justice Beatty. Justice Kittredge, with Justice Pleicones concurring, wrote the Dissenting Opinion.

The Dissent asserted the majority had improperly violated the separation of powers test and argued that determining minimal adequacy was a nonjusticiiable question. Justices Kittredge and Pleicones opined:

> Today the Court elevates personal policy preferences to constitutional status and justifies its transgression simply by invoking the virtues of educational advancement. I view the Court’s decision as a policy opinion on the state of public education in South Carolina, in direct contravention of what this Court said it would not do in *Abbeville I* - act as a super-legislature. (*Abbeville v. South Carolina*, 2014, p. 40)

The Dissenting Opinion noted that both Justices Kittredge and Justice Pleicones would reverse the *Abbeville I* and State Supreme Court *Abbeville II* findings, if they could do so. The dissenting Justices provided their opinion that the lawsuit did not involve a legitimate legal controversy and argued:

> The fact that this lawsuit does not present a legal controversy in no manner detracts from the critical significance of public education to all of South Carolina. Public education is, of course, a matter of great importance to our state and its citizens. But characterizing an issue as a matter of public importance is not a license for an exercise of judicial power. (*Abbeville v. South Carolina*, 2014, p. 58)
The Majority Decision contended, “We will not find a statue unconstitutional unless its repugnance to the Constitution is clear beyond a reasonable doubt” (Abbeville v. South Carolina, 2014, p. 7). The Court provided that the Plaintiffs did not raise question about the constitutionality of South Carolina’s “education regime” but rather argued, “The proper question is whether the education funding apparatus as a whole gives rise to a constitutional violation” (Abbeville v. South Carolina, 2014, p. 7). The Order also outlined the Court’s finding that Judge Cooper correctly used a preponderance of evidence as the “burden of proof” in the trial.

The South Carolina Supreme Court’s final ruling asserted the Defendants argued that the case was “moot,” as there had been “substantial change, including funding increases, testing changes, new facilities, district mergers, charter schools and new programs related to literacy and nutrition” (Abbeville v. South Carolina, 2014, p. 9). Additionally, the Defense argued that the Trial Court’s finding of a constitutional violation was centered on the lack of funding for an early childhood intervention program. The Defense also contended that, in 2007, the South Carolina General Assembly created an early childhood program as a response to Judge Cooper’s ruling. The Plaintiffs argued the case was not “moot,” given their view that South Carolina was still in violation of the state’s Constitutional obligation to provide a “minimally adequate” education. To the topic of “moot-ness,” the South Carolina Supreme Court ruled:

Since the first oral argument, the Defendants have made additional funding available through statute and proviso, and introduced new education programs. However, the Defendants have not substantially changed the baseline funding mechanisms. Thus, we find the Plaintiff Districts may validly argue that the
The court summarily ruled that the case was not “moot.”

The next question addressed by the Court centered on whether the Third Circuit Court erred in finding the state’s education system failed to afford students, in the Plaintiff Districts, the opportunity for a “minimally adequate” education. The majority opinion sought to answer this question by citing the dissenting opinion. The order surmised:

The dissent suggests that the term “minimally adequate education” is purposely ambiguous, objectively unknowable, and unworkable in a judicial setting and that determining whether the Defendants are meeting their constitutional duty presents a non-justiciable political question. (Abbeville v. South Carolina, 2014, p. 10)

The State’s Supreme Court noted its disagreement with the dissent and provided that courts may not be able to determine specific parameters of constitutionality, but that did not keep courts from ruling on the constitutionality of issues. They provided:

As Chief Justice John Marshall famously stated, “It is emphatically the province and duty of the judicial department to say what the law is. This hallowed observation is the bedrock of the judiciary’s proper role in determining the constitutionality of laws, and the government’s actions pursuant to those laws. (Abbeville v. South Carolina, 2014, p. 11)

On the matter of whether the Abbeville case was justiciable, the Court ruled that judicial intervention was appropriate.
The South Carolina Supreme Court affirmed the findings of Judge Cooper, with some modifications. The South Carolina Supreme Court upheld the lower Court's decision that mandated early childhood education and substantially modified the lower Court’s decision in favor of the Abbeville Plaintiff Districts. South Carolina’s highest court overturned part of Judge Cooper’s decision that dismissed the Plaintiff’s claims involving state inputs for K-12 programs, specifically issues around teacher quality and transportation.

In the Supreme Court’s decision, the majority opinion cited evidence from the original trial regarding the state of affairs in the Plaintiff Districts related to the inputs and outputs described in the original trial. The South Carolina Supreme Court opinion noted:

The trial court correctly found that to answer the question of whether each child in the Plaintiff Districts had the opportunity to acquire a minimally adequate education, it was necessary to determine how to measure the presence or absence of that opportunity. According to the trial court, much of the evidence in this case can be grouped into two categories: (1) inputs, the instrumentalities of learning and resources provided to the Plaintiff Districts, including money, curriculum, teachers, and programming; and (2) outputs, the success of students within the Plaintiff Districts as demonstrated primarily by test scores and graduation rates.

(\textit{Abbeville v. South Carolina}, 2014, p. 12)

The South Carolina Supreme Court found there was a “clear disconnect between inputs and outputs” (\textit{Abbeville v. South Carolina}, 2014, p. 12). The Court found the State of South Carolina provided a comprehensive education program that addressed the essential
elements of public education, provided requisite funding for education, provided mandated programs, insured educators were professionally trained and licensed, and held school districts accountable for student learning. The court noted, “Monetary inputs into each Plaintiff District appeared to fulfill the General Assembly’s constitutional duty” and “Instrumentalities of learning-funding, curriculum, teachers, and programs- are present and appear at the very least minimally adequate” (Abbeville v. South Carolina, 2014, p. 16).

The Court noted its agreement with that of the Plaintiff Districts’ and that the state’s inputs did not provide students in Plaintiff Districts with the constitutionally required opportunity to obtain a “minimally adequate” education, as evidenced by the Abbeville districts’ outputs. The Court Order provided, “While we acknowledge that the Defendants enacted a robust education scheme designed to address the critical aspects of public education, student performance in the Plaintiff Districts demonstrates an apparent disconnect between intensions and performance” (Abbeville v. South Carolina, 2014, p. 17). The measures of performance, cited by the Court, included annual school and district report cards, student test scores, and graduation rates. With respect to annual report cards, the Court reminded, “Students in these districts attend school largely unprepared to meet the state standards for progress” (Abbeville v. South Carolina, 2014, p. 18). The Court summarized the evidence presented at trial and indicated that none of the Plaintiff Districts received a rating “above average,” and five of the eight Plaintiff Districts were “below average” or “unsatisfactory.” The Court added, “The evidence at trial established that, while the Plaintiff Districts are capable of improvement, the institutions within the districts are largely unfit to provide students with the constitutionally mandated
opportunity” (Abbeville v. South Carolina, 2014, p. 18). With respect to student achievement, the Court noted the Defendant’s argument that asserted any success on the state’s standardized tests indicated the presence of an opportunity to obtain a “minimally adequate” education and assessment scores were not an indicator of constitutional violation. The Court noted, “While we agree with the Defendants that test scores alone do not demonstrate a violation, we cannot completely ignore a substantive measure the student performance in assessing whether the inputs afford the students and their mandated opportunity” (Abbeville v. South Carolina, 2014, p. 19). With respect to graduation rates as a measure of performance, the Court noted the rates had improved since trial and specified, “While key indicators demonstrate that many aspects of the Plaintiff’s Districts academic programs are deficient, these shortcomings and inadequacies do not prevent students from…receiving their high school diploma” (Abbeville v. South Carolina, 2014, p. 20).

In addition to findings connected to inputs and outputs, the South Carolina Supreme Court categorized other factors as pertinent to the Court’s ruling. The other factors included transportation, teacher quality, local legislation, and school district size. The state’s highest court asserted, “School Children without access to adequate transportation cannot obtain a constitutionally required opportunity” (Abbeville v. South Carolina, 2014, p. 20). The Court noted that, although South Carolina legislated transportation to and from public schools through a combination of state, local, or federal funds, the “Defendants have taken advantage of the statutory language by placing the burden of funding transportation costs on districts that can little afford such a responsibility” (Abbeville v. South Carolina, 2014, p. 20). The Court cited trial testimony
and evidence related to high absentee rates due to inadequate transportation; large portions of district level budgets expensed for transportation; students who could not be fully served by breakfast and after school programs due to transportation issues; and children, in the smaller, more rural districts, traveling more than four hours per day to and from school. The State’s Supreme Court found that the state’s shifting of financial reasonability for transportation to the Plaintiff Districts “resulted in an adverse impact on students’ ability to learn” and “contributes to a constitutional violation” (Abbeville v. South Carolina, 2014, p. 21-22).

Regarding teacher quality, the Supreme Court of South Carolina commented on the erroneous findings of the lower court which failed to find a relationship between the lack of effective teachers and student achievement. The Court Order noted that 37.8% of teachers in the Plaintiff Districts held substandard or emergency certifications and 42% of the Plaintiff Districts’ teachers came from educator preparation programs that struggled to ensure graduates obtained required content knowledge demonstrated by Praxis content area assessments. The South Carolina Supreme Court also cited trial testimony and evidence that outlined the following: (1) number of teachers hired by the Plaintiffs to teach core classes, on visas, who could not speak English fluently and had issues managing classrooms and effectively delivering curriculum; (2) the percentage of substitutes, many of whom lacked a college degree and any teacher training, employed to fill vacancies; (3) high rates of teacher turn over; and (4) a wide teacher pay gap between Plaintiff Districts and non-Plaintiff Districts. The State’s Supreme Court responded to Judge Cooper’s ruling that asserted a teacher’s practice was more important than a teacher’s preparation or licensure status by commenting:
If certification does not matter, then why have certification at all? And if certification only matters in those districts with the ability to afford qualified teachers, in what way is an education scheme that permits this dynamic adequate? The trial court erred in holding that the Defendant’s maintenance of an adequate teacher quality and certification regime translated into an adequate system of education delivery in the Plaintiff Districts. *(Abbeville v. South Carolina, 2014, p. 24)*

The South Carolina Supreme Court majority opinion asserted both the Plaintiffs and the Defendants needed to address the impact of local legislation, as well as school district budgets “burdened with costs disproportionate to their size” *(Abbeville v. South Carolina, 2014, p. 24)*. The Court noted the General Assembly’s purview related to determining the constitutionality of local laws and refused to make any ruling about Plaintiff School Districts’ and counties laws or rules. The Court provided:

There is a tension, and perhaps an unhealthy one, inherent in a paradigm that balances, on the one hand, control of school districts by local legislative delegations, and, on the other, the Defendants constitutional duty to ensure that all of South Carolina’s public-school children receive the constitutionally mandated opportunity. *(Abbeville v. South Carolina, 2014, p. 24)*

The Court found the state did not adequately legislate educational funding that was responsive to local needs. The Court held that school districts needed to examine budgets and “the effect of school district size on the provision of a minimally adequate education” *(Abbeville v. South Carolina, 2014, p. 25)*. The Court proffered some options for redistricting and consolidation and surmised, “The Plaintiff Districts have opted for a
course of self-preservation, placing all the blame for the blighted state of education in their districts at the feet of the Defendants” (*Abbeville v. South Carolina*, 2014, p. 27). The Court further provided that both the Plaintiffs and the Defendants had failed to address the issues around the organizational structures of local school districts.

The South Carolina Supreme Court’s final order ruled South Carolina’s funding formula was fractured, as it disadvantaged the Plaintiff Districts and denied students in those districts the constitutionally required opportunity to receive a “minimally adequate” education. The Court further provided that, in the Plaintiff Districts, students “are grouped by economic class into what amounts to no more than educational ghettos, rated by the Department of Education guidelines as substandard,” and more than half of the students in the Plaintiff Districts “aren’t able to meet minimal benchmarks on standardized tests but are nonetheless pushed through the system to graduate” (*Abbeville v. South Carolina*, 2014, p. 30). The Court’s majority opinion provided:

This Court cannot suggest methods of fixing the problem, but we can recognize a constitutional violation when we see one. The constitutional duty to ensure that provision of a minimally adequate education to each student in South Carolina rests with the Defendants. To that end, the General Assembly is charged with identifying the issues preventing the State’s current efforts from providing the requisite constitutional opportunity. (*Abbeville v. South Carolina*, 2014, p. 30)

The Court provided, “The critical issue of poverty . . . contributes to the chasm between legislative funding and student achievement” (*Abbeville v. South Carolina*, 2014, p. 30).

The South Carolina Supreme Court’s final Order noted: “Fault in this case and more importantly, the burden of remediying the constitutional deficiency does not lie
solely with the Defendants” (*Abbeville v. South Carolina*, 2014, p. 38). The Court’s majority opinion indicated the Plaintiffs had a responsibility to advance reform in their own districts and asserted:

The Plaintiff Districts presented much of this case as a manipulative political argument, framing the dispute within some of our State’s most disturbing historical images, and couching this case’s most meaningful aspects in conventions which deny our progress. This approach simultaneously ignores their own actions in helping to create devastating metrics and outcomes. (*Abbeville v. South Carolina*, 2014, p. 38)

The Court’s final Order furthered that the Defendants and Plaintiffs should work together to address the found constitutional deficiency created by the state and were directed to reappear before the South Carolina Supreme Court, within a reasonable amount of time, to present a plan to address the constitutional violations.

**State Petition for Rehearing**

On December 30, 2014, attorneys representing the State of South Carolina and Governor Nikki Haley filed two petitions with the State’s Supreme Court asking the Court to rehear the case. According to Self (2014), the petitions were filed for two overarching reasons. The first was based on the Defendants’ opinion that the State’s Supreme Court failed to acknowledge new “educational initiatives put in place by Haley’s administration and the General Assembly that will directly affect rural school districts in South Carolina” (p. 2). The second petition was filed by the General Assembly asserting that the South Carolina Supreme Court’s Order was “vague and practically
unworkable” and placed unfair “reasonability for student achievement on legislators” (pp. 2-3). The petition for rehearing was denied.

**Plaintiff Request for Supplemental Order**

On June 18, 2015, the *Abbeville* Plaintiffs filed a motion to request a “supplemental Order proposing a detailed framework” (*Abbeville v. South Carolina*, 2015, p. 2) and a detailed timeline for addressing the found constitutional violations. On October 19, 2015, South Carolina’s Governor and General Assembly filed an appeal and petitioned the State Supreme Court for a reexamination of the Court’s findings.

According to Jackson (2015), Caroline Delaney, the Communications Director for House Speaker Jay Lucas, asserted, “The judicial branch is not a legislative body and lacks the authority to intervene in the lawmaking process” (p. 2). Jackson also cited Senate President Pro Tempore Hugh Leatherman, who espoused *Abbeville* will have to be dealt with, the General Assembly will have to deal with it like we normally do. I’ve got real problems with the Court Order . . .” (p. 3). The appeal and both petitions for a reexamination hearing were denied.

On November 5, 2015, the Court granted the Plaintiffs’ motion for supplemental Order, mandating Court specified timelines. The Order noted that, after the 2014 ruling, the Defendants created the House Education Policy Review and Reform Task Force and the Senate created the Senate Finance Special Subcommittee for Response to the *Abbeville* Case, which each had Plaintiff District representation. The Court also provided that Plaintiff Districts created a plan, which was presented to the House Task Force and Senate Subcommittee. The South Carolina Supreme Court’s 2015 Order mandated, “Within one week of the conclusion of the 2016 legislative session, the Defendants will
submit a written summary to the Court detailing their efforts to implement a constitutionally compliant education system including all proposed, pending, or enacted legislation” (*Abbeville v. South Carolina*, 2015, p. 2). The Order directed the state to advise the Court as to “expected timeline for implementation of its proposed plan” and outlined that the Court would review “Defendants' efforts to implement a constitutionally-compliant education system” (*Abbeville v. South Carolina*, 2015, p. 2). The Court noted that it would issue an Order after “conducting its review of the summary analyzing whether Defendants' efforts are a rational means of bringing the system of public education in South Carolina into constitutional compliance, and whether or not the Court's continued maintenance of jurisdiction is necessary” (*Abbeville v. South Carolina*, 2015, p. 2). As mandated, a joint report was prepared by the House Task Force and Senate Subcommittee, and submitted to the South Carolina Supreme Court on June 29, 2016.

**The 2016 Joint Report**

The joint report submitted by South Carolina Senator Leatherman, the President Pro Tempore of the Senate and South Carolina Representative Lucas, the Speaker of the House outlined that the General Assembly had enacted legislative measures designed to address the concerns of the Court and had increased educational funding in fiscal year 2016-2017 to support the Plaintiff Districts. The joint report provided that “eight bills were introduced that directly related to the issues identified in the *Abbeville* lawsuit” (Leatherman & Lucas, 2016, p. 1). The eight bills indicated on the report were:

1. H. 4936 - To redefine the expectations of a South Carolina high school graduate;
2. H. 4937 - To recreate the Education and Economic Development Coordinating Council to allow the business community to work with K-12 and higher education to ensure students are college and career ready;

3. H. 4939 - To eliminate outdated statutes and to promote greater efficiency, to cut unnecessary expenses, and to require the Department of Education to offer technical assistance to struggling districts;

4. H. 4940 - To create an Office of Transformation under the Department of Education for the purpose of reviewing lower performing school districts’ plans and reporting back to the General Assembly with best practice suggestions;

5. H. 4776 - To establish a process funded with recurring revenue by which struggling and poor school districts can petition the state for facility infrastructure needs;

6. H. 4778 - Calling for uniformity in school accreditation;

7. H. 4938 - To conduct a survey to identify incentives to entice new teachers to live and work in rural, lower income districts; and

8. H. 4941 - To allow the state to take control if a school district is failing financially.

The joint report indicated that of the eight bills, four were enacted by the General Assembly and signed into law by the Governor. Those bills included H.4936, H.4938, H.4939, and H.4940. The joint report outlined a number of General Appropriation Acts meant to “ease the financial burden born by the Plaintiff Districts” (p. 2). According to the report, the initiatives included increases in base student costs; $18 million for instructional materials; funding for full-day 4K for the Plaintiff Districts; funding for
College and Career Readiness and technical assistance to provide support for schools and districts performing below expectations; and $9 million designated for educator retention and recruitment for Abbeville Districts and districts with poverty index of 80% or higher. Funding was also increased for specific transportation expenditures and technology initiatives and the General Assembly earmarked funds for studies and assessments related to district infrastructure. The joint report provided an explanation of the Task Force’s work and created five subcommittees based on testimony heard during Task Force meetings and common findings in the Abbeville Plaintiff Districts. The five subcommittees were centered on Transportation and Facilities; Accountability and Improvement; Educator recruitment, Retention and Effectiveness; College and Career Pathways of High Quality Learning Opportunities; Early Childhood Education, and Family Engagement.

In addition to outlining General Assembly initiatives and the work of the House Task Force, the joint report presented by Leatherman and Lucas (2016) outlined the work of the Senate Special Committee. According to Speaker Leatherman, “The Senate Committee relied heavily on the expertise of the Department of Education, the Education Oversight Committee and the staff of the Plaintiff Districts” (p. 11). The Senate Committee held seven meetings throughout the year and across the state in order to hear testimony from representatives in Plaintiff Districts and to engage with education and business experts across the state about the needs of the Plaintiff Districts, students, and communities. The meetings focused on early childhood education programs, teacher recruitment and retention, infrastructure and transportation needs, and student learning outcomes. The Joint Report concluded by stating:
The effort of the Senate and the House to improve public education in S.C. is ongoing. This report sets out the activities that occurred in the 2016 legislative session. The end of this session, however, is not the end of the effort. . . . Additional activities will be undertaken. The Senate and the House are mindful of the mandate from the Court and are working diligently to improve the educational system for the benefit of all students. (Leatherman & Lucas, 2016)

**Plaintiffs’ Response to the Report**

On July 16, 2016, the Plaintiff Districts filed a response to the Joint Report with the South Carolina Supreme Court and asserted:

Notwithstanding the work of the House Education Policy Reform and Review Task Force and the Senate Special Abbeville Committee researching the lack of opportunity in the Plaintiff Districts, the State has failed to translate either committee’s body of work into action. The joint report therefore only details the extent to which the state studied the problem and fails to set forth the remedial plan or timeline for implementation as required . . . *(Abbeville v. South Carolina, 2016, p. 3)*

The Plaintiffs addressed the eight education bills introduced in the 2016 legislative session and surmised that only two of the four bills that were passed directed specific action aimed at remedying violations found in the *Abbeville* trial. Those two bills, H. 4939 and H 4938, were bills that directed further study. The Plaintiffs contended that the four bills could not be considered proof of a “comprehensive plan to address the myriad of issues under the State’s control working to prevent students within these districts from receiving the constitutionally required educational opportunity” *(Abbeville v. South Carolina, 2016, p. 3)*
Carolina, 2016, p. 3). The Plaintiffs’ response also argued that the state’s funding and appropriations for public education didn’t equate to comprehensive reform. The Plaintiffs asserted the state’s funding mechanism continued to be based off of a fractured formula that did not appropriate extra funds to the Abbeville districts to offset effects of poverty. The response report noted, “The State continues to ignore the heart of the problem when it comes to adequate resources: that the State’s entire funding system has become an irrational patchwork of funding streams over time, resulting in a clear disconnect between spending and results” (Abbeville v. South Carolina, 2016, p. 7). The Plaintiffs’ response report asked the South Carolina Supreme Court to retain jurisdiction of the case and to direct the Defendants to present a plan for remedying the found constitutional violations. Further, the Plaintiffs’ report noted:

The reality is that the State is in violation of the Court’s November 5, 2015 order because of its failure to submit a plan and a timeline to eliminate the constitutional violations identified in Abbeville II. . . . Plaintiffs request that the court, at a minimum, impose a concrete deadline of not later than one week after the conclusion of the 2017 legislative session for the State to submit a new report specifically stating a comprehensive educational reform package, including specific legislation targeted to address the violations identified in Abbeville II, and identifying as precisely as possible a time line for implementing that plan. (Abbeville v. South Carolina, 2016, p. 8)
Retaining the Case

On September 20, 2016, the South Carolina Supreme Court released their opinion and ruling on the state’s joint report and the Plaintiffs’ response to the report. The Order outlined the steps taken by the state, the legislative initiatives of the General Assembly, increased funding allocations, and Governor Nikki Haley’s plan to ensure South Carolina met the Court’s mandate for reform. The Order provided, “It is clear much time, effort, and thought was put into the report and that the Task Force paid special attention to the issues identified by this court in Abbeville II in gathering information and making recommendations” (Abbeville v. South Carolina, 2016, p. 5) and noted it did not appear the Senate Special Committee had developed a plan to remedy the findings of the Court.

In respect to the Governor, the Court’s Order noted:

In her 2016 Education Agenda, the Governor recommended the following: 1) reform the governance structure of the Department of Education; 2) fund the basics of education; 3) continue to recruit and retain effective teachers, specifically in rural and underserved school districts; 4) integrate technology into student life; 5) improve school facilities; and 6) reform South Carolina First Steps to School Readiness. The Governor states her commitment to ensuring every child in South Carolina receives a quality education and a pathway to a promising future will remain a priority of her administration irrespective of the Court’s ultimate determination of necessity of its continued jurisdiction in this case. (Abbeville v. South Carolina, 2016, p. 7)

The Court’s order outlined the Plaintiffs’ assertion the Defendants failed to provide a plan or a specific timeline that remedied the found constitutional violations and noted the
Plaintiffs’ argument that the bills enacted did not reflect the recommendations of the House Task Force, and the funding measures taken by the General Assembly were statewide measures that were not specific to needs in the Plaintiff Districts.

The Court commended the work by the Defendants to remedy the issues found by the State’s Supreme Court and provided:

This Court asked the Defendants in its November 2015 Order to submit a written summary detailing their efforts to implement constitutionally compliant education system, and that they have done. We would expect, as they do, that the Defendant’s efforts would include studies necessary to determine the best course of action to be taken to provide the students and the Plaintiffs school districts, and across this state, with the constitutionally mandated opportunity to receive a minimally adequate education. Indeed, without such studies, the Defendants could be accused, as the Plaintiff school districts have done, of not considering the needs of the Plaintiff school districts or not funding those needs in a systematic and rational way. (Abbeville v. South Carolina, 2016, p. 8)

The Court provided their review of the submitted reports and noted, “We find the criticism leveled at the Defendants by the Plaintiff school districts unnecessary and unfounded” (Abbeville v. South Carolina, 2016, p. 9), outlining additional Task Force recommendations implemented by the General Assembly that included:

Legislation that, to an extent 1) incorporates the Task Force’s finding that the Plaintiff school districts should have a vision for its leaders, to include measurable objectives for the school districts, complete with action plans developed collaboratively with the Department of Education, that will enable the school
districts to achieve the ultimate expectation outlined in the Profile of the South Carolina Graduate, with the General Assembly specifying metrics to measure progress toward that goal; 2) implements the Task Force’s finding that a review of existing legislation should be conducted along with measures to update, modify, expand and consolidate goals for student achievement in order to better focus and guide school districts; and 3) incorporates portions of several of the Task Force’s findings that suggest stronger involvement by and assistance from the South Carolina Department of Education. (Abbeville v. South Carolina, 2016, p. 9)

The Court provided that, while the Defendants were compliant in meeting the Court’s Abbeville II Order, the court would continue to “monitor the progress towards a constitutionally complaint education system by requiring the submission of another report” (Abbeville v. South Carolina, 2016, p. 9) and outlined the expectation that the Plaintiffs also submit a report detailing their efforts to remedy the issues found in Abbeville II. The South Carolina Supreme Court announced it would retain jurisdiction over the case and ordered the State and Plaintiff Districts to submit a joint plan and timeline to remedy the constitutional violations by June 30, 2017.

Waiting for the 2017 Joint Report

On June 19, 2017, 11 days before the Defendants were ordered to submit a joint report to the Court indicating the plan to remedy the constitutional violations found by the state’s highest court, the current South Carolina State Superintendent of Education, Molly Spearman, formally notified Chairwoman Patricia Jenkins, Chair of the Allendale County School Board, that the State Department of Education was declaring a state of emergency in the Allendale County School District effective immediately. The formal
notification provided that, under State Proviso 1A.12, the State had the legal authority to take over the school district. South Carolina Appropriations Act of 2017, Proviso 1A.12, asserted,

The State Superintendent of Education may declare a state of emergency in a district if the accreditation status is probation or denied, if a majority of the schools fail to show improvement, if the district is classified as being in high risk status financially, or for financial mismanagement resulting in deficit. (SC. App. Act 2017)

Under this authority, Superintendent Spearman stated the decision was in the best interests of the students of Allendale County Schools noting, “Allendale schools have failed to show improvement” (Spearman, 2017, para. 2). The letter also outlined that Allendale County Schools failed to fully implement federal and state educational programs and to maintain financial compliance.

On June 21, 2017, the Allendale County School District filed a complaint for declaratory judgment in the Supreme Court of South Carolina, against the State Superintendent of Education and the General Assembly. The Plaintiff argued the State Constitution’s Article III, subsection 17, states, “Every act . . . shall relate to but one subject, and that shall be expressed in the title” (S.C. Const. art. III, § 17). The Plaintiffs argued that Proviso 1A.12 overreaches the limited language allowed by the State constitution, both in actual language and in scope of impact. The declaratory judgement asked the South Carolina Supreme Court to rule Proviso 1A.12 null and void, asserting it violates the State Constitution.
The 2017 Response

The South Carolina Supreme Court mandated that the Plaintiffs and the Defendants, which included the House, Senate, and State Department of Education, submit a joint report by June 30, 2017, outlining a plan to remedy the State Supreme Court’s Order for reform. On June 22, 2017, Speaker of South Carolina’s House of Representative James Lucas formally submitted the House of Representatives’ joint report outlining what the House’s task force had done to meet the Order of the court. According to Brack (2017c),

In a 117-page petition that included 14 exhibits, Lucas . . . outlined several initiatives taken by the General Assembly to make education a top priority, including more overall education funding, increased per-pupil spending, more early childhood education and an addition of $55.8 million in capital improvement funding in the 2017-18 budget, as well as more money for charter schools, school buses and technical assistance. (p. 4)

Brack (2017c) noted Lucas’s assertion: “The House has led the charge to implement effective policy reforms and fiscal improvements to South Carolina’s education delivery system” (Brack, 2017c, p. 4). Lucas contended the work of the committee “achieves a higher standard than the Court’s definition of a, ‘minimally adequate education.’ Therefore, the House of Representatives should be relieved of its responsibilities in this lawsuit” (Brack, 2017c, p. 4).

Speaker of the House James Lucas, as Respondent-Appellant, filed the mandated Report along with an official request that the South Carolina Supreme Court either vacate jurisdiction in the Abbeville v. South Carolina case or dismiss the South Carolina House
of Representatives as a Respondent and report that the House was in compliance with the Court’s September 2016 Order. The submitted request contended that, since the State Supreme Court previously found the task force created a sufficient “timeline and framework for the General Assembly” and “The General Assembly has taken action on a majority if not all of the findings and recommendations of the task force within the proposed time period” (Abbeville v. S.C., 2017, p. 4), the court should determine its role in retaining jurisdiction and continuing the case. The Petition formally asserted the South Carolina Supreme Court would err if it retained jurisdiction and assumed the Legislature would not act constitutionally. The Petition to Vacate Jurisdiction furthered:

By this Court’s own admission, the reports previously submitted by the parties indicate a studied and dedicated approach which has been and will continue to be taken by the Defendants to resolve the issues identified in Abbeville II and to provide the students in the Plaintiff School Districts with an opportunity to obtain a minimally adequate education. (Abbeville v. S.C., 2017, p. 5)

The Petition explained that the Task Force attempted to create and adopt legislation related to Plaintiff District’s proposals, but the Plaintiffs, as directed by the Court, were not doing their part in remedying the found constitutional violations. Lucas’s Petition indicated that, rather than waiting for the Plaintiff Districts, the House created an Ad Hoc Committee on Competency Based Education and Education Reform and the Committee on Educator Retention and Recruitment. The Petition also provided:

With full support of the Speaker, the Chair of the House Education and Public Works Committee created the House Education Reform Students Advisory Committee in order to gain deeper insights from students representing each
Plaintiff District . . . in an effort to end the piecemeal approach to education policy and funding, the Chair of the House Ways and Means Committee appointed a special ad hoc committee to explore ways to simplify education funding and allow school districts the flexibility to decide how to get the most out of state resources directed to education. (*Abbeville v. S.C.*, 2017, p. 9)

The Appellant’s Petition contended that, if the Court continued its jurisdiction over the case or refused to dismiss the House as a Defendant, the Court would violate the doctrine of separation of powers by acting as a “sort of super-legislature to evaluate policy choices proposed by the House even before those choices were enacted into law” (*Abbeville v. S.C.*, 2017, p. 9).

The South Carolina House of Representatives provided its mandated response to remedy the Court’s finding in *Abbeville II*, noting the Court’s directive for the Defendants to “take a broader look at the principal causes for the unfortunate performance of students in the Plaintiff Districts, beyond funding” (*Abbeville v. S.C.*, 2016, p. 7). The House’s Report provided that, while funding was germane to their work of ensuring requisite educational opportunity in the Plaintiff Districts, the House also was committed to providing Plaintiff Districts and the state with “tools” in the form of “key pieces of legislation” (*Abbeville v. S.C.*, 2017, p. 10) to ensure South Carolina students had the constitutionally guaranteed right to a minimally adequate education. The House of Representative’s report provided that, as part of the State’s General Assembly, the House “has proposed and enacted several pieces of legislation, over the last two sessions, that enable the State Department of Education and the State Board of Education to better assist schools in the Plaintiff Districts” and to address and remedy the “unfortunate
performance’ of students in the Plaintiff Districts” (Abbeville v. S.C., 2017, p. 10). The House’s Report outlined Act 195, passed in 2016, which created the Profile of the South Carolina Graduate and provided a vision for K-12 education, previously lacking in the state. The Report also outlined several other Acts passed in 2016, which provided more oversite and authority to the State Department of Education when addressing underperforming districts.

As noted in the Joint Report, “The House did not merely rest on the 2016 initiatives. In 2017 the house adopted several bills, three of which have been acted into law, and two of which now reside in the Senate” (Abbeville v. S.C., 2017, p. 11). The Report outlined that House Bills H.3321, H.3220, and H.3969 were all enacted into law. The House’s Report provided that House Bills H.3321, enacted as Act 23 of 2017, created fiscal accountability and allowed for State intervention because “where funds are directed, responsibility for how they are spent must attach” (Abbeville v. S.C., 2017, p. 13). The Fiscal Accountability and Intervention Act, Act 23, required the State Department of Education to establish a means of identifying issues that might jeopardize the fiscal integrity of a school district; categorize and rank districts as compliant or as districts under fiscal watch, fiscal caution, or fiscal emergency; and create a program and polices to address ranked districts. According to the Report, Act 23 provided “the tools for fiscal accountability are in place for school districts” (Abbeville v. S.C., 2017, p. 13). House Bill H.3220 was ratified and signed by the Governor in May 2017, as Act 35, allowed for the creation of The South Carolina Education and Economic Development Council. The Council’s charge was to advise the State Department of Education on ways in which to fully implement the Education and Economic Development Act and to keep
school and education initiatives relevant to work force and “real world needs” (Abbeville v. S.C., 2017, p. 15). The last of the 2017 bills to be enacted was House Bill H.3969, enacted as Act 94, which allowed for a Pilot District Accountability Model meant to revise the model legislated by The South Carolina Education Accountability Act. Act 94 established a longitudinal data plan and system to monitor student growth and learning from early childhood through postsecondary education; required the State Department of Education to design and pilot district accountability models focused on competency based outcomes to improve postsecondary student success; and mandated a career readiness assessment for all 11th grade students. The Report noted that House Bill H.3343 and House Bill H.3427 reside in the Senate. House Bill H.3343, The South Carolina Education School Facilities Act, provides financial assistance, in the form of bonds and grants, to school systems in order to build or upgrade instructional facilities not identified with interscholastic activities approved by the State Department of Education. House Bill H.3427, The South Carolina Computer Science Education Initiative, requires the State Department of Education to ensure computer science instruction and adopt grade appropriate standards which address computer science and computer coding in grades 9-12.

The Court mandated report outlined, “The South Carolina General Assembly continues to make education a top priority” and asserts, “appropriations for education have increased over time” (Abbeville v. S.C., 2017, p. 18). The Report included budgetary information relative to per pupil expenditures, early learning programs, capital improvement plans, transportation, charter schools, and technology. The House Report
concluded that total per pupil expenditures have increased in the Plaintiff Districts and most of the Plaintiff Districts receive more funding per pupil than other districts in the state. In respect to state funded early childhood programs, the Report provided:

In response to the Court’s finding that the State’s only deficiency in terms of complying with the constitutional standard announced in *Abbeville County School District v. the State of South Carolina* (*Abbeville I*) the General Assembly enacted the Child Development Education Pilot Program as part of the 2006-2007 General Appropriations Act. The Act was renamed to the South Carolina Child Early Reading Development and Education Program. (*Abbeville v. S.C.*, 2017, p. 22)

The Report further outlined that the early childhood program had been funded on a recurring basis and would continue to be funded. The House Report noted that, under the Abbeville Equity Districts Capital Improvement Plan, the General Assembly earmarked almost $60 million dollars for capital improvements for instructional facilities in the Plaintiff Districts or other districts that had a poverty index of 80% or higher. The General Assembly allocation of $19 million dollars for charter school growth and development, as well as per pupil allocations for students in charter schools, also were addressed in the budget summary. The House’s Report to the Court noted the Court’s *Abbeville II* finding indicated “Shifting some of the costs of student transportation from the state to the Plaintiff Districts surely contributed to a constitutional violation” (*Abbeville v. S.C.*, 2017, p. 24). As a result of this finding, the General Assembly provided for recurring and non-recurring monies, as well as $24 million dollars, to purchase additional school busses and provide for transportation expenses. The Report noted legislation that authorized spending was vetoed by the Governor and was subject to
being overridden by the General Assembly. The House Report outlined funding for technical improvements and assistance to Plaintiff Districts and districts that had high poverty indices.

The mandated Report cited Albert Einstein’s quote, “Education is not received, it is achieved” (cited in Abbeville v. S.C., 2017, p. 25) and offered that the Court echoed this sentiment in Abbeville II by “correctly asserting that the ultimate responsibility of the South Carolina General Assembly was to provide the tools for local districts to help students achieve in the classroom” (Abbeville v. S.C., 2017, p. 25). The House then concluded, noting it had “Taken tremendous steps to provide those tools not only to Plaintiff Districts, but all schools throughout the state” (Abbeville v. S.C., 2017, p. 25). The Report noted the Court’s previous finding that the responsibility to provide a “minimally adequate” education did not solely fall to the General Assembly and provided, “While this Report clearly demonstrates the House’s commitment, the Plaintiff Districts are still failing to abide by the directives set out by the Courts majority in Abbeville II” (Abbeville v. S.C., 2017, p. 26). The Report included the House of Representatives’ argument, “It would be inappropriate for the Court to continue to exercise jurisdiction over the South Carolina House based on the failure of the other parties to comply with the court order” (Abbeville v. S.C., 2017, p. 26). Last, the House’s response provided:

The House has led the way for vast systemic policy and fiscal improvements for South Carolina public schools. The continuing and permanent nature of the actions taken by the House demonstrate that these efforts are more than an attempt to comply with the court order, but are, instead, a mindset. Vacating
jurisdiction or releasing the House as party will allow the House to resume his constitutional role and end the entanglement between the judicial and legislative branches as it relates to education policy in the state. (*Abbeville v. S.C.*, 2017, p. 26)

As of the date of defense of this research, October 20, 2017, the South Carolina Supreme Court has yet to rule on the motion to dismiss South Carolina from the *Abbeville* Case or to vacate its jurisdiction of the Case. Additionally, the South Carolina Supreme Court has yet to offer a ruling on the actions and compliance of the Plaintiffs and Defendants toward remedying the found constitutional violations of the State in assuring all of South Carolina’s students have the opportunity to receive a minimally adequate education.
CHAPTER V: CONCLUSIONS AND RECOMMENDATIONS

Summary of the Study

This study sought to explore adequacy, equity, and the role of education in ensuring opportunity centered on a historical account of the pivotal education court case, Abbeville County School District et al. v. the State of South Carolina et al. The purpose of this study was to provide a comprehensive and foundational case study that examined:

1. the history of case;
2. the judicial findings of the Trial Court and South Carolina Supreme Court;
3. the South Carolina Supreme Court’s final Order; and
4. the response of the Plaintiffs and Defendants in the case.

This case study is comprised of a literature review in Chapter II, which focused on the purpose of public education, the history of equity and education in the United States, the state’s role in public education, public education history and governance in South Carolina, and court cases cited by the South Carolina Supreme Court as particularly instructive. Chapter III included a thorough explanation of the methodology, the research questions, data collection procedures, and data analysis aspects associated with this dissertation. Chapter IV outlined the findings of this research and formed the heart of the case study. It included:

1. the inception and judicial history of the Abbeville County School District et al. v. the State of South Carolina et al. case;
2. the Trial Court and South Carolina Supreme Court’s findings and mandate for reform; and
3. the response of the Plaintiffs and Defendants to the Court’s Order. Chapter V, the final chapter, included a summary of the study, areas for future research, recommendations for practice and policy, and a conclusion.
Recommendations for Policy and Practice

In the last 24 years, South Carolina budget decisions, General Assembly legislation, and State Department of Education policies have been born from the South Carolina Supreme Court’s mandate to remedy the education opportunity and achievement gaps found in the Abbeville Plaintiff Districts. The Court’s finding that the state failed to provide all students with the opportunity to obtain a “minimally adequate” education based on fractured funding formulas, a lack of early childhood programs meant to offset the effects of poverty, issues related to teacher quality and effectiveness, the lack of adequate transportation, as well as ineffective local education systems have created the legislative and policy agenda of South Carolina. Additionally, the fact that the Plaintiff Districts are high poverty, high minority, and mostly rural, have created a need for policy recommendations and budget, legislation, and policy priorities centered on access, equity, and equality.

The Plaintiffs, Defendants, witnesses, and judges in the Abbeville case analyzed, debated, or recommended legislation and policies associated with public education in South Carolina. Appendix B outlines some of the pivotal findings of Judge Cooper and the South Carolina Supreme Court and provides a framework for remedying the courts findings. As in the Abbeville case, in the Court of Public Opinion, policy debate and recommendations abound. Some of the policy recommendations that appear in news articles, in special interest publications, on websites that represent reform movements, and in editorial pieces are oversimplifications of the complexities associated with both public education and policy creation and implementation. Of the policy recommendations that have appeared and continue to garner attention, several warrant considerations as
they are current policy initiatives in South Carolina or are policy initiatives being debated across the United States.

**District Consolidation**

Brack (2017a) highlighted South Carolina’s *Corridor of Shame* filmmaker Bud Ferillo’s belief that rural schools “are quite often defenders of the status quo, hampering changes recommended by superintendents, protecting poor teachers, and tolerating poor academic performance when they should be insisting on high performance” (para. 6). Brack summarized a South Carolina Department of Education study that indicated rural districts could save $35 million to $89 million dollars over five years if the districts merged administrative functions and transportation, and could then use that money to provide services for students. Brack quoted State Superintendent of Education Molly Spearman, who stated, “The report clearly shows that consolidation and collaboration of services should be a top agenda item for districts” (as cited in Brack, 2017a, para. 8).

Ryan Brown, a South Carolina Department of Education spokesman, stated:

The study provides lots of data that state lawmakers and agency officials can use to make better decisions about school funding, particularly in rural areas. It could lead to state incentives to encourage consolidation. . . . We certainly have the data to back up and show this is a cost savings that can provide for additional expertise and student opportunities. (as cited in Brack, 2017a, para. 8)

Brack (2017a) summarized his article by noting his belief that South Carolina needed to balance a push for consolidation with investing in “rural areas so their educational opportunities are equivalent to those elsewhere” (para. 12).

Education policy researchers Howley, Johnson, and Petrie (2011), in their policy
brief on school consolidation, provided that proponents of school consolidation believe consolidation creates “fiscal efficiency” and increases “educational quality” (p. 3).

The authors argued that little research exists to support claims that consolidation improves educational outcomes. They provided:

- Assumptions behind such claims are most often dangerous oversimplifications.
- Decisions to deconsolidate or consolidate districts are best made on a case by case basis. While state level consolidation proposals may serve a public relation purpose in times of crisis, they are unlikely to be a reliable way to obtain substantive fiscal or educational improvement. (p. 4)

Howley et al. (2011) encouraged policymakers to approach consolidation cautiously and to consider other measures to improve fiscal efficiency and educational outcomes. Howley et al. (2007) recommended that state policies take into account the needs of small, rural districts; support recruitment and retention of effective, experienced teachers for low wealth districts; provide alternative and distance learning options for students in small rural schools; and ensure effective professional development programs in underperforming districts.

**Education Funding and Spending**

In her 2016 State of the State Address to the South Carolina legislature, former Governor Haley noted that, to increase funding to the *Abbeville* schools and other schools in the state determined to have critical needs, she would not be opposed to using the state’s bonding capacity. The South Carolina Policy Council (2014) argued that evidence fails to support increasing funding in failing schools creates more effective schools. The Policy Council provided:
Research comparing South Carolina school districts found funding levels to be negatively correlated with student achievement. In other words, higher funded districts tended to produce worse educational results than their lower funded counterparts. Correlation doesn’t imply causation, and these results don’t suggest cutting school funding is a way to improve educational outcomes. But they do suggest increasing school spending will not improve outcomes by itself. (p. 2)

Education policy analysts Lips and Watkins (2008) argued that increased funding of education has not led to improved achievement and recommended, “Instead of simply increasing funding for public education, federal and state policy makers should implement reforms designed to improve resource allocation and student performance” (p. 4). Lips and Watkins provided an analysis of Hanushek’s 1996 research that suggested either no relationship or a very weak relationship exists between per-pupil expenditures and academic outcomes. They also outlined Hedges’s and Greenwald’s 1996 analysis that concluded increasing per-pupil expenditures had a significant positive impact on student achievement. Lips and Watkins (2008) surmised, “Despite the lack of consistent findings, leading researchers in the area acknowledge that any effect of per-pupil expenditures on academic outcomes depends on how the money is spent, not on how much money is spent” (p. 11). Lips and Watkins (2008) recommended, “Federal and state policy makers should resist proposals to increase funding for public education” (p. 8). They further recommended:

Instead of simply increasing funding for education, policymakers and school leaders should implement education reforms that improve resource allocation. Members of Congress and federal policymakers should embrace reforms that
reduce bureaucracy, streamline regulations, and transfer greater authority over funding to the state and local levels. State policymakers should implement systemic education reforms that improve resource allocation and encourage effective school leadership, such as expanding school choice options for families and attracting and retaining effective schoolteachers. (p. 19)

In considering these arguments, responsible education funding must be coupled with responsible education spending. According to Wright, Horn and Sanders (1997), education researchers and policymakers at the University of Tennessee’s Value-Added Research and Assessment Center, numerous factors contribute to a student's learning and academic success, including family and neighborhood experiences. However, among school-related factors that influence student achievement, the quality of instruction and the quality of individual teachers matter most. The research of Wright et al. further provided there is a cumulative effect of teacher effectiveness on student achievement. Wright et al. asserted:

. . . the most important factor affecting student learning is the teacher. In addition, results show wide variation in effectiveness among teachers. The immediate and clear implication of this finding is that seemingly more can be done to improve education by improving the effectiveness of teachers than by any other single factor. Effective teachers appear to be effective with students of all achievement levels, regardless of the level of heterogeneity in their classroom. (p. 59)

This research provided that, unless children have effective teachers, the amount of funding for programs, facilities, or materials will be inconsequential to impact learning and afford students meaningful educational opportunities.
Incentives

In her 2015 State of the State Address, former Governor and a Defendant in the Abbeville case Niki Haley described her initiatives to support rural schools in hiring and retaining qualified educators. The initiatives Haley discussed (and later implemented) included paying tuition at a state college or university for students willing to return to their undeserved home district to teach for eight years; providing student loan forgiveness for educators willing to teach in a high needs, rural district; providing up to five extra years of service for pay purposes for teachers with less than five years’ experience who serve in rural, high needs districts; and paying for graduate degrees in exchange for years of service in a high need, rural district.

Education researchers Berry and Eckert (2012) surmised that, while ensuring high needs students are educated by effective teachers is an educational and moral imperative, how policymakers go about incentivizing teachers to teach in those classrooms is often flawed. Berry and Eckert suggested that expertise must be rewarded “in ways that move beyond recruitment bonuses” (p. 4) and urged policymakers to develop “interlocking policies across federal, state, and local agencies” (p. 4). Berry and Eckert recommended that policymakers use funds to ensure expertise, expand strategic compensation incentives, create working conditions that support effective teachers, and elevate best practices and policies that ensure equity. This researcher provides a recommendation to develop a federal and state partnership that would allow federal student loan forgiveness after five years of effective service for teachers and leaders in the Plaintiff Districts, and other determined high needs, high priority districts.
Leadership

The Plaintiff District schools and other schools that serve high poverty, high needs communities are unlikely to succeed in the absence of effective school level, district level, and state level leadership. It is the principal who is charged with ensuring effective teaching and student learning takes place for all students. School leaders must be provided with effective training throughout their careers, given the opportunity to make decisions that impact outcomes for students, and held accountable for student learning and teacher effectiveness. Bottoms and Schmidt-Davis (2010) suggested that district level leaders and local school boards must select principals that can be effective in leading instruction and school improvement and that too often “districts create conditions in which even good principals are likely to fail” (p. 2). Bottoms and Schmidt-Davis further argued:

The district, including the school board, the superintendent, key staff and influential stakeholders in the community, must have the capacity to develop and articulate both a vision and a set of practices that send a clear message of what schools are to be about. This is a message not only for educators, but for the community at large. This message creates public understanding of what the school system is trying to do to prepare more middle grades students for challenging high school work and to graduate more students from high school prepared for the next step. The authenticity of this message is affirmed through the district’s development of a strategic plan that manifests the vision and then by district actions that establish the conditions necessary for principals and teacher leaders to create a different kind of school. These conditions include aligning all policies
and resources to the plan; creating a collaborative and supportive working relationship with each school; expecting and supporting the principal to become the school’s instructional leader; and communicating the vision and strategic plan to the public in a highly visible way that provides the context for principals to make decisions supported by parents and the larger community. (p. 3)

Haberman (1999) outlined the necessity of effective school level and district level leadership. Haberman suggested that effective principals often succeed in spite of the bureaucracies that surround them or “the conditions set in motion against them by the states and school districts in which they must operate” (p. 3). He argued that districts and states must ensure principals have the freedom and the capacity required of them to be instructional leaders and to make decisions that support student learning. The type of district level leadership outlined by Haberman and Bottoms and Schmidt-Davis, and the ability of a principal to truly impact a school, are inextricably intertwined.

In addition to effective school and district level leadership, the State Department of Education must have leadership capacity that supports systemic change. State level leadership must set priorities and develop policies that hold schools, districts, and institutions of higher education accountable, while also providing structures that allow them to be effective and innovative. Bottoms and Schmidt-Jones (2010) further suggested that “It is the state educator’s job to create the leadership capacity necessary to reach and sustain higher levels of performance. . .” (p. 5).

Removing Silos

For true change to take place in South Carolina’s Plaintiff Districts, differing organizations, policymakers, educators, leaders, work force development experts, and
political representatives must come together and work to create interconnected resources and solutions. The State Department of Education, General Assembly, Plaintiff Districts, institutions of higher education, and stakeholder organizations must work outside of their silos and not only partner with each other, but with other states to study what works and learn lessons from the field. Agencies and organizations that support South Carolina schools and districts must move beyond compliance and move toward action and seek ways to disrupt current reality to drive very different outcomes than those that have historically occurred and continue to occur in the Abbeville districts, and others like them, that must do better to ensure opportunities exist for all students.

School Choice and Charter Schools

The South Carolina Policy Council, a Greenville, South Carolina based think tank who noted their mission is to “publish research and analysis showing the relevance of the American republic’s founding principles: limited government, free enterprise, and individual liberty and responsibility,” commented on the South Carolina Supreme Court’s final ruling in Abbeville II. In the organization’s 2014 article, “The S.C. Supreme Courts New Role: Education Czar,” the council asserted:

The South Carolina Supreme Court issued a momentous decision. . . . As a result, the court has ordered both the Plaintiff Districts and the Defendants (representatives of the state) to reappear before the court and present a plan to address the constitutional violation. The resulting plan will have to be approved by the court. In essence, the court has granted itself legislative power over the state’s public education system. (South Carolina Policy Council, p. 3)
The policy council asserted the State Supreme Court overstepped its judicial authority by intervening in policy matters and erred in ruling on the connection between state funding and educational outcomes. The Council surmised:

There is a policy that could improve academic outcomes for South Carolina students currently trapped in sub-par public schools. That solution is of course school choice, whether in the form of vouchers or tax credits and tax credit scholarships. If the purpose of school funding is truly to educate children (and not just to support select public institutions), then there can be little argument against allowing education dollars to follow the child. The failure of public schools doesn’t stem from a lack of resources but from their nature as quasi-monopolies that feature one-size-fits-all curricula. (South Carolina Policy Council, p. 4)

The former Governor, and a Defendant in the *Abbeville* case, Niki Haley said, in her 2012 State of the State Address:

Every child in South Carolina learns differently, some more so than others. It is our responsibility as the leadership of this state to embrace that reality, not fight it, and give all of our children the chance to learn, to grow, and to thrive. And so, the time to make a real investment in our charter schools has come. . . . Charters are innovators--we need those fresh insights and ideas to help us improve our educational system for all of South Carolina's children. (p. 6)

The National Alliance for Public Charter Schools (NAPCS) provides that charter schools are public schools that have more autonomy and flexibility, allowing them to be innovative when addressing student needs and providing instruction. They are thought to drive competition and school improvement. NAPCS states:
The core of the charter school model is the belief that public schools should be held accountable for student learning. In exchange for this accountability, school leaders should be given freedom to do whatever it takes to help students achieve and should share what works with the broader public-school system so that all students benefit. (NAPCS, 2017, p. 2)

Education policy researchers Lips and Watkins (2008) outlined that one way to improve public education resource allocation is “to give parents the ability to use their children's share of public Education funding to choose the right school for their children” (p. 17). They argued that school choice programs benefit children who attend them, and “public schools affected by school choice policies improve their performance in response to competition created by parents' ability to choose alternative schools for their children” (p. 17).

The U.S. Department of Education commissioned the Consortium for Policy Research in Education (CPRE) to conduct a review of charter school research. A review by Bulkley and Fisher (2002) provided that there was “No conclusive data to indicate that charter schools are failing their students” and furthered, “Some charters are showing positive achievement results” (p. 8). Bulkley and Fisher also asserted that to some degree charter schools were “Improving the quality of conventional public schools” (p. 9) in some districts. The CPRE advised, “Policymakers should carefully monitor admissions and recruitment practices, the potential for increased segregation, and provision of special education services” (Bulkley and Fisher, 2002, p. 9) in charter schools as equity issues, when operating among public schools, are paramount. Bulkley and Fisher contended that continued research is needed to shed light on how charter schools “can advance the
overall goals of improving education” (p. 9). Professor of education and editor of the

*Journal of School Choice*, Maranto (2017) argued:

> Backers of traditional public schools find it hard to imagine that good people (and their kids) really do hate school . . . these public-school supporters believe such people (and their kids) must have serious flaws. For most school choice opponents, support for traditional public schools—and only those schools—is not a rational matter subject to social science. Support for traditional public schools is an emotional attachment akin to religious faith or loyalty to one's spouse. (p. 1)

Maranto proffered that personal emotions and our nation’s history often skew discussion about school choice and charter school options. He asserted these discussions often subvert the data and proof about the effectiveness of choice options. Maranto added that policymakers need to promote school choice while also creating policies and agendas that support traditional public schools.

Self’s (2017) article “These schools have cost SC taxpayers nearly $1billion. But are they working?” outlined:

> Charter schools promise to reflect their communities. But the statewide charter school district’s schools tend to be whiter, less diverse, than their traditional public-school counterparts. The public charter school district is 67 percent white and 20 percent African-American. Statewide, 51 percent of students are white and 34 percent are black in traditional schools. (p. 3)

These figures tend to outline a key issue in South Carolina, which is a lack of transportation for charter school students. In South Carolina, charter school students are not provided transportation and charter schools have no authority to collect local taxes to
purchase or maintain busses, or even pay for facilities. Smalley (2017), Superintendent of South Carolina’s statewide charter school district, noted that charter schools in Jasper County, one of the Abbeville Plaintiff Districts, outperformed the county’s traditional public schools. He argued, “families cannot access those schools because there’s no buses for them to catch, that’s an access and equity issue, and doesn’t seem fair” (as cited in Self, 2017, p. 3).

Charter schools and alternative education options that are innovative and challenge the status quo can provide meaningful educational opportunities for students. These inputs, along with highly effective teachers and leaders and learning opportunities that are challenging and differentiated, can improve educational outcomes, no matter the setting. As a state, and perhaps a nation, arguments should shift from the politics of charter schools, school choice programs, and voucher polices to ensuring public schools meet the needs of every child, so that all children have true opportunities and no family is tasked with having to make a choice.

State Data System

South Carolina needs a comprehensive state-wide mechanism for driving, managing, monitoring, and supporting school improvement at the school and district level, over time. The focus needs to be on a student learning, educator effectiveness, and district quality assessment and data system that includes multiple measures and is utilized and accessed by schools, districts, institutions of higher education, and other stakeholders. The state also must address the quality of the assessments they use to measure student learning and educator, leader, and educator preparation effectiveness. Additionally, the outcomes and measures of these assessments must be thoughtfully
shared and communicated in a way that provides transparency and awareness and can be a driver of change.

South Carolina must invest in a high-quality longitudinal data system or network that is systemic and connected with a common district and school level based system. Rindge (2017), in her article on South Carolina’s ACT crisis, noted:

Nationally, 27 percent [of high school students] met the benchmarks in the four core subject areas tested (English, math, reading and science) but that number fell to 15 percent in South Carolina. The proportion of graduates showing virtually no readiness for college coursework remained sizable. In the class of 2017, half of South Carolina’s students and 33 percent nationwide met none of the benchmarks. (p. 2)

With outcomes like those indicated by Rindge, South Carolina must develop policies, systems, and the capacity to measure student learning and respond early. With a comprehensive data system and plan, clear ways to measure and track teacher and leader effectiveness, and early warning indicators when students begin to struggle, South Carolina can be better poised to make meaningful changes in its schools.

**Wrap Around Services**

Brack (2017b) summarized the report, “Why Rural Matters: 2015-2016,” noting, “The Palmetto State’s rural schools, characterized as some of the nation’s neediest and lowest achieving, have the fourth highest priority rating . . . according to the Rural School and Community Trust” (p. 2). Brack cited the State’s Superintendent, Molly Spearman, who acknowledged the challenges facing rural schools and asserted:
I view these challenges as opportunities in which we must work together as a state to ensure that we not only have adequate funding but also effective school and district leaders and an established culture in which students, parents, and educators all play a proactive role and believe they can be successful. We have to continue to lay the ground work for substantial change and I am committed to ensuring every student, regardless of where they live, has the tools and resources they need to be lifelong learners and productive citizens. (as cited in Brack, 2017b, p. 2)

Brack (2017b) summarized the findings of the Rural School and Community Trust’s report, which outlined six challenges facing South Carolina’s rural school districts. The Trust outlined: (1) more than 69% of the State’s rural students are from low income families, the fourth highest rate in the nation; (2) in South Carolina more than 50% of rural students are minorities, the fifth highest rate in the nation; (3) almost 40% of the state’s schools are rural and more than 116,000 students attend rural schools; (4) South Carolina ranks 12th in spending per pupil; (5) South Carolina rural students have the sixth lowest achievement rates; and (6) South Carolina rural schools have the 11th lowest rates of students graduating from high school. Hampton (2017), President of the South Carolina Education Association, responded to the Rural School and Community Trust report noting:

It took twenty years for a litigated process to redress rural inequality in the Abbeville vs. South Carolina lawsuit, and finally $110 million dollars was allocated specifically to improve those schools in South Carolina’s “Corridor of
Shame.” Yet, more than two years after the case only $55 million dollars has been resourced to the affected districts. (as cited in Brack, 2017b, p. 4)

Hampton, called for a community school model in which students and the community are supported by academic, health, social services, and developmental opportunities.

The Oakes, Maier, and Daniel (2017) policy brief on practices associated with effective community-based schools and wrap-around services provided educators, education leaders, and policymakers with a blueprint of best practices associated with ensuring services to students impacted by poverty. Their research suggested that true community schools “partner with community agencies and local government to provide an integrated focus on academics, health and social services, youth and community development, and community engagement” (p. 3). Oakes et al. (2017) suggested that policymakers (at all levels) work to ensure wrap-around services that are specific to community’s needs and redress the impacts of poverty specific to that community. They contended that, if wrap-around services are to be impactful and if a community-based school is to truly offset the impacts of poverty, four features must exist: integrated student support, additional learning opportunities and extended schedules, family and community engagement, and collaborative leadership and practices.

Beatty’s (2013) analysis of wrap-around services for students in poverty provided research that suggested, “A multifaceted strategy can complement school reform by addressing the many out-of-school factors that affect academic performance” (p. 1). She asserted that, while many policymakers know and understand that “students most likely to lag behind academically are those who attend schools with less-qualified teachers and
poorer resources” they are just now beginning to look at “other factors struggling students frequently share” (p. 3-4). Beatty asserted that policymakers must:

Look at students who live in poverty; whose neighborhoods are stressed by unemployment; and who feel unsafe at, and on the way to and from, their schools. The lack of adequate health care and adequate nutrition and untreated medical and mental health problems also are associated with school problems. Each of these sources of disadvantage may significantly impede a child’s academic progress, and these risk factors tend to cluster together, exacerbating their effects. (p. 5)

Wraparound services must extend beyond students and schools and extend into and across communities. Critical community issues such as housing availability and quality, living wage employment, safety, and access to nutritional food and medical care impact one’s decision to move and engage in the life of a community. Until South Carolina and its rural communities rebuild and develop community support structures and systems, the Plaintiff Districts will struggle to attract educators, leaders, and those seeking to breathe life into the very communities that need life the most.

**South Carolina Policy Context**

When considering future policy recommendations aimed at remedying the South Carolina Supreme Court’s finding of education and equity gaps in the Plaintiff Districts, one must consider legislation and policies that have already been enacted and that have been determined to be effective or ineffective. To do so, policymakers, higher education leaders, districts level leaders, and educators must work together to examine the current education system and determine how to improve both educational inputs and educational
outputs to ensure avenues that lead vulnerable students, families and communities out of poverty. Lindle (2015) asserted that in South Carolina:

Unless the policy for a system of public schools includes a checks-and-balances design between state and local choices, students will be condemned to the quality of education that their locale can afford or merely prefers, no matter how low that might be. (para. 4)

One education policy to which South Carolina must pay close attention and be poised to respond is the 2014 comprehensive literacy mandate Act 284, also known as the Read to Succeed Act. This Act intends to address state-wide deficits in literacy and academic achievement focused on third-grade reading proficiency. According to Orin Smith (2017), Senior Fellow at the Palmetto Promise Institute, a nonpartisan public policy research organization:

South Carolina has a reading crisis. Results from South Carolina’s statewide assessment, SC READY, show that only 44% of third-graders met or exceed standards in reading in 2016. Only 14% of South Carolina high school graduates met “college ready” benchmarks for English, reading, math and science according to ACT in 2016.

The Act outlined new teacher preparation coursework, in-service trainings and endorsements, district and school reading plans, early literacy programs, and grade level proficiency mandates.

The grade level proficiency mandates outline that, by the end of the 2017-2018 academic year, all third-grade students will be required to read at, or above, grade level. Students who score below grade level on a summative assessment are required to attend
summer reading camp. Students who do not meet required proficiency upon completion will be retained until they meet grade level proficiency, and follow-up assessments are given in the 5th, 8th, and 11th grades. However, Act 284 allows for a number of exemptions, most of which are determined at the district level. The implications of the Read to Succeed Act are monumental and consequential, as are many education policies. Educators, leaders, parents, and policymakers must look closely at data and monitor the implementation and effects of this policy.

Education leaders and advocates in South Carolina must be willing to embrace change, challenge the status quo, make hard decisions, disrupt current circumstances, and engage in true reform. John Hale (2014), a professor of education at the College of Charleston, stated his belief that the biggest issue facing education in South Carolina is the “lack of political will among the public to substantially reform education to meet the needs of all students and the public good” (as cited in Wilkinson, 2016, p. 2). Hale also asserted, “The public essentially needs to support the investment it will take to improve barriers in education, otherwise we are at risk of staying in a backward and discriminatory system of schooling” (as cited in Wilkinson, 2016, p. 2).

In her 2011 State of the State Address, former Governor Haley remarked, “We need to educate our children not based on where they happen to be born and raised, but on the fact that they deserve a good, quality education” (p. 14). In considering a path forward, South Carolina must focus on more than providing a “good” or constitutionally compliant education. It is paramount that South Carolina be committed to ending deeply entrenched, community-based poverty and invest in education as a means to achieve that end. Former President of the United Republic of Tanzania Julius Nyerere (2001)
proclaimed at a summit on poverty: “Education is not a way to escape poverty, it is a way of fighting it.” The central tenant of our nation’s system of public education is to advance opportunity through education. Pat Conroy, a South Carolina native, award winning author, and former teacher in a rural, high poverty school located on Yamacraw Island in South Carolina, reflected on his experience in the memoir, *The Water is Wide*. In that work Conroy (1972) shared, “If I let my students leave me without altering the conditions of their existence substantially, I knew a concrete sightless ghetto of some city without hope would devour them quickly, irretrievably, and hopelessly.” Altering the conditions of others so that they live with hope and ensuring that the least of us has the chance to become the greatest of us is the very ethical and moral imperative of public education.

**Future Studies**

Future studies could include an update of Plaintiff and Defense responses to the Court after June 30, 2017. A study is needed of the impact or effectiveness of enacted legislation and policy in South Carolina or a study of outputs and inputs between the *Abbeville* Plaintiff and non-Plaintiff districts. Future research also could include case studies of other legal rulings centered on education finance and equity; a quantitative analysis related to student achievement, teacher effectiveness, or teacher retention in the Plaintiff Districts; a study of state education policy implications for rural school districts or Education Preparation Programs; a critical or narrative policy analysis related to specific themes; or a comparative policy analysis of education equity legislation, or taxation in other states. Additional studies might include a holistic examination of education finance policies that create equity among high poverty school districts.
A framework for ensuring educational opportunity for students in poverty could be developed to add in task force work, education legislation, further judicial action, and possible future litigation. Additionally, a model for district compliance, state department and legislative action, and progress toward meeting the South Carolina Supreme Court’s mandate could be developed. Last, measuring the impact of education legislation and education policies meant to remedy the South Carolina Supreme Court’s findings should be undertaken to further advocate and ensure that students in the Plaintiff districts, and others like them, have real opportunities, a path out of poverty and marginalization, and receive the education afforded to them by the constitution.

Conclusion

The 2005 documentary, *The Corridor of Shame: The Neglect of South Carolina's Rural Schools*, includes a clip of the closing argument given in front of the South Carolina Supreme Court in the *Abbeville County School District et al. v. the State of South Carolina et al.* trial in which one of the Plaintiff’s attorneys, Steve Morrison, recounted "The Parable of the River," popularized in the 1930s by social reformer Saul Alinksy. The Parable explains how one day a man fishing along a river bank noticed a baby floating down the river. In order to keep the baby from drowning, he swam out, saved the baby, and laid it safely on the shore. Sometime later, the same man noticed two babies in the river. The man again swam out, saved the babies, and laid them safely along the shore. This scene was repeated over and over, each time with more babies floating down the river, at risk of drowning. Eventually, other villagers gathered to help the man rescue the babies. To their despair, they could not save all the babies and some drowned. After a number of days and the continued struggle to save the babies that were by the
hundreds floating down the river, the man turned from the river and walked away.

Another villager stopped him and yelled, “Where are you going? Don't you want to save the babies?” The wise man replied: "I do want to save them! I am going upstream to find out who keeps throwing the babies in the river and to stop them!"

Morrison’s telling of the parable was beyond moving and reminds that we all must ensure we are not just saving babies, but that we keep them from being thrown in the river. We must act urgently to ensure all children, especially those who are disadvantaged by poverty, inequity, or disability, are not thrown into the current to drown or to be washed away. The South Carolina Supreme Court ruled that a “minimally adequate” education is a constitutional right guaranteed to all South Carolina children. But, we must create educational opportunities that move beyond minimal adequacy and move all to the realization of our nation’s promises for active participation in government and the marketplace of ideas, the opportunity to succeed, a chance for a bright future, and the realization of the American dream. Poverty and human rights scholars Chege, Stephen, Wairimu, and Njorge (2015) expressed:

Through Education, individuals realize their potential to contribute to production, wealth creation and execution of various roles that make for national development. They are also able to benefit from the distribution of wealth in the economy, have a political voice and access social goods and services to enhance their living standards. These facts are well known in development circles. What is lacking is the ability to make use of the transforming power of education as one of the most important tools for alleviating poverty. It is now clear that universal basic education, of the right type, is a critical pre-requisite for countries to
progress on the path to sustainable development. Beyond this, quality basic education for all citizens can help to lift communities out of poverty. Poverty is multi-sectoral and requires action on different fronts. (p. 87)

In closing arguments Plaintiff attorney Steve Morrison pleaded, “Let South Carolina realize her dream. . . . That no child be cast aside. That no child be left behind. That all her children be provided the opportunity to reach their God given destiny. Let South Carolina realize her dream.”
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APPENDIX A: Abbeville Case Map
APPENDIX B: Education Equity and Opportunity: Findings and Framework

“The South Carolina Constitution’s education clause requires the General Assembly to provide the opportunity for each child to receive a minimally adequate education” (Toal, Abbeville v. SC, 1999, p. 8-9).

“… poverty is, in turn, both the parent and child of poor academic achievement. Each follows the other in a debilitating and destructive cycle until some outside agency or force interrupts the sequence” (Abbeville v. SC, 2004, p. 155).

“Should the impact of poverty not be addressed at an early age, in the educational process, there would be no constitutionally mandated opportunity. South Carolina’s Constitution imposes an obligation . . . to create an educational system that overcomes, to the extent that it is educationally possible, the effects of poverty on the very young . . . to enable them to begin the educational process in a more equitable fashion. . . .” (Cooper, Abbeville v. SC, 2004, p. 156-157).

“Students in the Plaintiff Districts are grouped by economic class into what amounts to no more than educational ghettos, rated by the Department of Education guidelines as substandard” (Abbeville v. South Carolina, 2014, p. 30).

“Fault in this case and more importantly, the burden of remedying the constitutional deficiency does not lie solely with the Defendants. The Plaintiff Districts presented much of this case as a manipulative political argument, framing the dispute within some of our State’s most disturbing historical images, and couching this case’s most meaningful aspects in conventions which deny our progress. This approach simultaneously ignores their own actions in helping to create devastating metrics and outcomes.” (Abbeville v. SC, 2014, p. 38)

Pivotal Judicial Findings: Abbeville v. South Carolina

Framework for Education Equity and Opportunity

- Early Childhood Programs
- Funding to Offset Transportation Costs for Rural Districts
- Invest in Communities to Support Economic Growth & Sustainability
- Pipeline of Highly Effective Teachers & Leaders
- Legislation, Policies & Practices that Close Gaps & Ensure Opportunity Equity
- Equitable Education Funding & Impactful Spending
- Community & School Wrap Around Services
- Accountability for Educational Outcomes & District Operational Effectiveness
- Appropriate Sense of Urgency

(Images form Microsoft, 2016)