

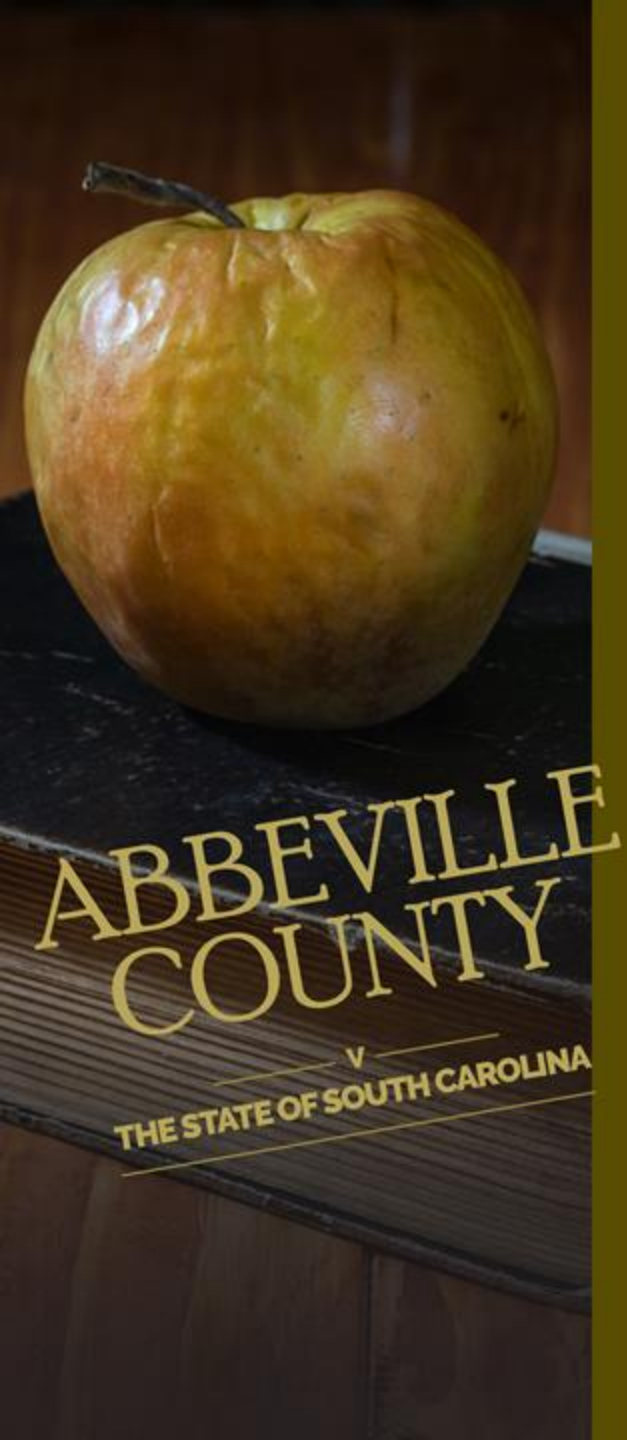
**Dr. Tiffany N. Richardson**

General Counsel and Director of Policy and Legal Services  
South Carolina School Boards Association



**ABBEVILLE  
COUNTY**

**v**  
**THE STATE OF SOUTH CAROLINA**



# Minimally Adequate

# Constitution of 1973

## Article XI

**SECTION 3.** System of free public schools and other public institutions of learning.

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. (1972 (57) 3193; 1973 (58) 44.)



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COUNTY

THE STATE OF SOUTH CAROLINA

# Funding: K-12

## ❑ Education Finance Act of 1977

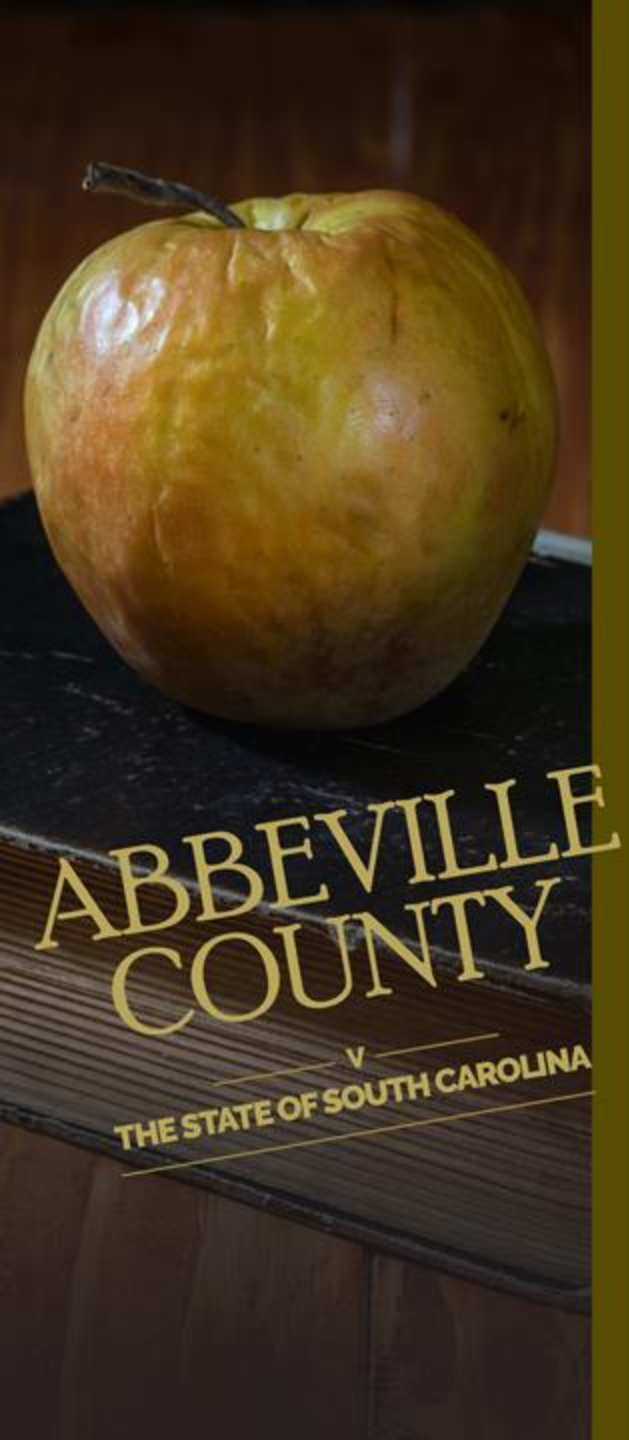
- Defined the minimum education program
- Established the base student cost (assumed district size of 6,000, no transportation, no fringe benefits, no facilities)
- Established a shared formula (70% state, 30% local)
- Index of taxpaying ability

## ❑ Education Improvement Act of 1984

- Statewide penny tax
- Innovations and improvements

## ❑ Lottery

- Only 7% goes to K-12

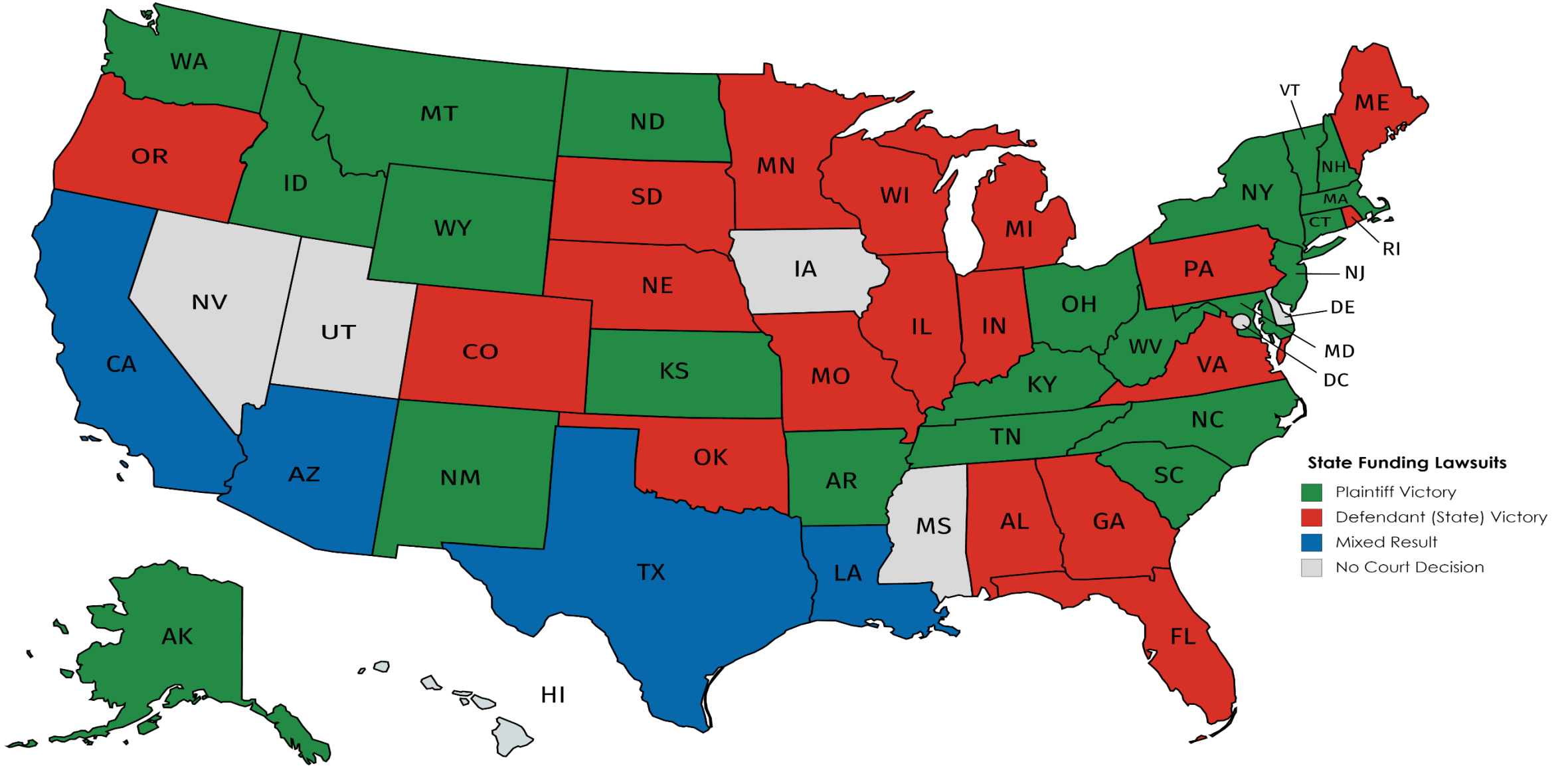


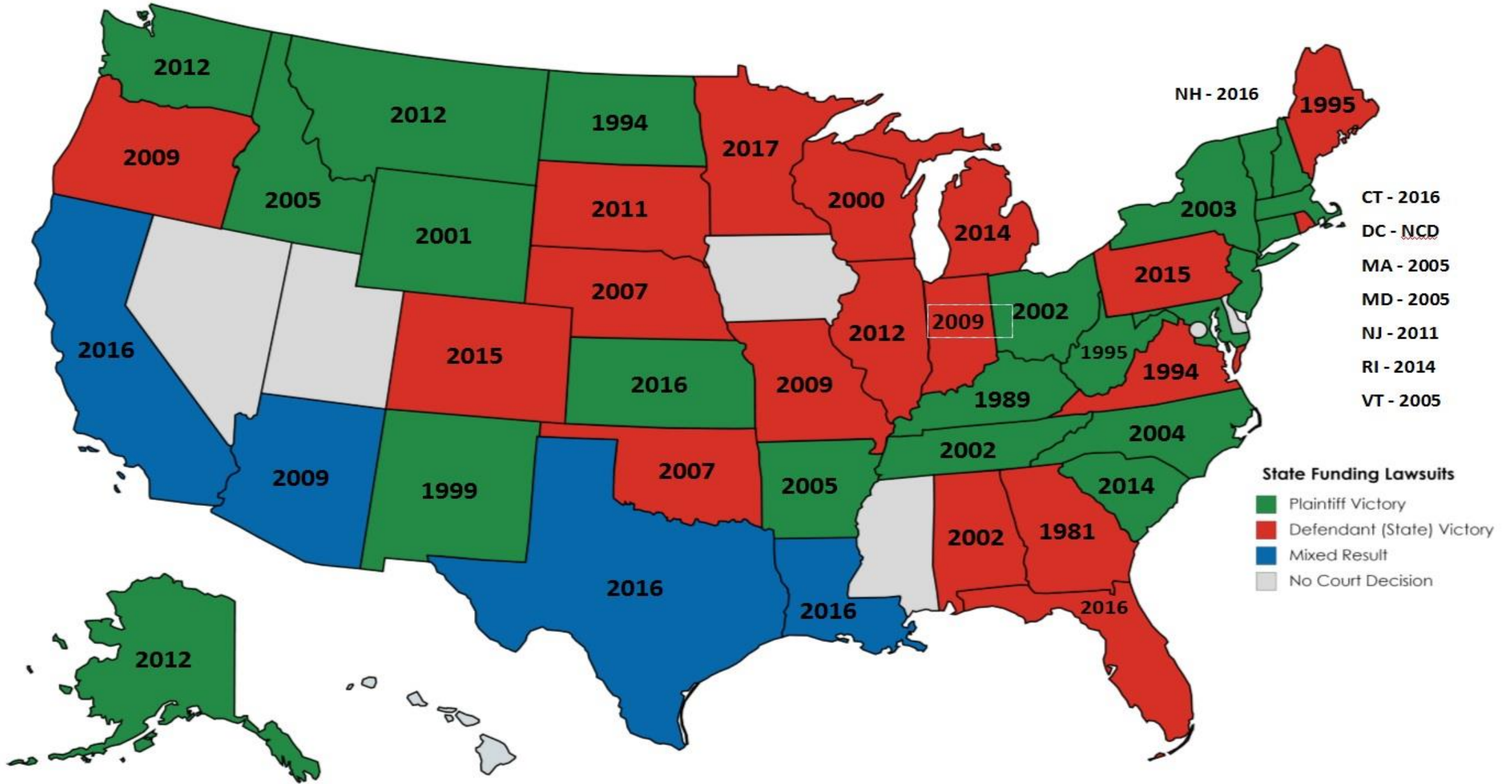
# Lawsuits

- ❑ 1970s and 1980s: Most cases were based on state equal protection clauses (equity claims).
  - Defendant/States won the majority of these cases.
  
- ❑ 1990s and 2000s:
  - ❑ Cases shifted to claims seeking an adequate or quality education (adequacy claims) based on state education clauses.
    - Plaintiffs won the majority of these cases.
  
  - ❑ State standards and testing regarding what a student should know and be able to do



ABBEVILLE  
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# South Carolina

## □ Richland County v. Campbell (1988)

- Taxpayers alleged constitutional equal protection violations in that the EFA and EIA produces disparate revenue and unequal opportunities
- The Supreme Court upheld the trial court's dismissal stating that the constitution granted the General Assembly the freedom to choose the means of funding education and the two funding measures are valid legislation

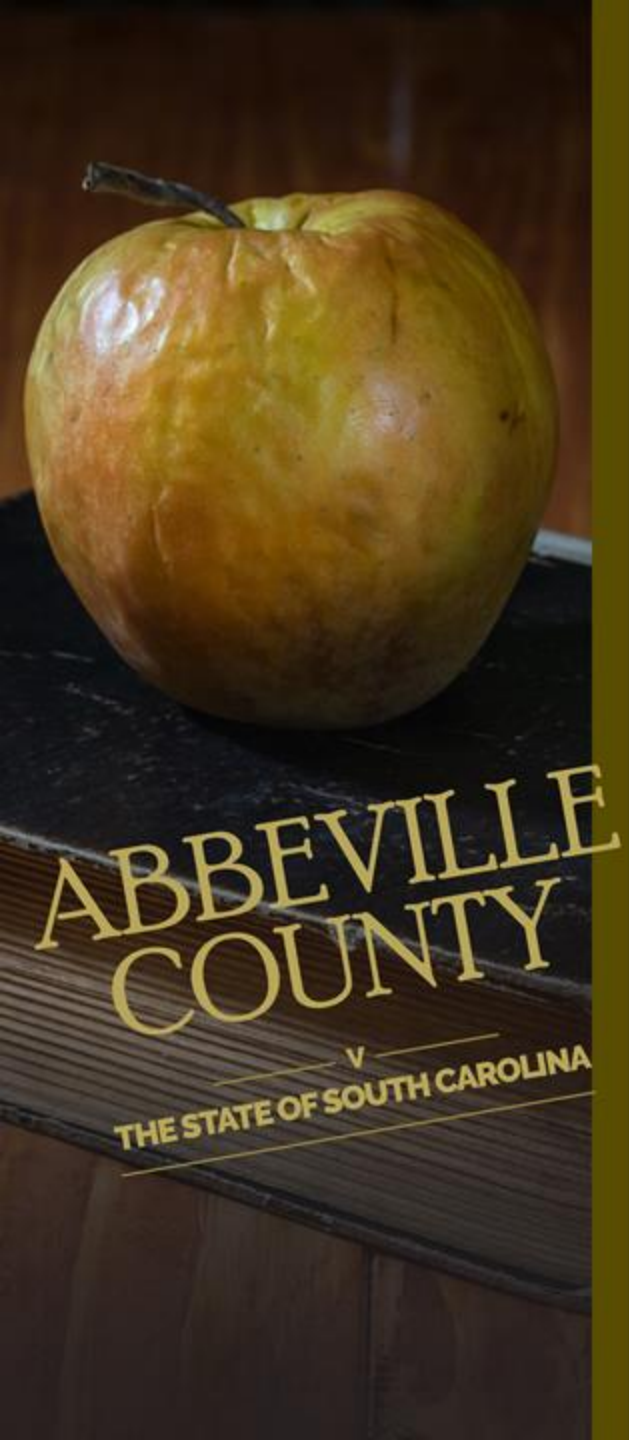


ABBEVILLE  
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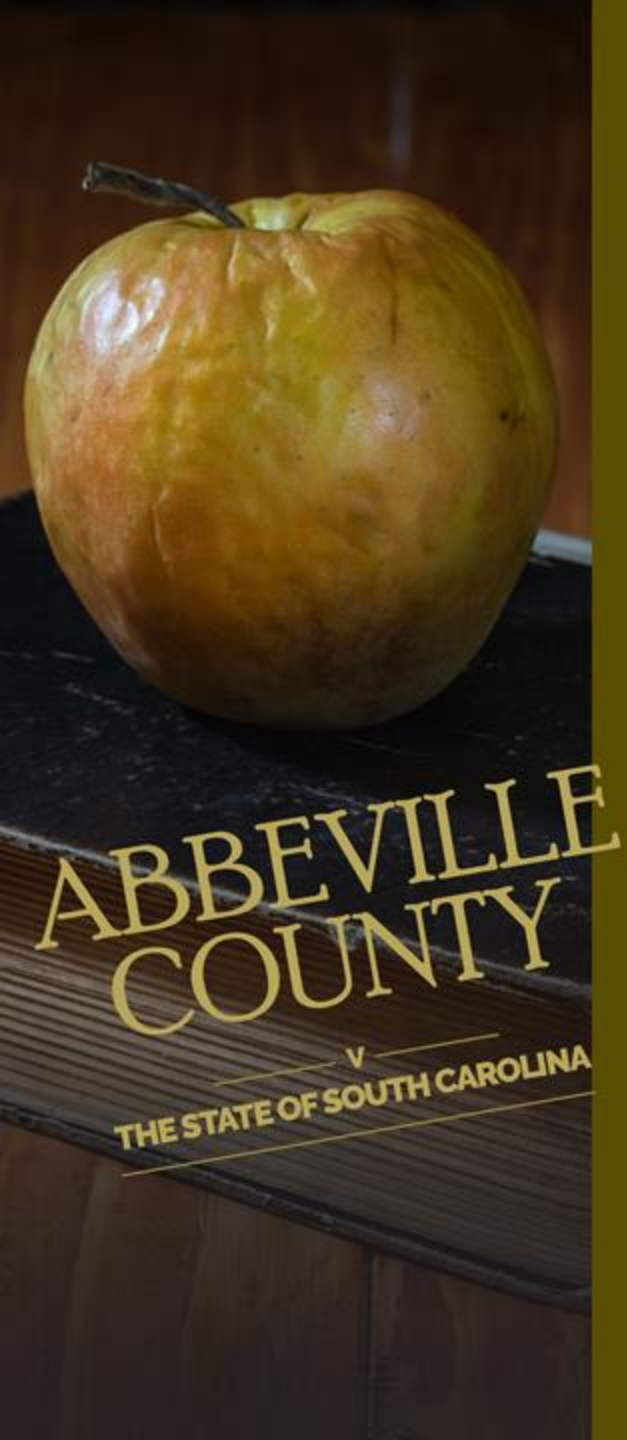
# Abbeville

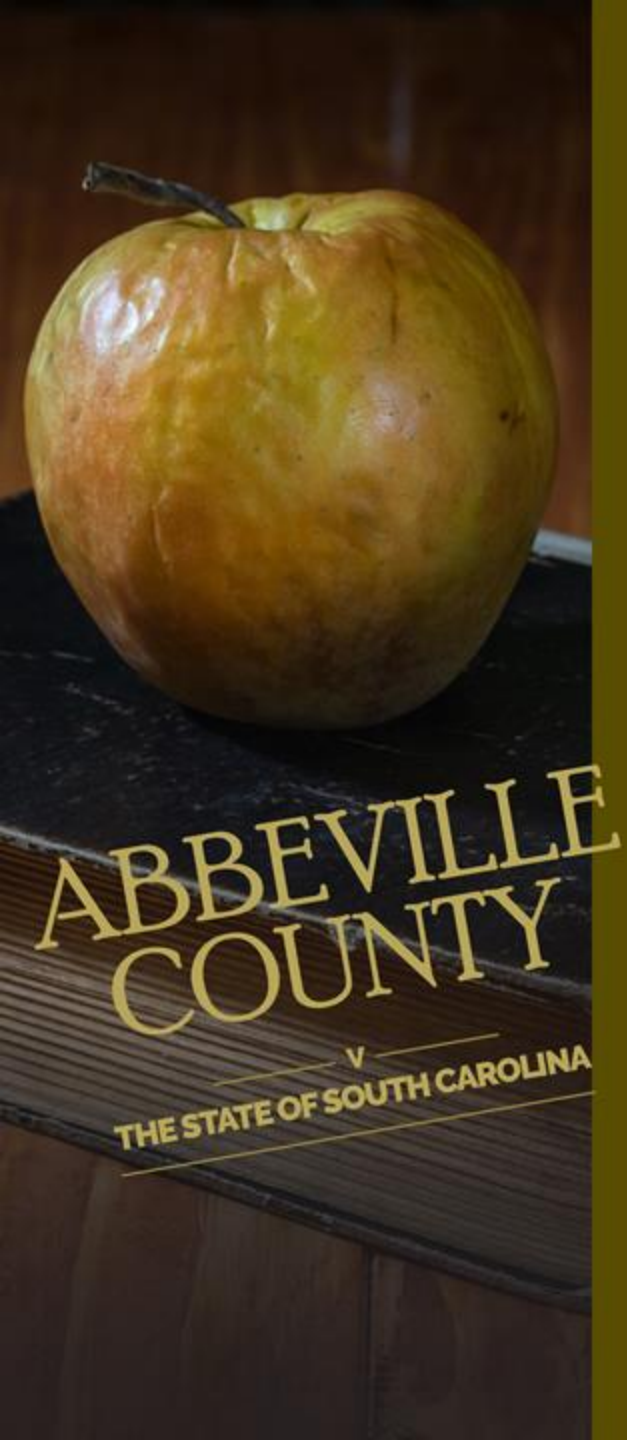
- ❑ **Filed in November, 1993 in Lee County**
- ❑ **Plaintiffs**
  - **40 Plaintiff districts (reduced to 33 by the end of litigation due to consolidation)**
  - **Parents and taxpayers**
  - **Students**
- ❑ **Defendants**
  - **State of South Carolina**
  - **President Pro Tem of Senate, as Senate representative**
  - **Speaker of the House, as House representative**
  - **Governor**
  - **State Superintendent of Education (later dismissed)**



# Causes of Action

- ❑ Funding of public primary and secondary education:
  - Violated the state constitution's education clause
  - Violated the federal constitution's equal protection
  - Violated the Finance Act





# Supreme Court Ruling (1999)

- ❑ **Violated the state and federal constitution's equal protection clauses**
  - **No violation of federal equal protection because there is no federal constitutional right to education (San Antonio v. Rodriguez (1973))**
  - **No violation of state equal protection because no discriminatory intent**
- ❑ **Violated the Education Finance Act**
  - **No violation because the EFA does not create a private cause of action**

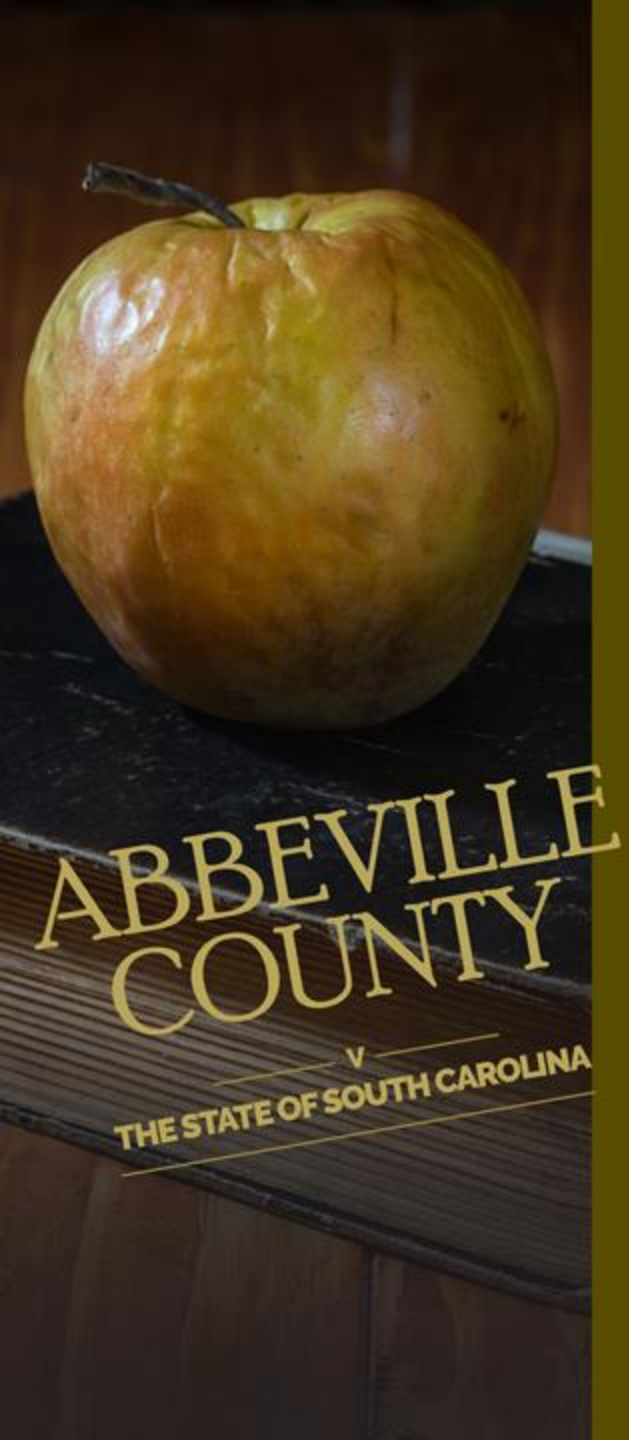
# Supreme Court Ruling



Violated the state constitution's education clause

**✗** The trial court concluded that judicial restraint, separation of powers, and the political question doctrine prevented it from considering the education clause claim in that the constitution's education provision imposed no qualitative standard

**✗** Furthermore, absent an argument that there was no free system of public education open to all children in the state, there is no claim. Simply saying the education furnished is not adequate is not a clear and convincing claim



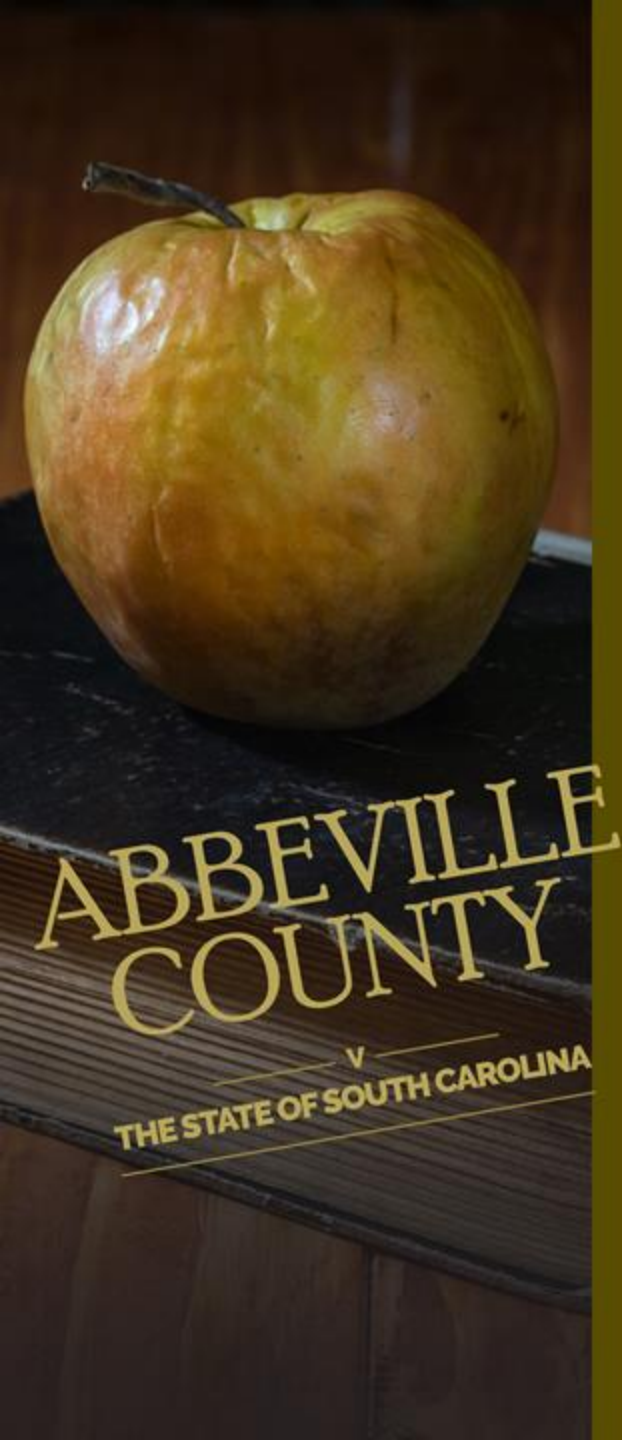
# Supreme Court Ruling

## Minimally Adequate

“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.

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

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





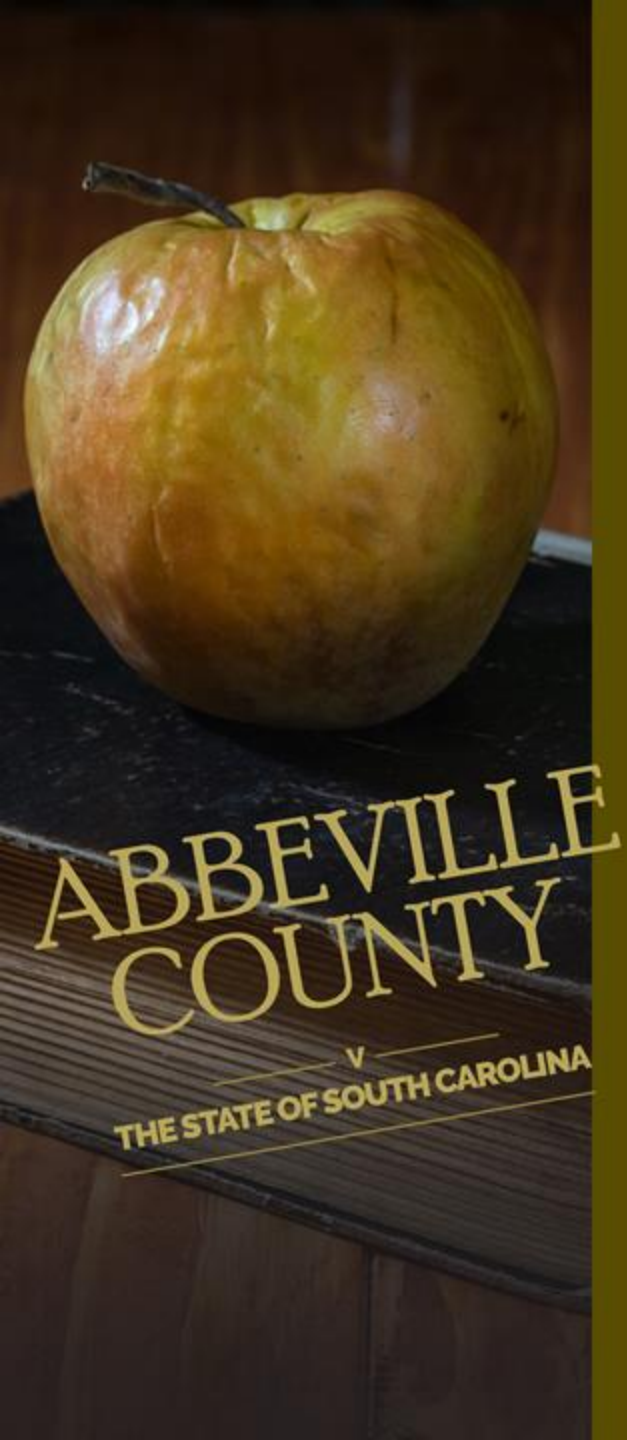
**WELCOME**

to South Carolina,

home of "minimally adequate education."  
**Fund education equity now!**

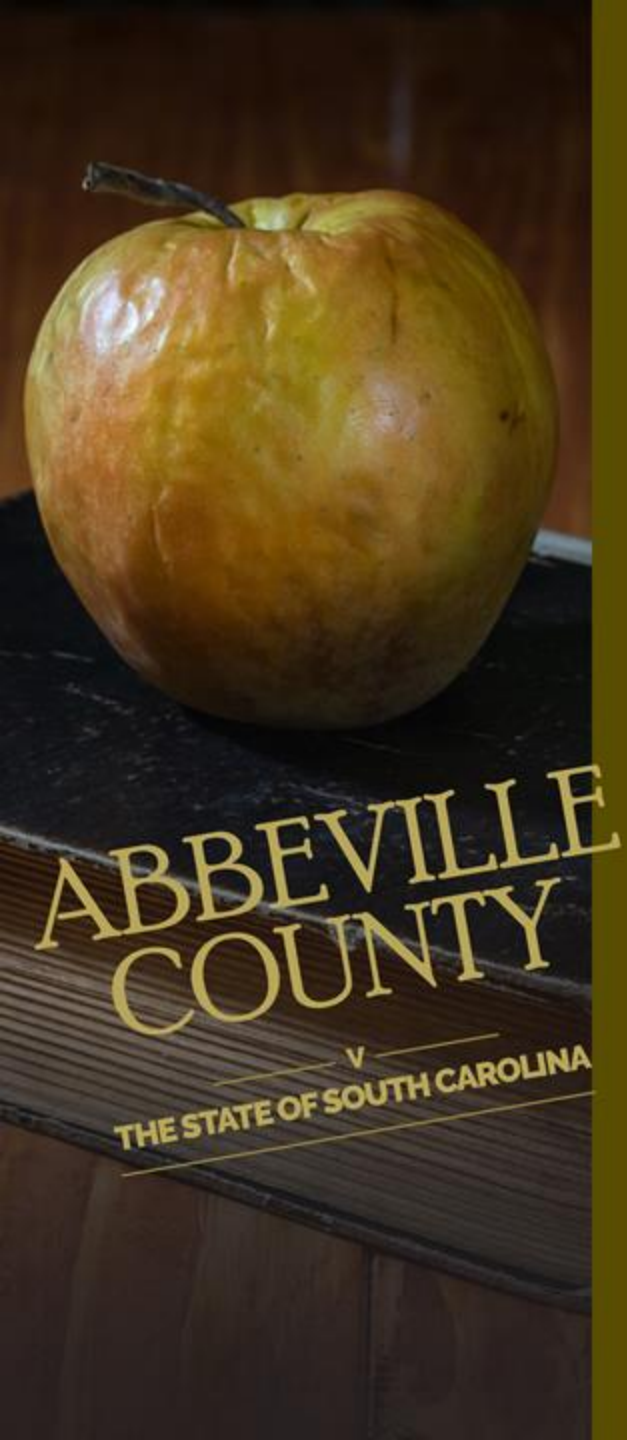
[www.corridorofsham](http://www.corridorofsham)

Education First



# Trial Court

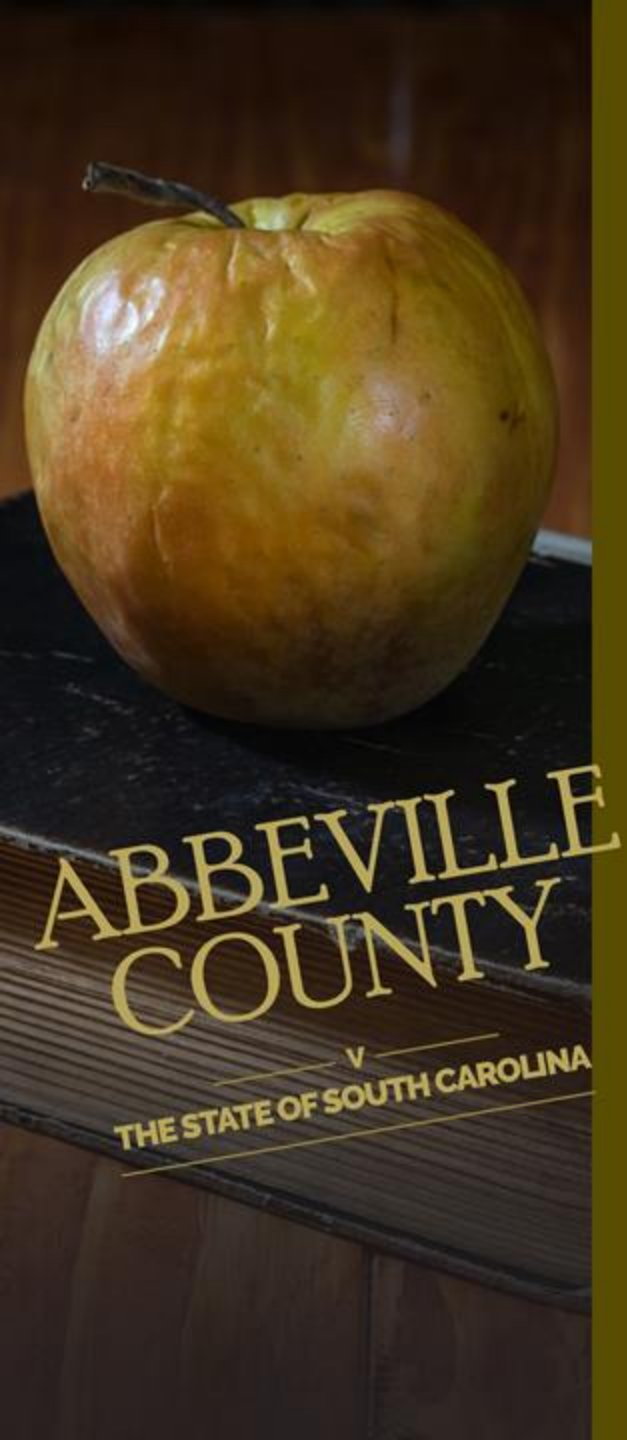
- Bench Trial
- July, 2003 – December, 2004
- Clarendon County – Manning, SC
- Focused on the worst eight of the Plaintiff districts



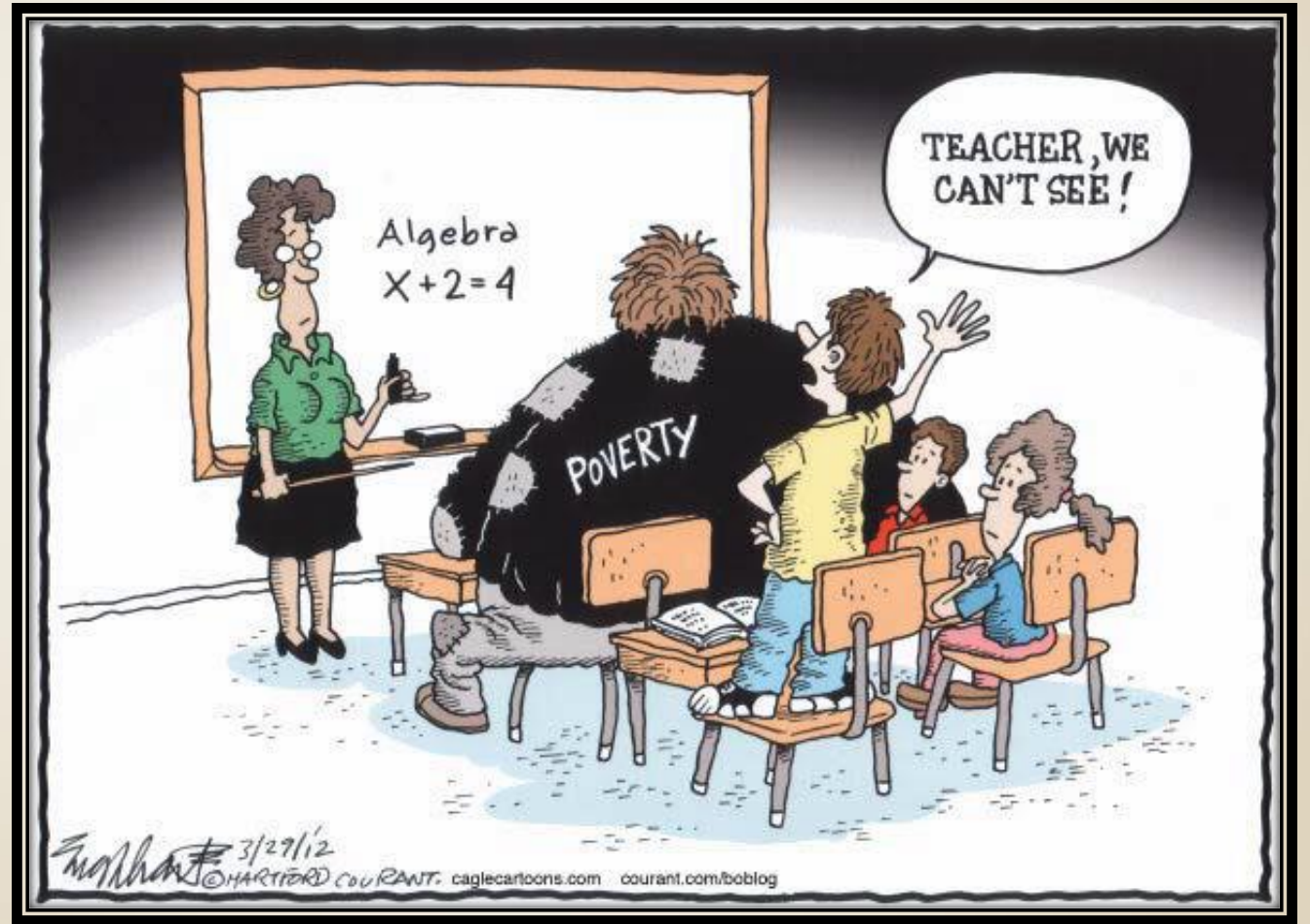
# Plaintiff's Case

- Statistics of Plaintiff districts
- Funding problems
- Economic Problems

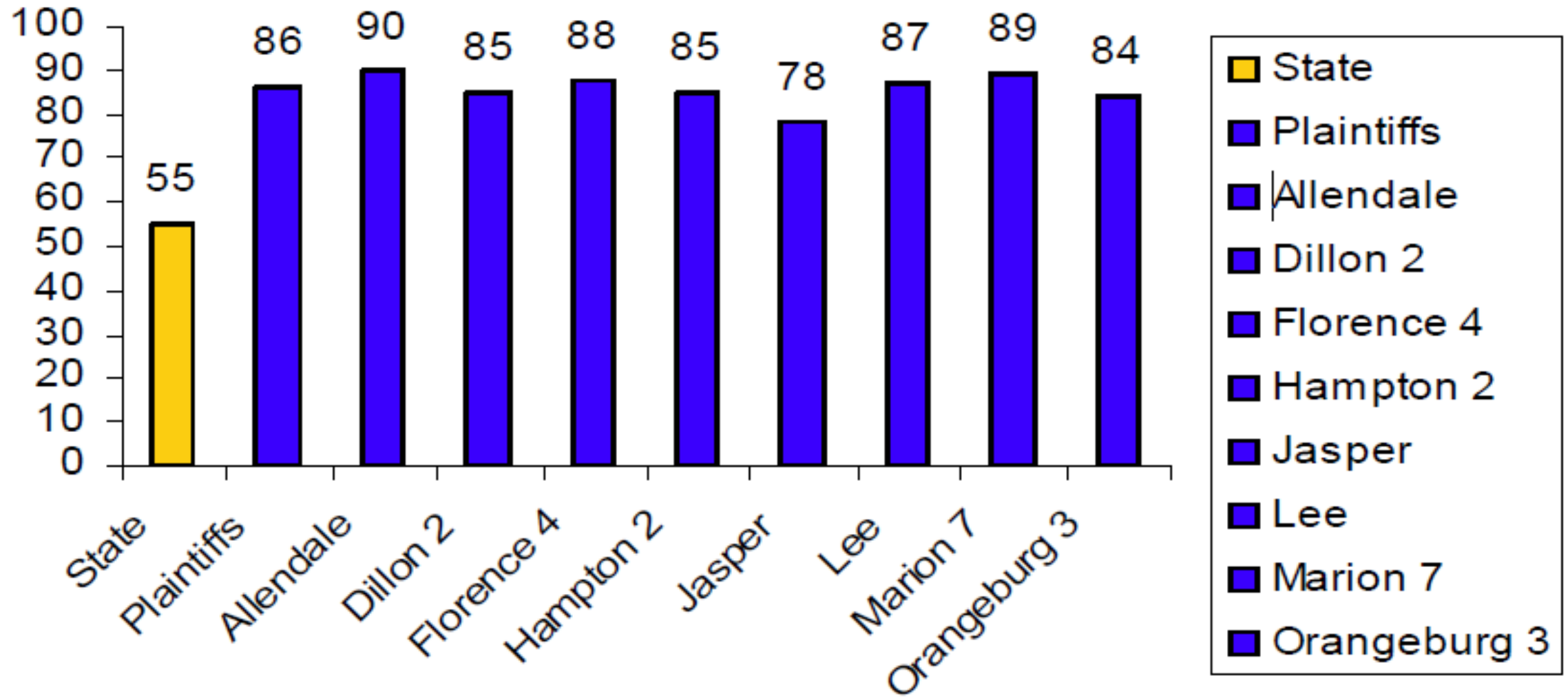




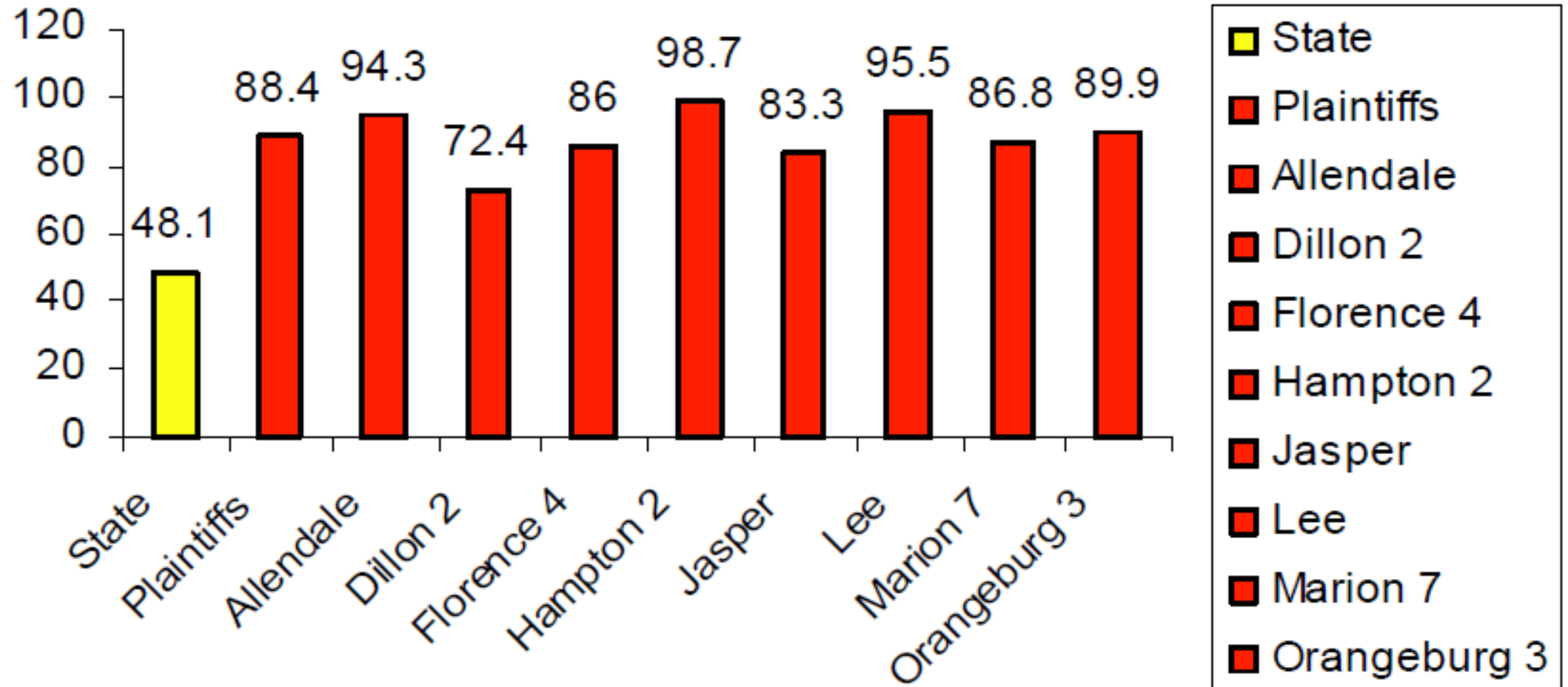
# Students

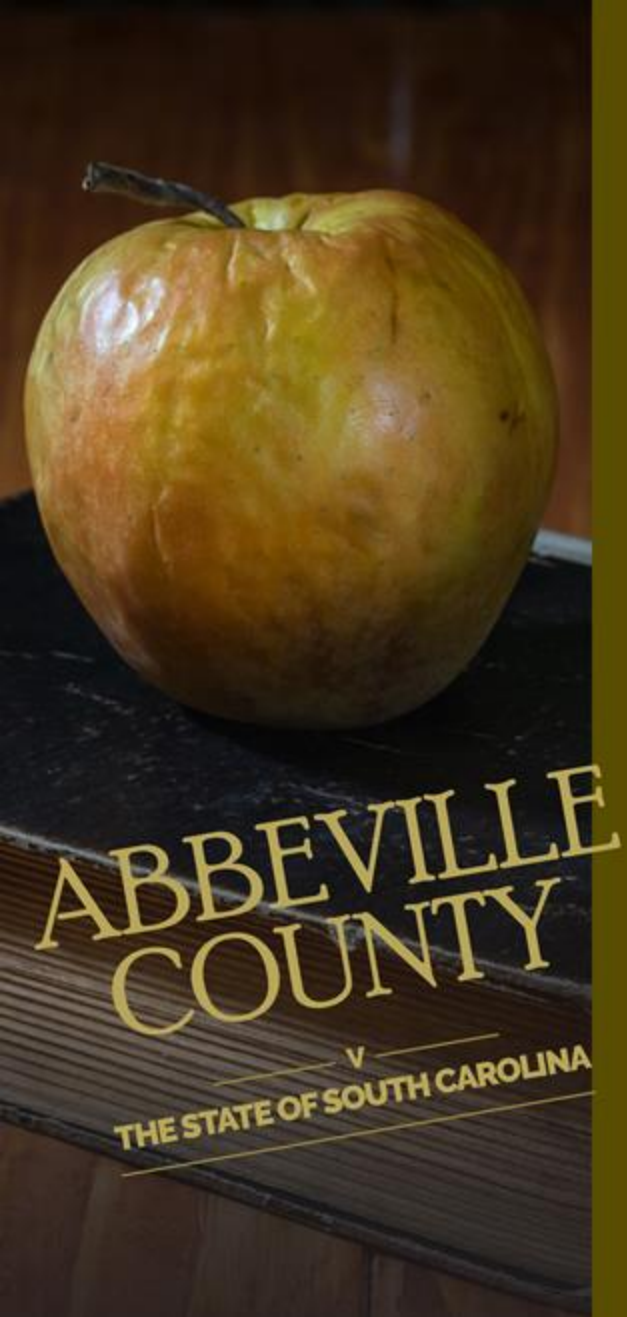


# Free Reduced

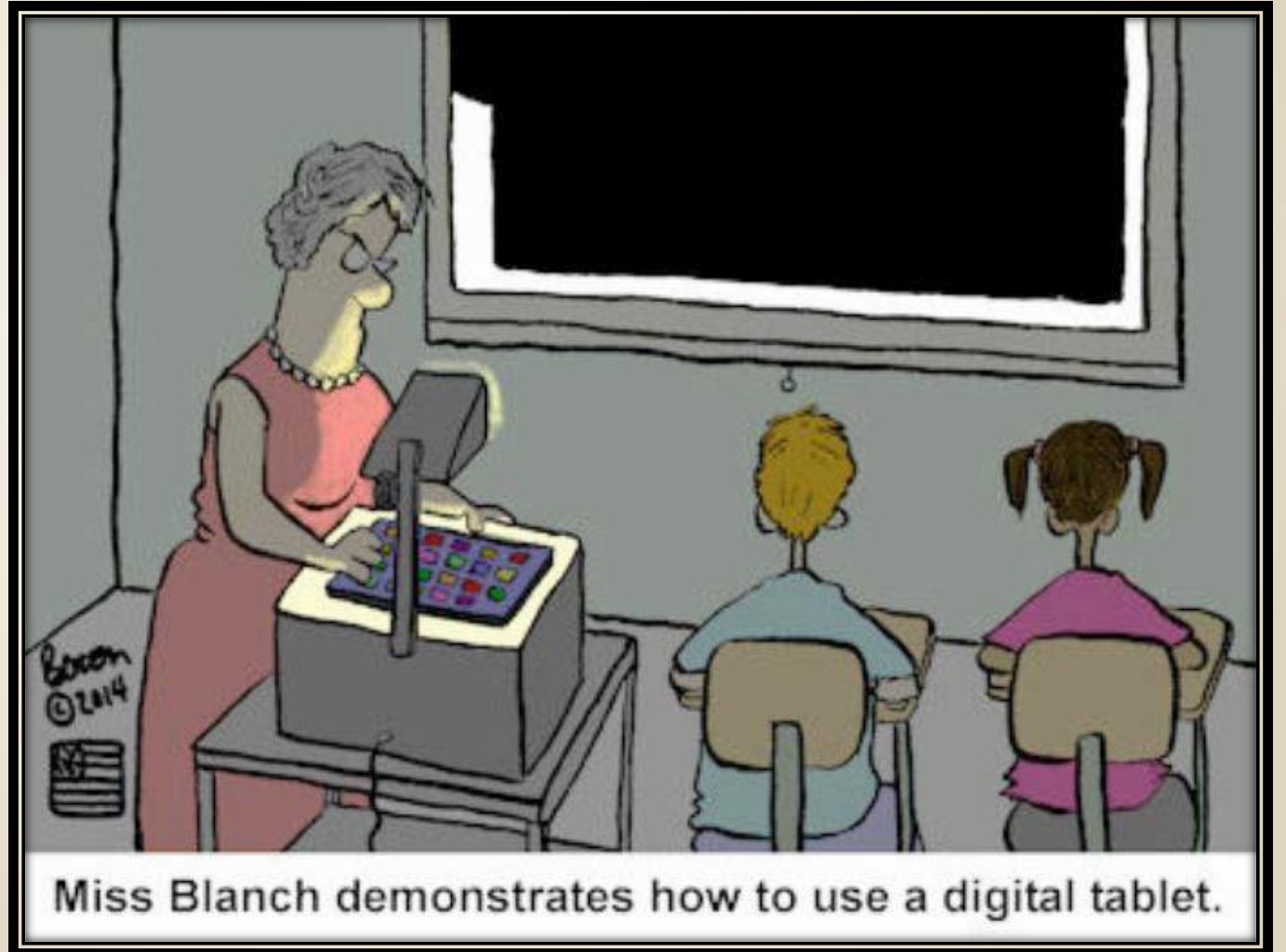


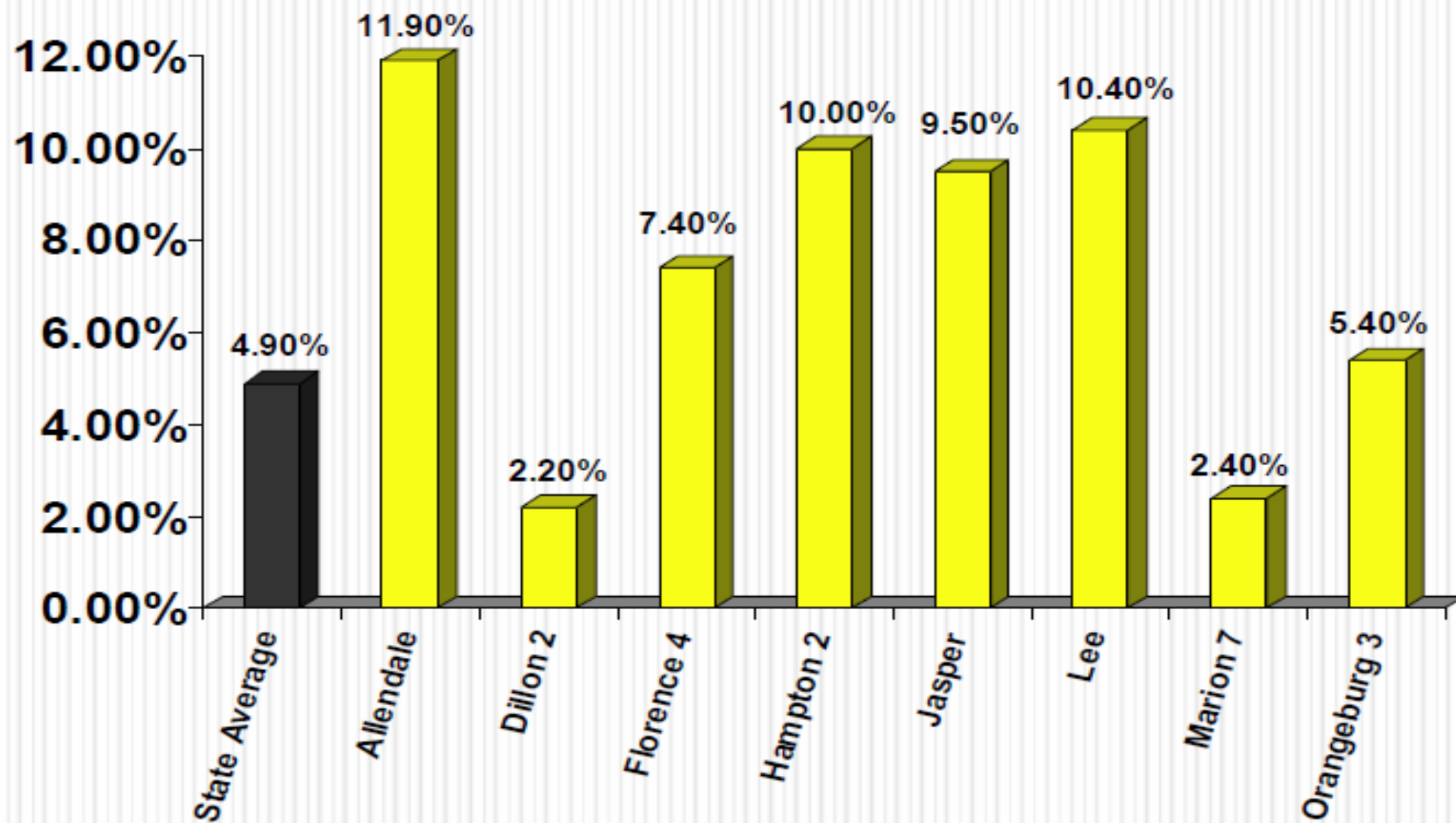
# %Minority



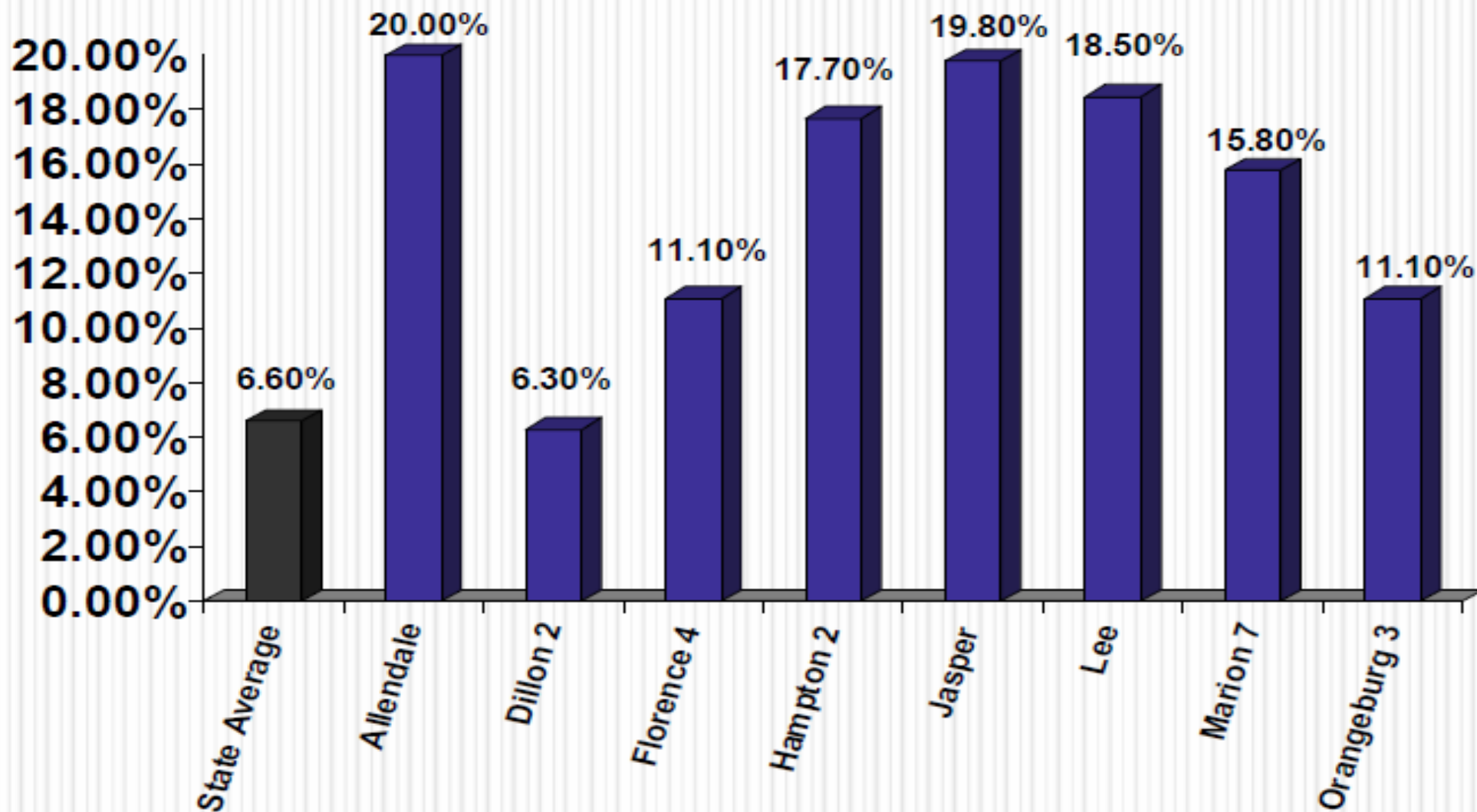


# Teachers

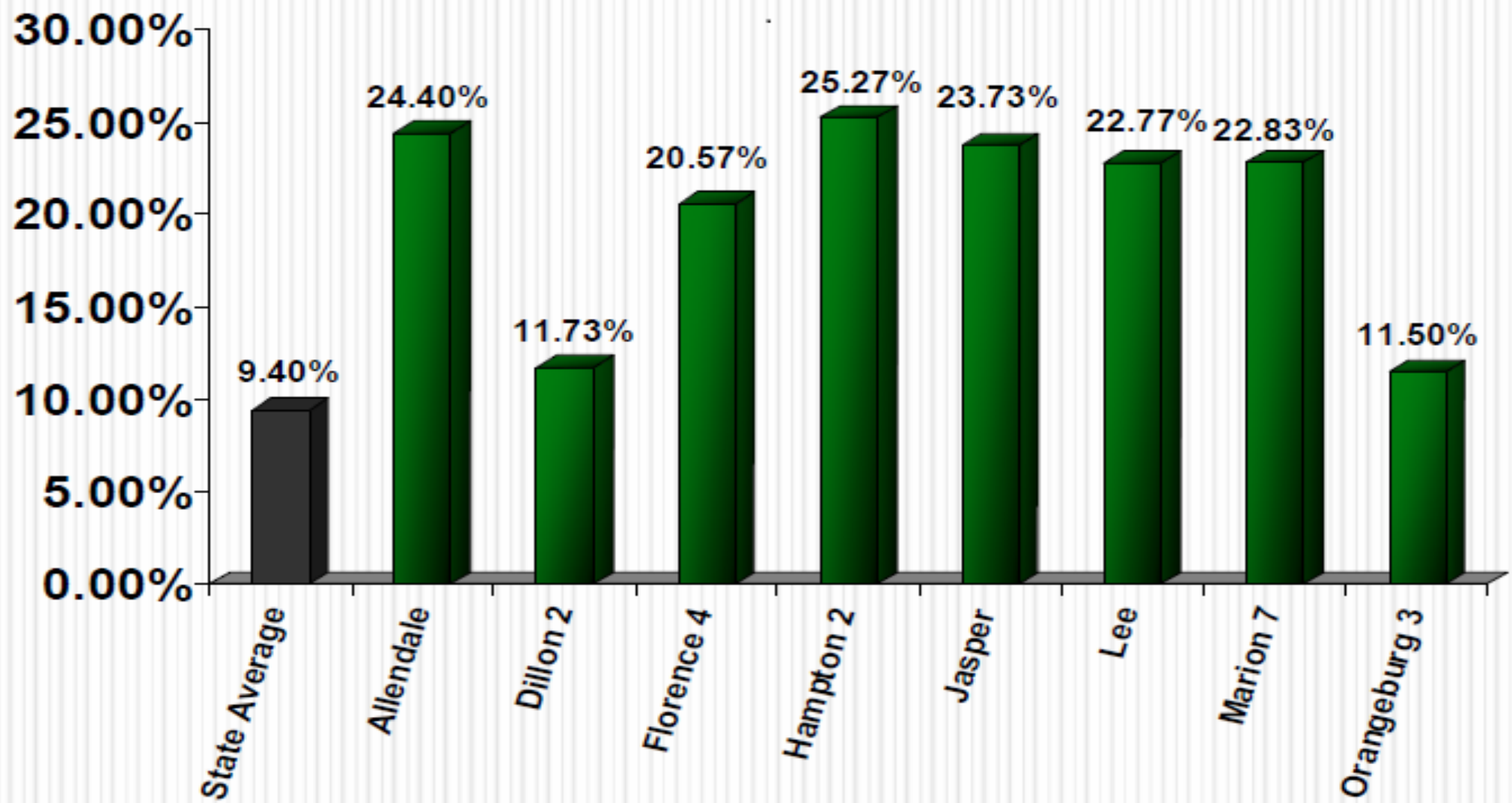




**Induction Contract Teachers**

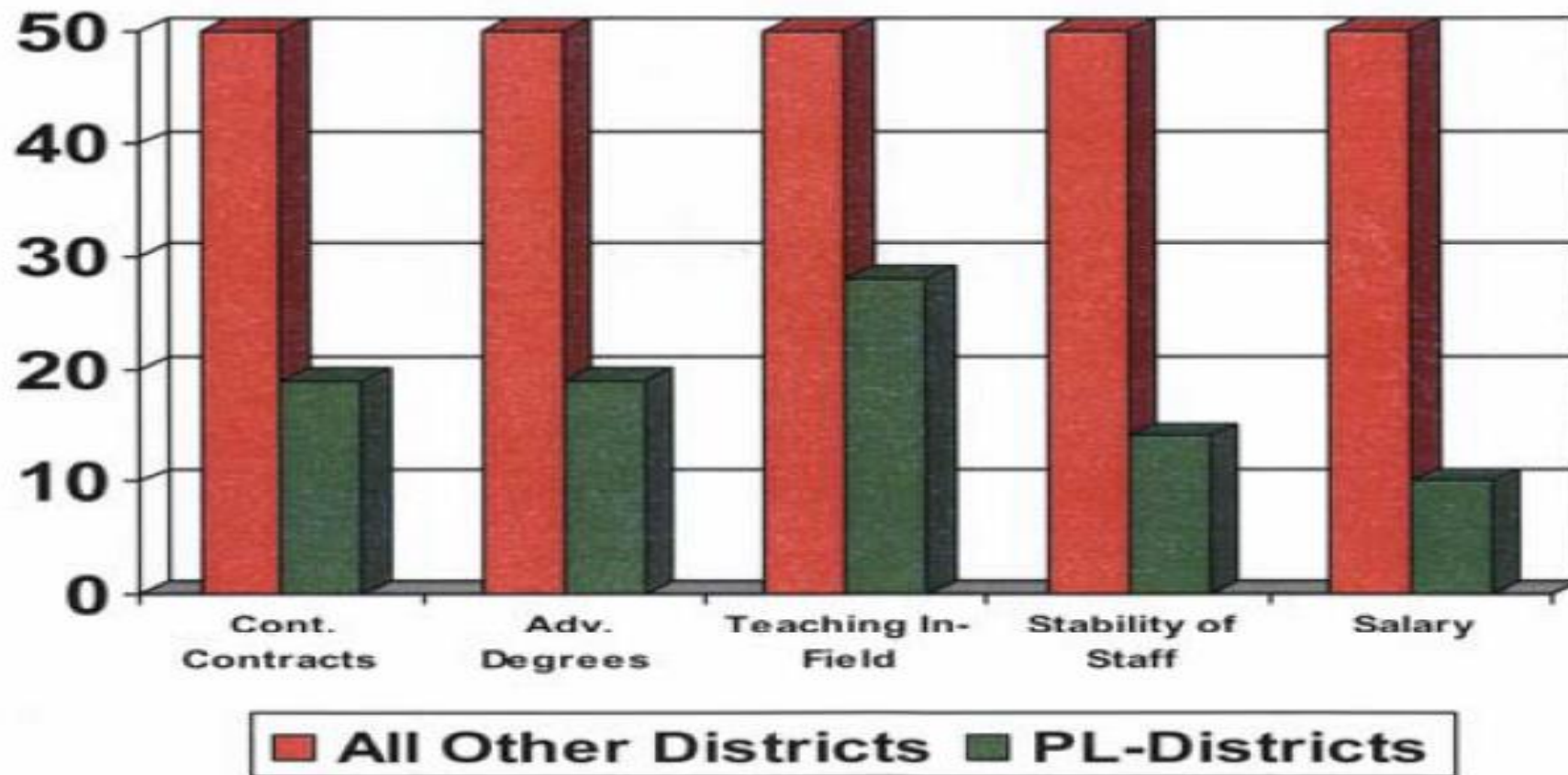


**Substandard Certificates and Out-of-Field Permits**

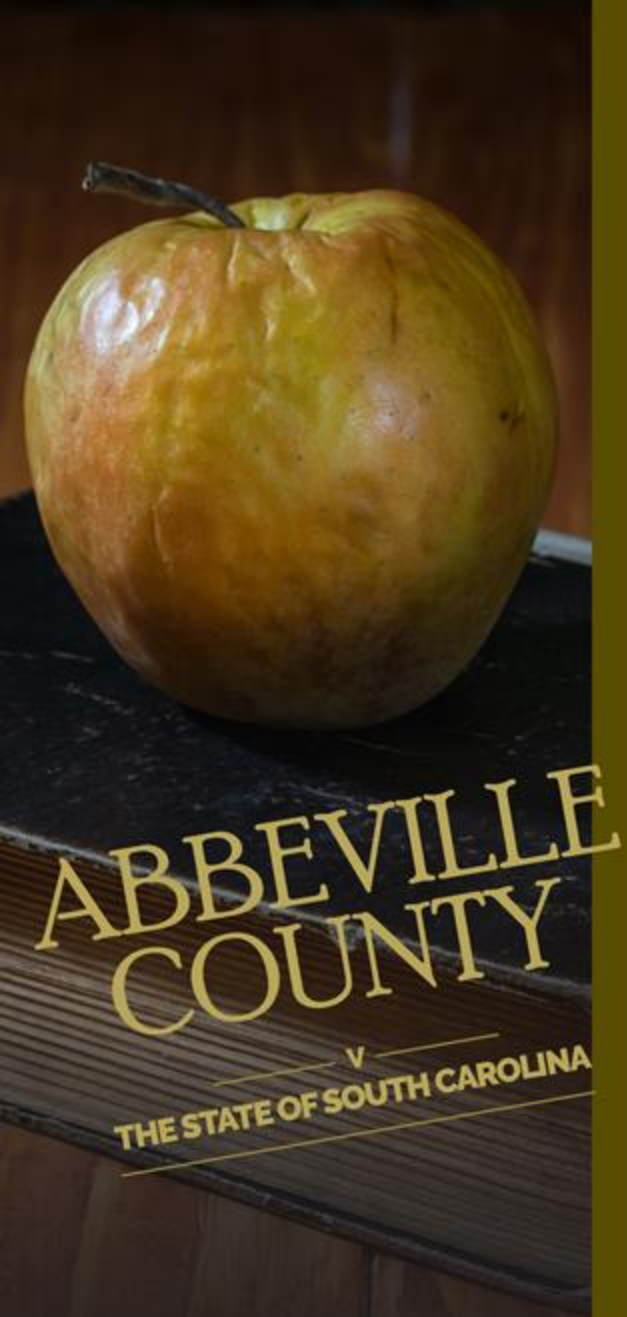


**Three Year Average Teacher Turnover Rate**

## Elementary School Teachers by Percentile







# Facilities





Business & Community 2006-2007

Conference Room

AFMS

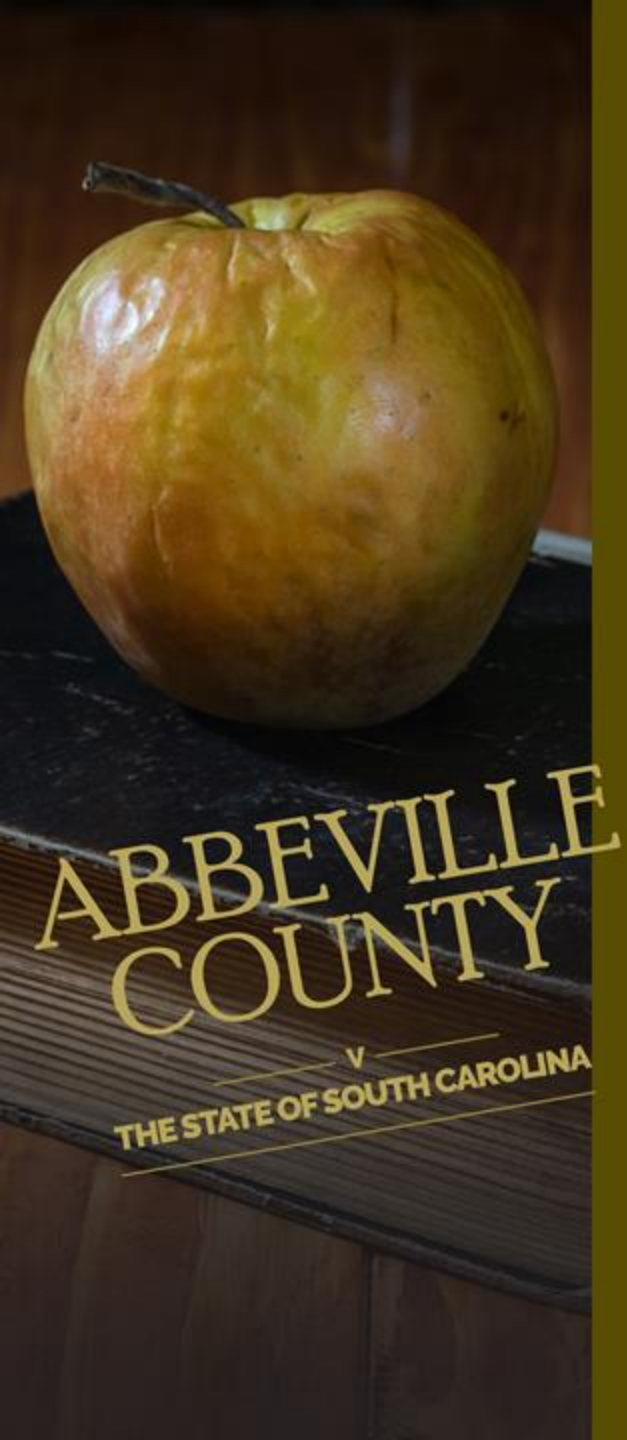




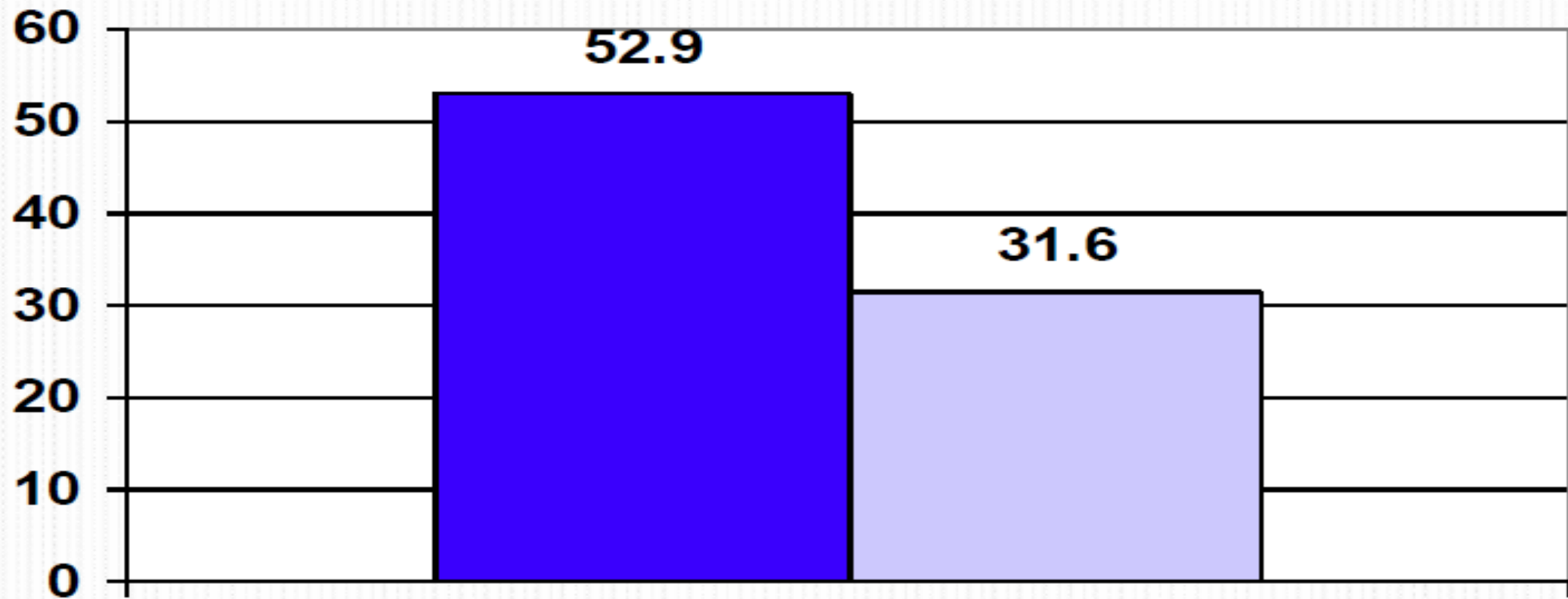




# Test Results



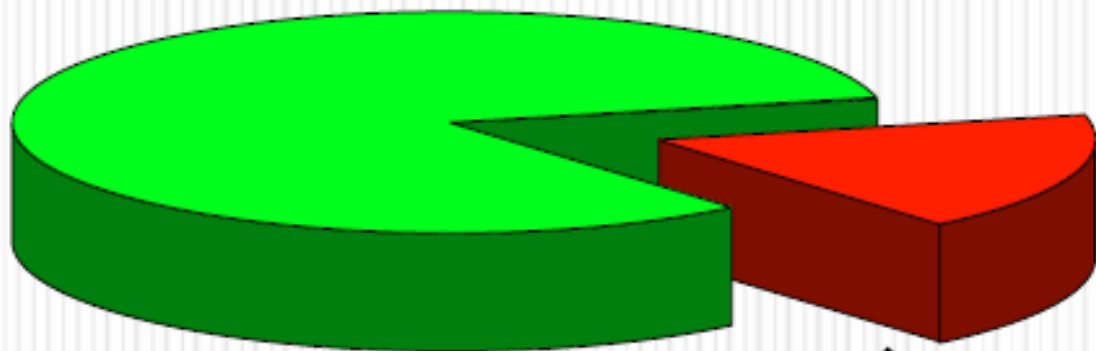
**■ Plaintiff   ■ Non-Plaintiff**



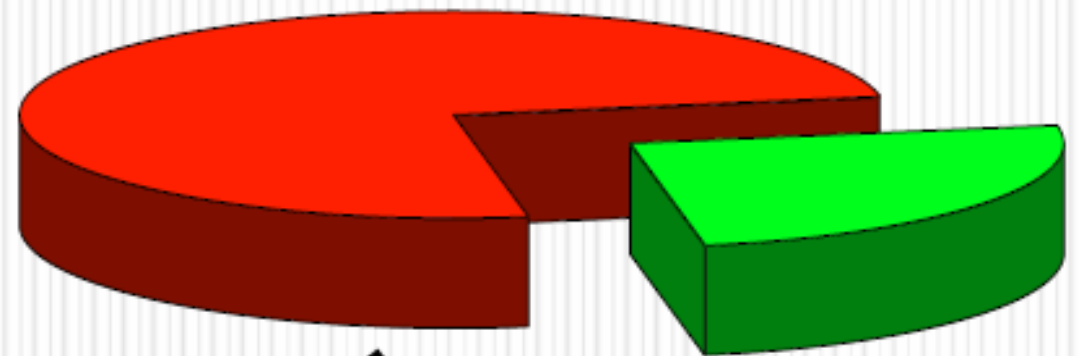
**% Students Scoring Below Basic**



■ Unsatisfactory and Below Average Schools

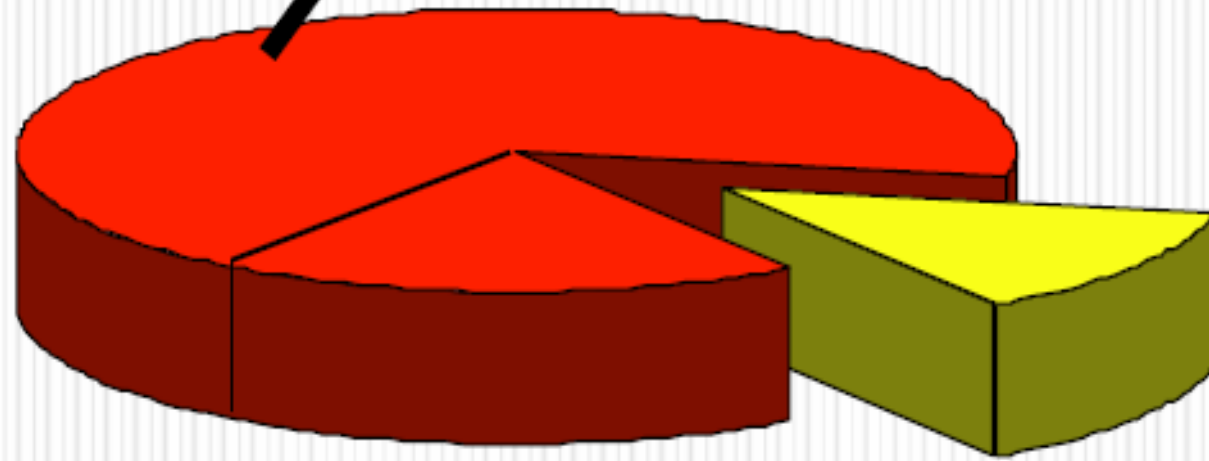


State  
17.4%



Plaintiff  
Districts  
75%

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



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

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

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

**Allendale**  
**60%**

**Dillon 2**  
**43%**

**Florence 4**  
**66%**

**Hampton 2**  
**54%**

**Jasper**  
**61%**

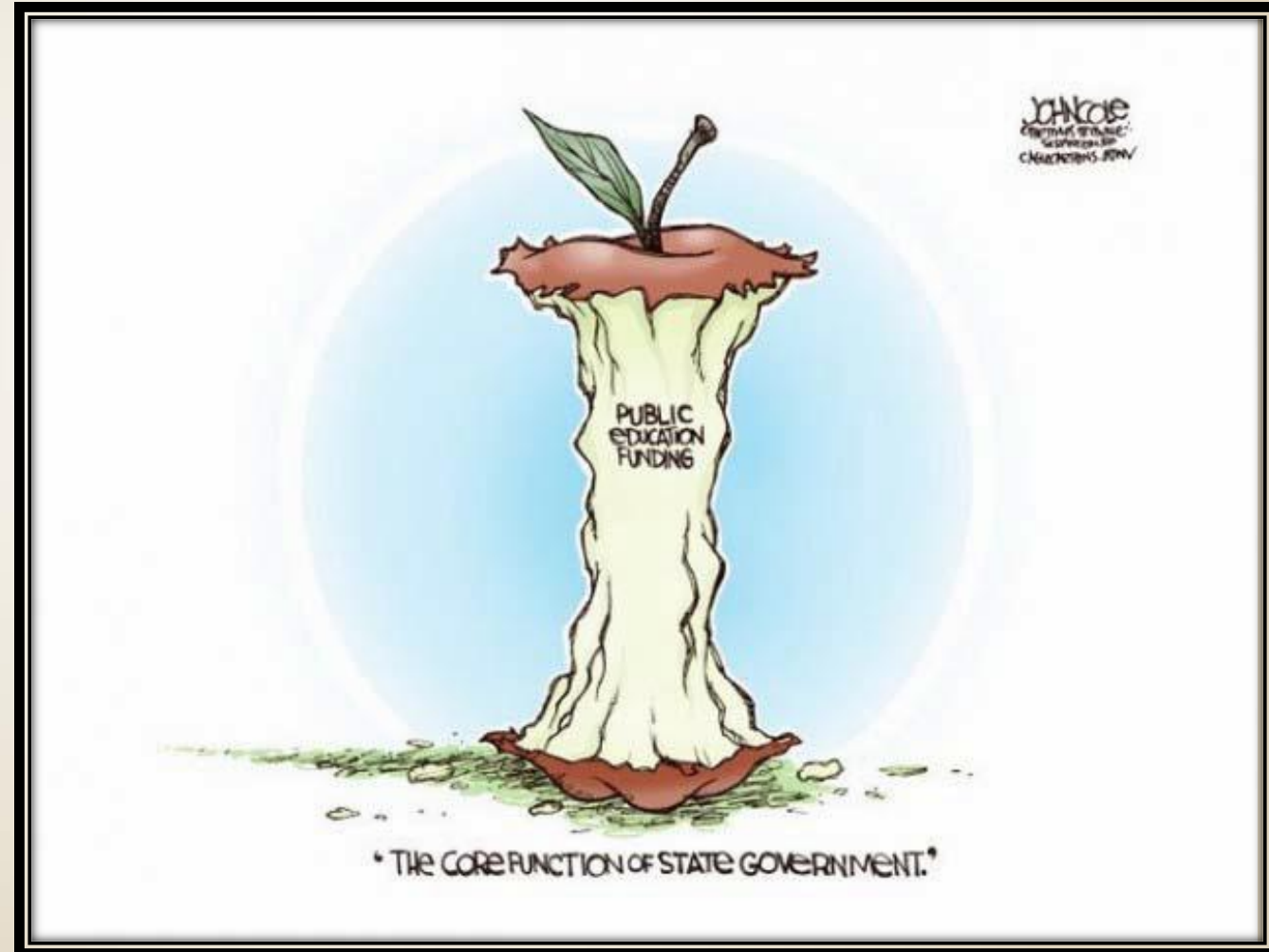
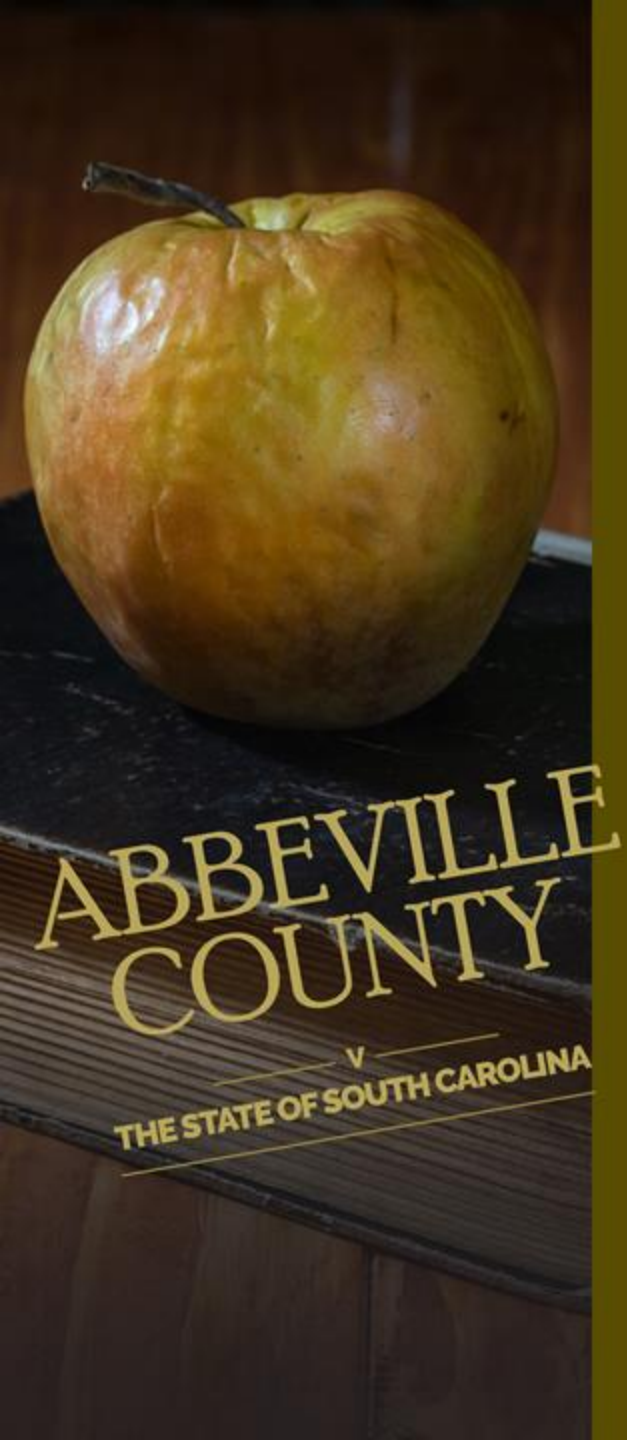
**Lee**  
**67%**

**Marion 3**  
**44%**

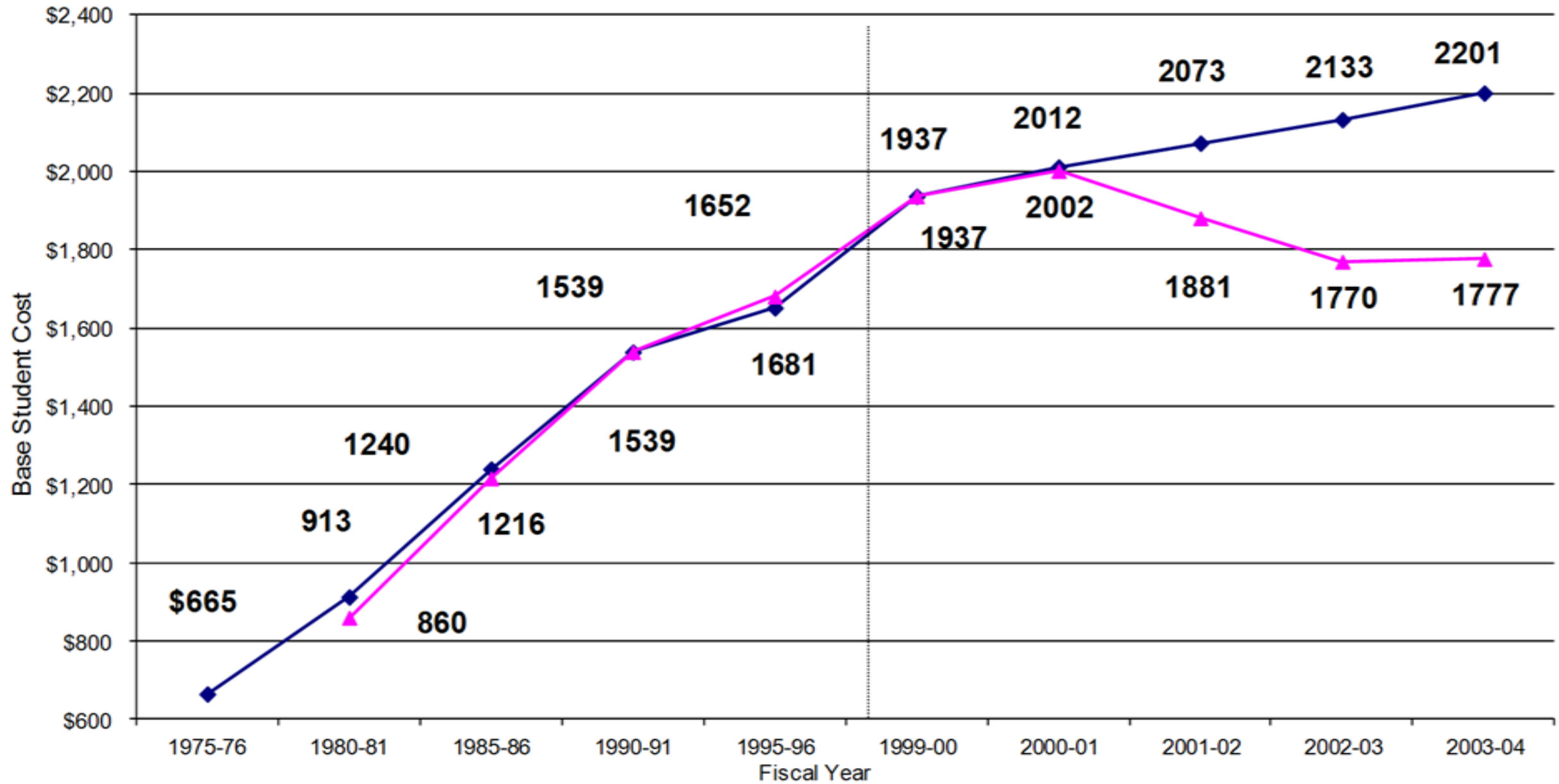
**Marion 4**  
**44%**

**Orangeburg 3**  
**48%**

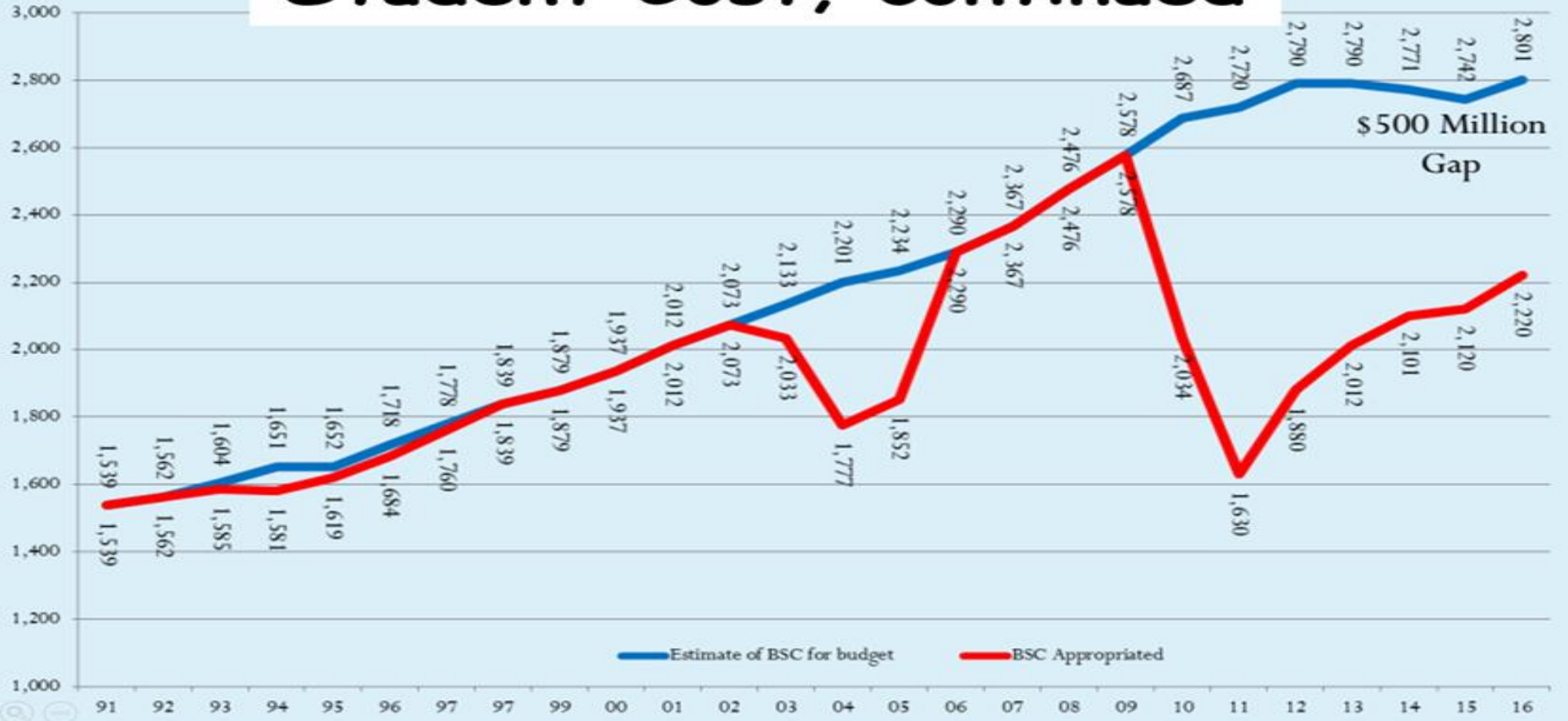
# Funding



# History of Base Student Cost



# History of the Base Student Cost, continued



# 1974 Funding Scheme

Does not account for...

- Transportation (salaries or replacement costs)
- Facilities
- Fringe Benefits
- Four Additional Carnegie Units
- Technology
- Other unfunded mandates
- EIA penny being used for basics (not improvements or innovation)

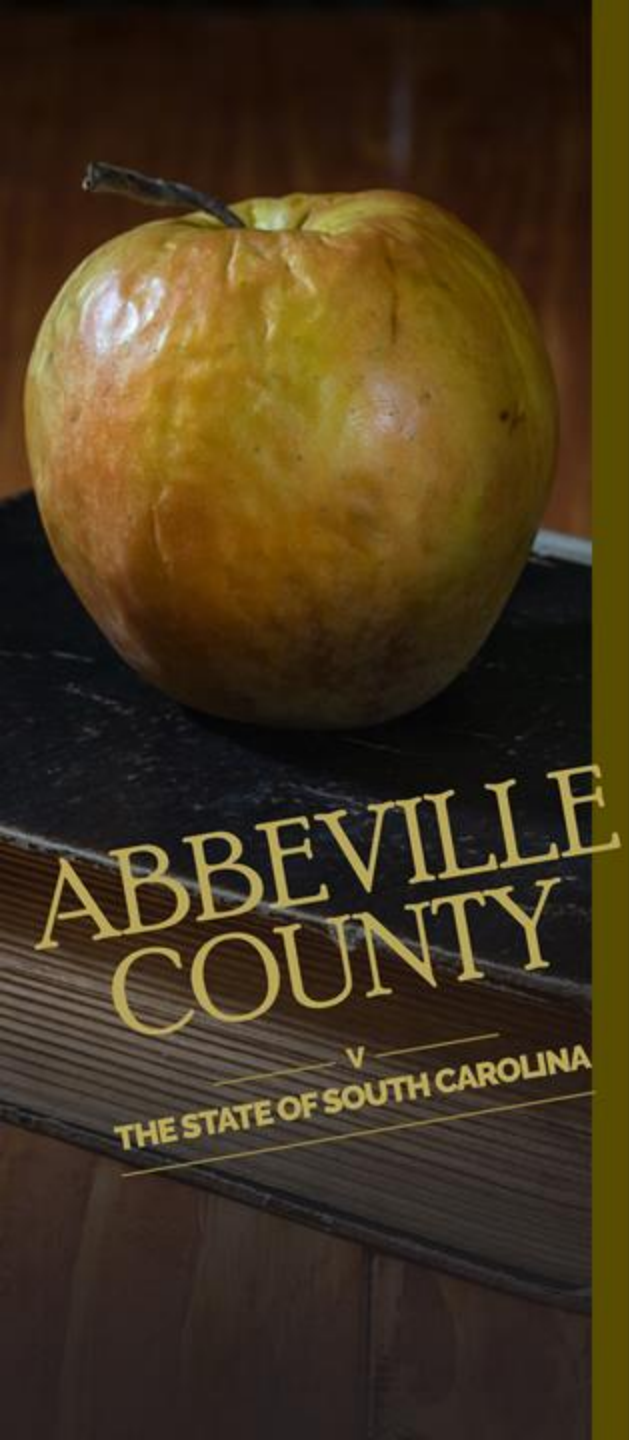


ABBEVILLE  
COUNTY

THE STATE OF SOUTH CAROLINA

# Defendant's Case

- Court has no role in education
- Education is a legislative prerogative
- State required to provide only the bare minimum
- Poverty is the root cause of low academic achievement





GOING TO BE  
A PRIORITY  
SOMETIME  
IN  
EDUCATION IS THE FUTURE  
^



# Trial Court Decision, 2005

- ❑ All the pieces of the education system ARE minimally adequate
- ❑ The Defendants/State has NOT provided the children in the Plaintiff districts the opportunity to acquire a minimally adequate education
- ❑ **Problem:** The lack of early childhood interventions designed to address the impact of poverty

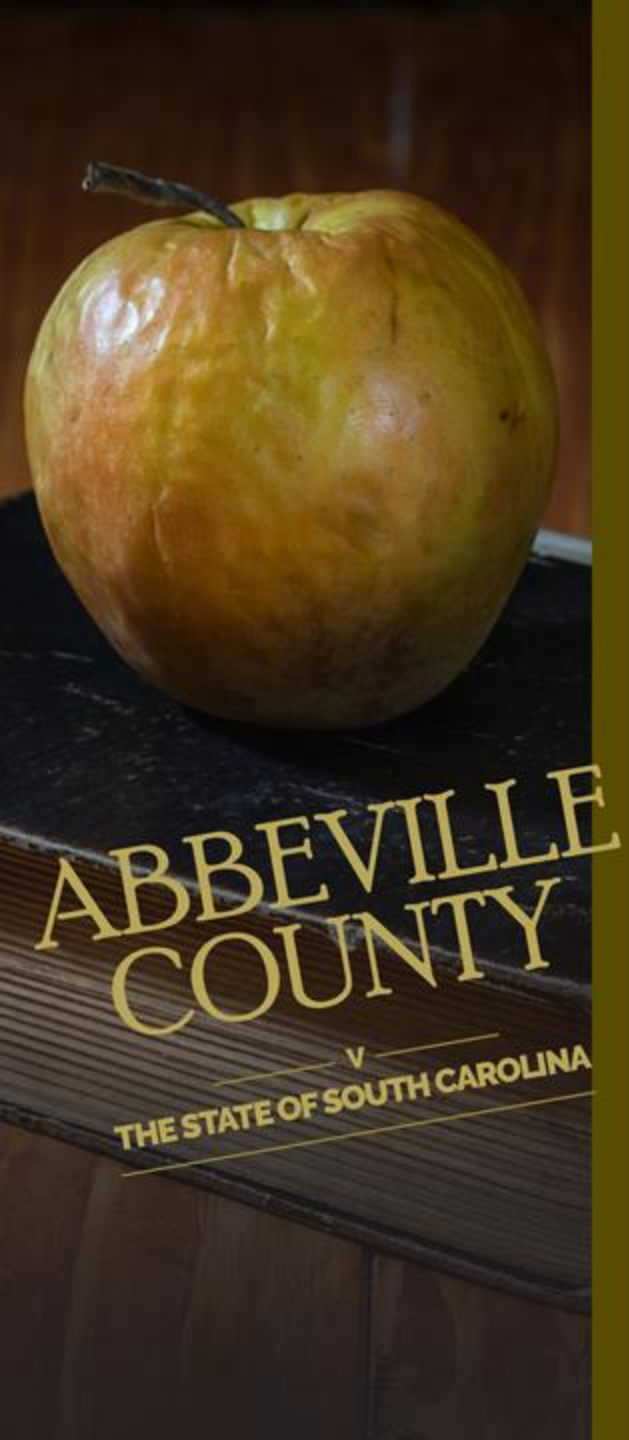


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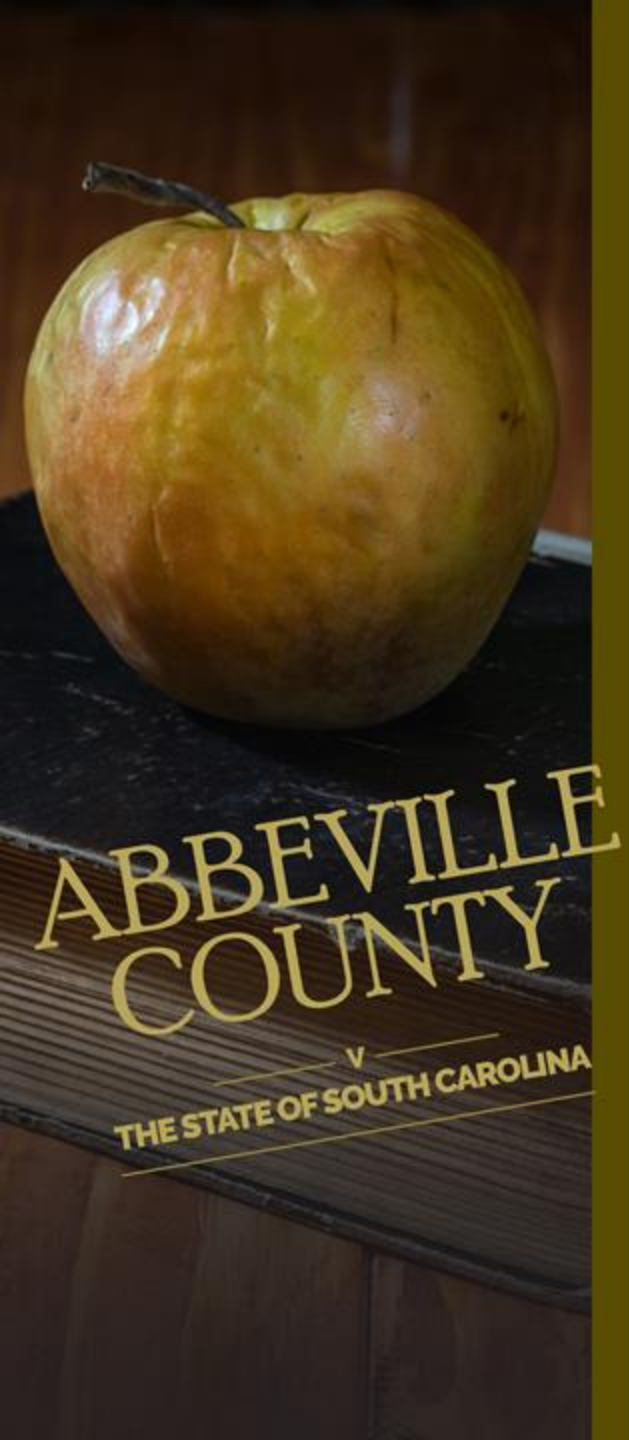
# Second Appeal

- Both parties appealed the ruling of the trial court
- Oral arguments: June 25, 2008

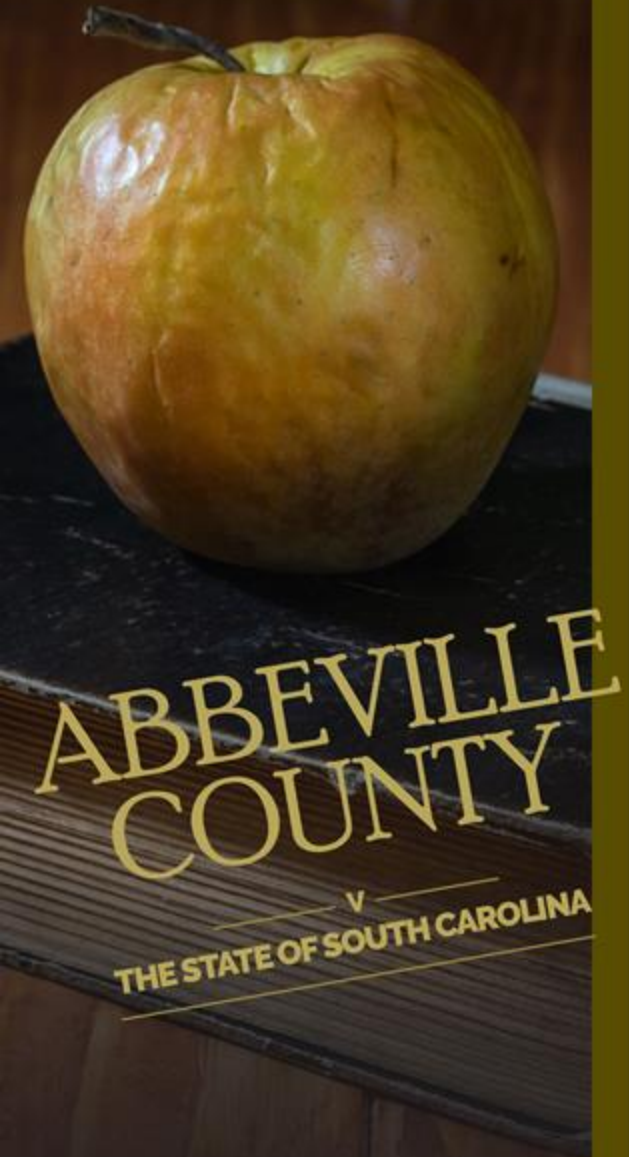


# As Time Passes: 2008 - 2014

- ❑ The General Assembly enacted the Child Development Education Pilot Program via proviso for 4-year-old children in the Plaintiff districts for the 2006-2007 fiscal year
- ❑ In 2012, second oral argument specifically addressing statutory enactments regarding public school finance and their impact on the Plaintiff districts



# As Time Passes: 2008 - 2014



# Supreme Court Decision

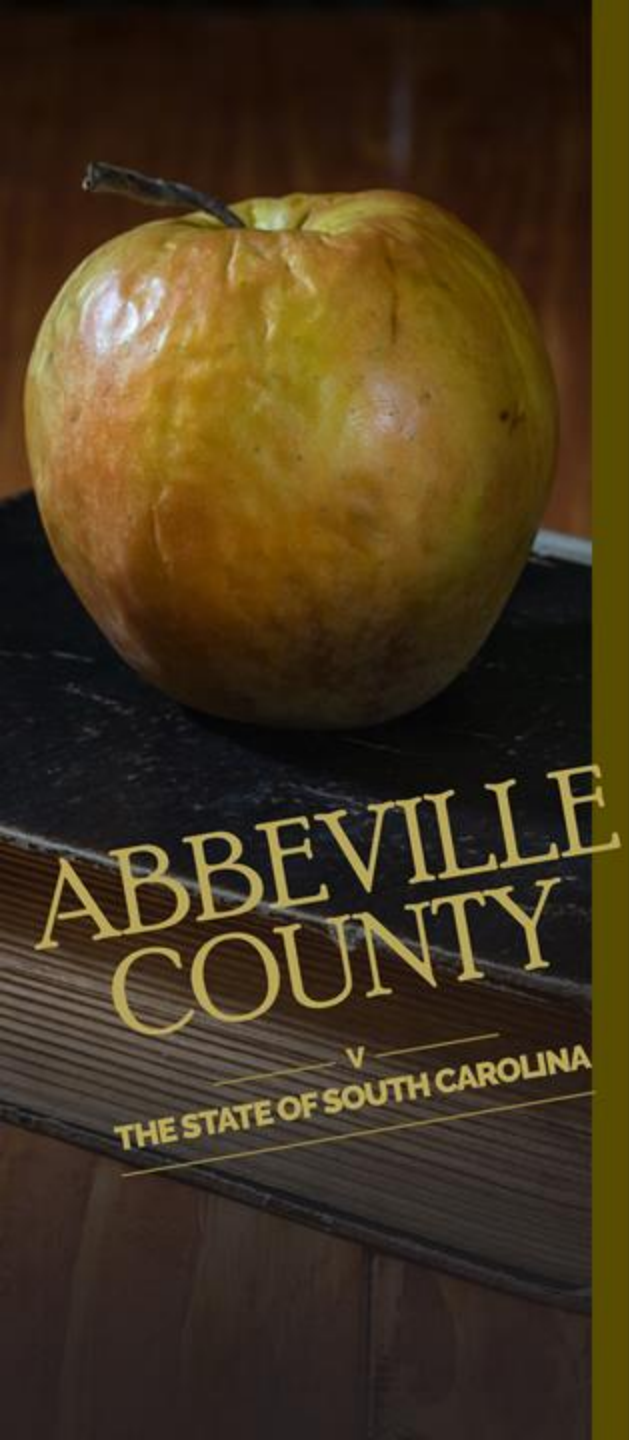
## November 12, 2014

### ❑ Defendant's argument:

- Education is solely the legislature's prerogative

### ❑ Court's finding:

- "Interpretation of the law – and evaluation of the government's acts pursuant to that law – are critical and necessary functions. As such, we find that judicial intervention is both appropriate and necessary in this instance."



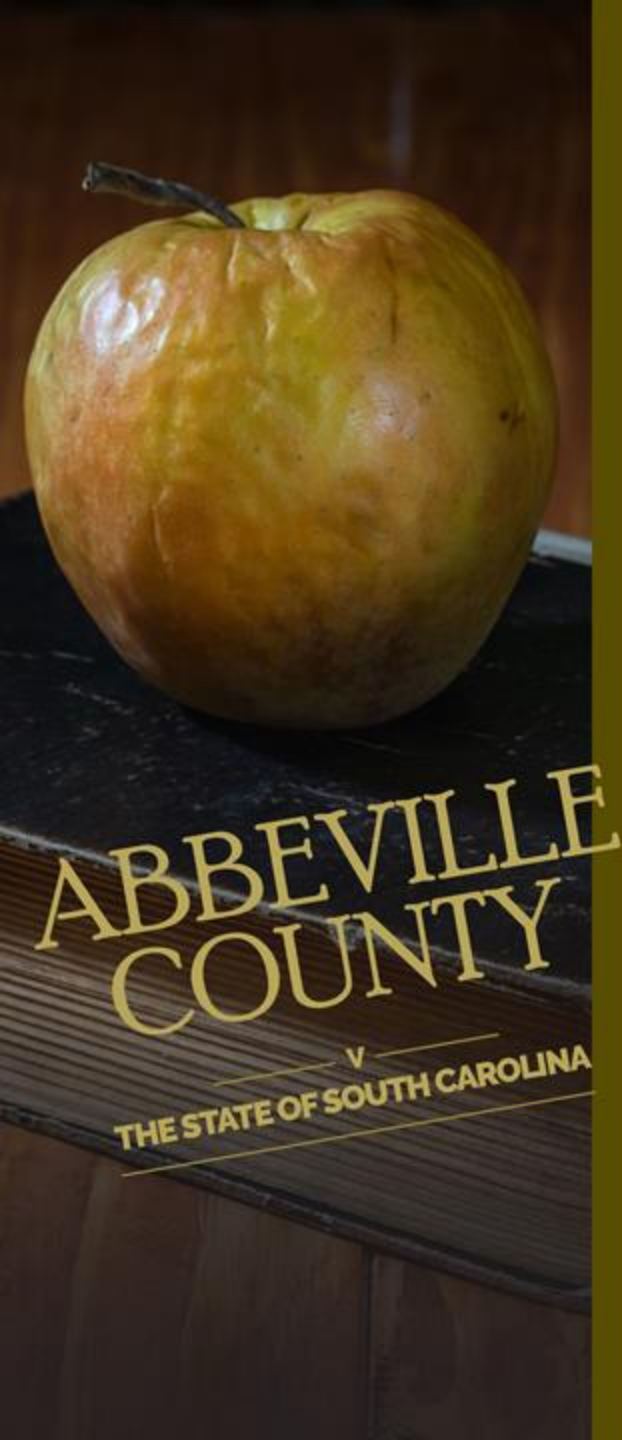
# Supreme Court Decision November 12, 2014

## ❑ Defendant's argument:

- Low test scores do not indicate the absence of an opportunity to learn

## ❑ Court's finding:

- “Low student achievement is a key indicator of whether the opportunity for a minimally adequate education is available.”



# Supreme Court Decision November 12, 2014

## ❑ Defendant's argument:

- Poverty is the reason children do not learn, not schools (“poor kids cannot learn”)

## ❑ Court's finding:

- Poverty is a critical issue. However, schools DO matter. “A focus on poverty within the Plaintiff districts likely would yield higher dividends than a focus on perhaps any other variable.”



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# Supreme Court Decision

## November 12, 2014

Other issues noted by the Court as having negative impacts on district's ability to deliver educational opportunities:

- Teacher quality – “a corps of unprepared teachers”
- Inadequate transportation
- Possible adverse impact of local delegation
- Small district sizes



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# Supreme Court Decision November 12, 2014

**The court found a clear disconnect between:**

- **Inputs and outputs**
- **Spending and results**
- **Intentions and performance**



**ABBEVILLE  
COUNTY**

**THE STATE OF SOUTH CAROLINA**

# Supreme Court Decision November 12, 2014

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



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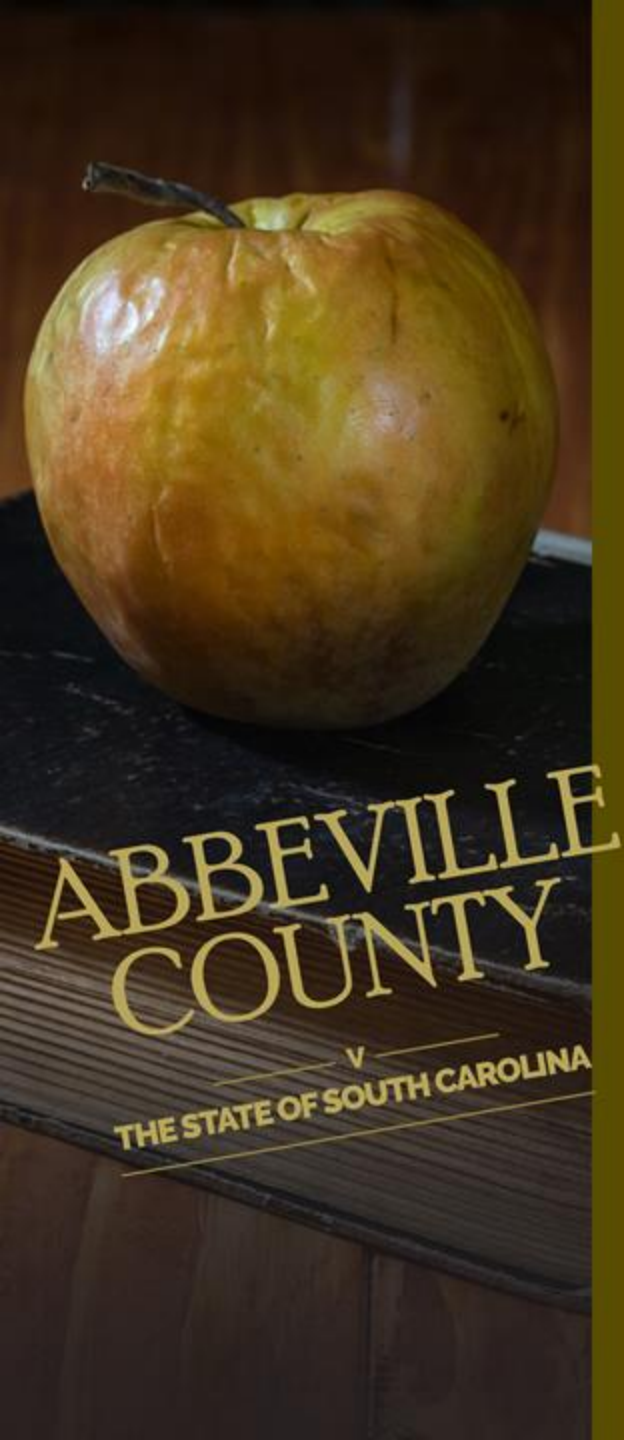
# Supreme Court Decision

## November 12, 2014

- ❑ The Court refused to provide a specific solution as the General Assembly is the primary institution to make policy choices
- ❑ The Court referred the General Assembly to cases in New York and Wyoming
  - In each case, the legislature was ordered to determine what was required to provide a constitutionally adequate education, determine the costs of those requirements, and fund those requirements

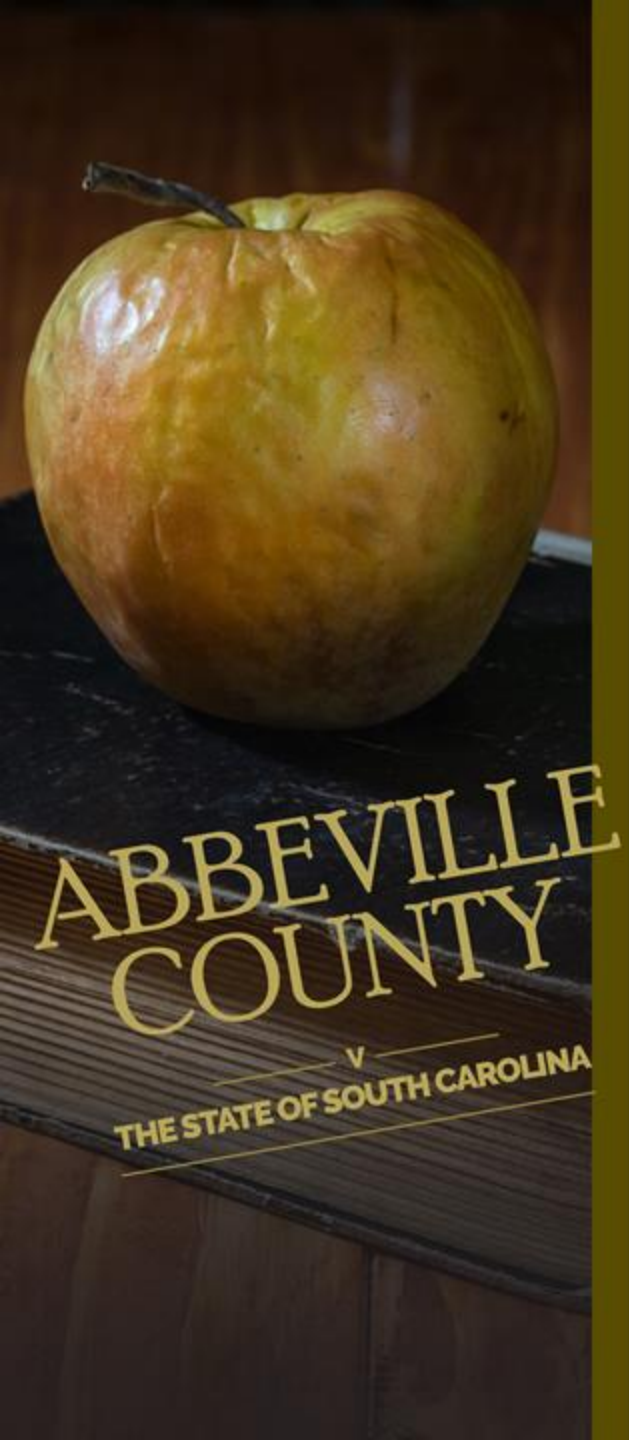
\*Campaign for Fiscal Equity v. State (CFE II), 801 N.E. 2d 326 (N.Y. 2003)

\*Campbell County School District v. State, 907 P.2d 1238 (Wyo. 1995)



# Remedy

- The Court retained jurisdiction
- The parties must work together toward a solution
- A timeline for reappearances and specific, planned remedial measures must be submitted



# Where Are We Now?



ABBEVILLE  
COUNTY

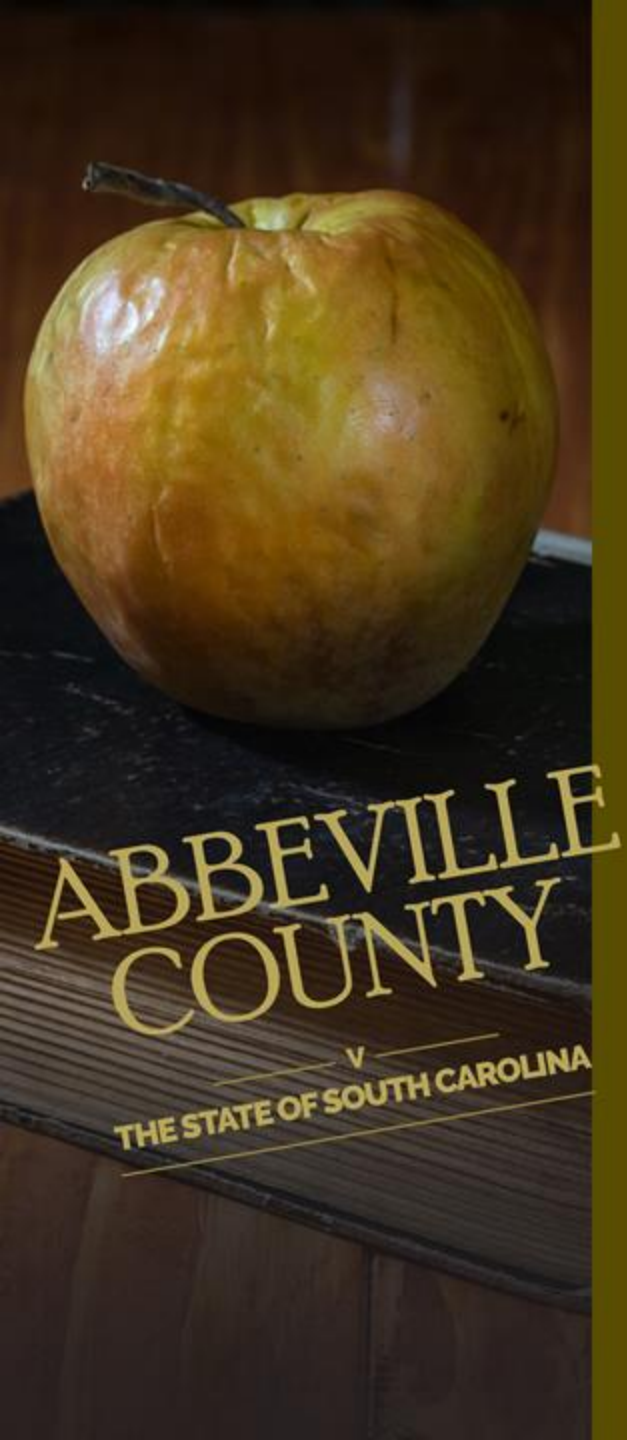
THE STATE OF SOUTH CAROLINA

# Committees

- Plaintiff's Strategy Group
- SC House Education Policy Review and Reform Task Force
- Senate Finance Special Subcommittee for Response to the Abbeville Case



ABBEVILLE  
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- The Plaintiff districts filed a motion for a timeline and the Supreme Court granted the motion**
- The General Assembly filed a motion to be released from the Court's jurisdiction which was denied**
- The General Assembly has been held in contempt for failure to comply with the Court's orders to demonstrate sufficient annual progress**
- The General Assembly has proposed numerous bills and passed some. However, none of them have addressed the root problem which is the funding provisions**



A bright orange starburst light is centered in the upper half of the image, radiating outwards. The background is a dark, starry space filled with small white dust particles and faint light trails. The text is positioned in the lower half of the image.

***THE SAGA  
CONTINUES***