

**What Does It Mean? Abbeville County School District, et al.  
v. The State of South Carolina, et al. Ruling**

I stepped off the bus onto a gravel road next to a low-cropped field whose grasses had turned golden and fragile in the South Carolina heat. Pollen and dust kicked up behind the bus as it disappeared over the earth's arc, and I sneezed. I look around like a lost child. However, I was actually in one of South Carolina's urban areas, Columbia. Accustomed to riding either Greyhound or metro buses everywhere I went, within big northern cities as well as Southern rural areas, travel to me had become a mile-by-mile study of the American condition. My mind had become a scrapbook; perhaps, an almanac of the effects of American history. My mental map told me South Carolina, particularly, and the South, generally, did not have the type of robust middle class that is so obvious in many northern states, where the cities stretch out to well-manicured suburbs. People either seemed to either live in old, stately mansions, in ranch houses with indoor plumbing, or in wooden boxes that have outhouses. The type and locations of South Carolina's housing is important for the same reasons it is in many states: education. Increasingly, property taxes have become a major means of funding education within the state.<sup>1</sup> In 2003, arguments were heard in the South Carolina Circuit Court about the "minimally adequate education" and "educational opportunity" that the South Carolina Supreme Court had ruled that all South Carolina students are entitled to receive.

The outcome of Abbeville County School District, et al. v. The State of South Carolina, et al. was the most important ruling affecting education in South Carolina since *Brown v. the Topeka Board of Education*.<sup>2</sup> In the April 1999 decision, the South Carolina Supreme Court ruled that the education clause of the South Carolina Constitution mandates the state's General Assembly to provide the opportunity for each child in the state to receive a "minimally adequate" education. They defined a "minimally adequate" education as the opportunity for each child to learn to (1) read, write, and speak English, (2) have academic and vocation skills, and (3) to have knowledge

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<sup>1</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

<sup>2</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/about-adequate-education.cfm>

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of mathematics and physical science; economic, social, and political systems, and of history and governmental processes.<sup>3</sup>

However, poorer school districts in the state sued, asking the Circuit Court to consider demographics—the fact that impoverished students are at risk for educational failure, and to consider whether the State has designed support programs for at risk students and whether the State has provided at risk children with the resources needed, or opportunity. The plaintiffs asked the Court to determine, What is a “minimally adequate” education? What constitutes “opportunity”? How the State is to assess whether the opportunity to receive a minimally adequate education has been received?<sup>4</sup> The plaintiffs also point out that the State has never conducted its own study on the costs of implementing its own school legislation, and has ignored all independent studies in its funding of the State’s schools. Conversely, the State asked the Court to find that since 40% of students in the affected districts were meeting the State’s assessments for advancing to the next grade level that the State was meeting its responsibility to provide the opportunity for students to receive a minimal education, and that the students who do not meet the State’s assessment minimums are not meeting them because they do not choose to.<sup>5</sup>

Bobby Stepps, the State’s attorney, argued that the suing districts are not satisfied with equal funding among districts. They want more funding than wealthier districts receive. To Mr. Stepps, poverty is the real culprit, and he says you can’t legislate equal income.<sup>6</sup> Carl Epps, the attorney for the plaintiffs, argued that “overfunding” just makes up for years of unequal funding.<sup>7</sup> Epps also pointed out that in 1960 the State provided 70.9% of the funding for education. The level in 2002 was 41.89%. The home values in the districts he represents range from one-fifth to one-half

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<sup>3</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/>

<sup>4</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

<sup>5</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

<sup>6</sup> The Post and Courier. Charleston.net. State School Funding Under Fire. Seanna Cox. Sept. 21, 2003. [http://www.charleston.net/stories/092103/sta\\_21edutrial.shtml](http://www.charleston.net/stories/092103/sta_21edutrial.shtml)

<sup>7</sup> The State.com. Is 'minimally adequate' education good enough? July 27, 2003. Bill Robinson. <http://www.thestate.com/mld/thestate/living/education/6394882.htm>

the value of the State average.<sup>8</sup> Further, Epps point out the Education Finance Act (EFA) of 1977 guarantees an educational program to each student based on need—not geographic location within the State. When the EFA was mandated, the State paid almost all fringe benefits and students transportation costs.<sup>9</sup> Gradually, paying those costs has shifted to the counties, and Epps points out that the State has only fully funded the EFA for eight of the twenty-six years it has existed. Because of the Education Finance Act of 1977, districts with more taxpaying ability, such as Charleston County, get less money than those that lack the businesses and high-dollar property needed to raise money through local taxes. But the EFA is the only education funding formula that takes wealth into consideration. The EFA formula accounts for about 52 percent of the funds schools receive.<sup>10</sup> The plaintiff’s argued that their districts lacked the funds to implement many remedial programs. Children in those districts need more time-on-task, highly qualified teachers, remedial programs, and after-school and summer school. They require more time in the classroom than other students.

The Educational Accountability Act (EAA) of South Carolina mandates that schools develop individual educational plans for individual students, retain them in the grades they’re in, if necessary, and provide remedial programs.<sup>11</sup> Districts with few at risk students spend a much smaller percentage of their budgets on such programs. Most of the plaintiff districts have hired “teacher specialists”, who are master teachers that often work one-on-one with students after school and on weekends.<sup>12</sup> The scores in some of the schools in the districts are inching up.

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<sup>8</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

<sup>9</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

<sup>10</sup> Paying for Inequality: The Costs of an Inherently Disparate System of Funding Public Schools in South Carolina. Amanda Presley. <http://216.109.117.135/search/cache?p=south+carolina+supreme+court+minimal+education&ei=UTF-8&cop=mss&u=www.free-times.com/News%26comm/Special%2520Stories/inequality100301.html&w=south+carolina+supreme+court+minimal+education&d=7120682233&icp=1&.intl=us>

<sup>11</sup> Adequacy in Education. Nelson Mullins Riley & Scarborough, L.L.P. 2004. Report Prepared for public docket. <http://www.sc-school-case.com/education-trial-pdf/56.pdf>

However, many educators, such a teacher specialist, Margie Reed, are wondering about the long term affects of the Abbeville County School District, et al. v. The State of South Carolina, et al. ruling.<sup>13</sup> The “No Child Left Behind Reform Act” mandated by the federal government demands that every child does school work at a "proficient" level by the 2013-14 school year.<sup>14</sup> To many teachers in South Carolina there appears to be a gap between “minimally adequate” and “proficient”. Exactly what that gap comprises is what the lawsuit seeks to answer. South Carolina teachers in the poorer districts have pointed out that technology, for instance, is neglected in the “minimally adequate” ruling. Can those districts afford it? Instructional technology, and keeping up with technological changes, is increasingly eating up a large proportion of school districts’ discretionary funds. It is estimated that in 1998 instructional technology spending for K-12 was \$7.2 billion or an average of \$113.00 per child per school year.<sup>15</sup> Research also indicates that instructional technology is more expensive for poorer districts to implement than in wealthier ones. Most technology expenditures so far have been directed at infrastructure. Wi-fi, computer networks... require modern wiring, air conditioning, and security (Pelavin 1997). Moreover, the schools with the greatest need are the ones whose students are also least likely to have access to computers and the Internet at home.

Abbeville County School District, et al. v. The State of South Carolina, et al. is not yet old enough for South Carolina and its districts to know its long-term effects. Some arguments appear to just be commonsense, such as How does technological training fit with the Abbeville ruling? Others are legal. The South Carolina Supreme Court, State Legislature, and the US Government have mandated educational outcomes and/or opportunities. However, “opportunity”, “outcomes”, and “minimal” are not operational definitions. What does it mean to have “opportunity”? How do we assess it? Since tests scores are not improving for *all* who have assess to remediation programs, it seems reasonable to assert that money will not solve all of South Carolina’s

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<sup>12</sup> The State.com. Is 'minimally adequate' education good enough? July 27, 2003. Bill Robinson. <http://www.thestate.com/mld/thestate/living/education/6394882.htm>

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<sup>14</sup> The State.com. Is 'minimally adequate' education good enough? July 27, 2003. Bill Robinson. <http://www.thestate.com/mld/thestate/living/education/6394882.htm>

<sup>15</sup> Pelavin Research Institute (1997). "Investing in School Technology: Strategies to Meet the Funding Challenge." Report prepared for the U.S. Department of Education. Available on-line at <http://www.ed.gov/pubs/techinvest> . [http://www.crito.uci.edu/tlc/findings/report\\_8/startpage.htm](http://www.crito.uci.edu/tlc/findings/report_8/startpage.htm)

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educational problems. However, what level of funding is needed varies by assessment scores and is difficult to determine. Obviously, if scores are low, some type of remediation is necessary, and remediation, because it is labor intensive, requires money. But where is the point of diminishing returns?

I imagine rural South Carolina children walking dusty roads, similar to the kind I walked near Columbia, as they head to school, and I wonder, What do they think about all of this? I think about booking Greyhound for a one-year crisscross through the US—a sociological study. Armed with pencil and paper, and consent forms, I'd asked students, parents, and school dropouts about their education and what they think they need or needed. Perhaps I'd find that Bobby Stepps is right: Poverty is so debilitating in the US that it eats away at opportunity. Perhaps not. By giving voice to the consumers of education, perhaps my book would add a perspective that is missing from effecting a solution that has legitimacy in the eyes of the school children that it affects. For now, though, a solution to South Carolina's--and most states'--educational woes is in the hands of a Circuit Court.