



Draft Blueprint for Constitutional Compliance:
Moore v. State

Introduction

Judge Gleason's three detailed orders have made clear that children in some of Alaska's schools are not being provided with a constitutionally adequate education. The Court has also made clear that the Alaska Constitution requires the State to provide districts and schools with the assistance and support necessary to provide each child with access to an adequate education.

In its February 2009 Order, the Court found "strong and persuasive evidence" that DEED's response to the crisis in Alaska's chronically low performing schools and districts has ignored both known causes of poor educational performance and known educational solutions to these problems. A full year later, the Court found that DEED is still failing to provide struggling schools and districts with a constitutionally adequate level of support and assistance.

The Court's latest order calls for the State to "promptly" remedy the inadequacies identified and detailed in the February 2009 and March 2010 Orders. The Court also emphasizes that, fundamentally, the constitutional obligation here is an obligation that rests with the Legislature itself. Accordingly, and given the Department's repeated failure to respond to the Court's concerns, the Legislature must take action to remedy the State's significant and ongoing constitutional violations.

Consistent with the testimony and evidence presented to the Court, the Court's findings to date, and widely-accepted research on educational reform and successful interventions for at-risk students, such a response should, at a minimum, address the following:

- Providing targeted educational resources to low performing schools and districts;
- Addressing teacher quality – including recruitment, retention and professional development – in low performing schools and districts;
- Access to high quality pre-kindergarten with parental involvement;
- Ensuring curriculum alignment – including adequate materials, research-based instructional strategies and professional development;
- Building DEED'S capacity to adequately assist and support struggling schools and districts;
- Ensuring community participation and engagement in education reform efforts; and
- Providing meaningful remediation efforts for students in intervention districts and chronically low performing schools who have been unable to pass the HSGQE.



Components for Constitutional Compliance

1) Provision of Targeted Educational Resources to Schools/Districts

Among the “array of promising, research-backed remedial measures to address the educational needs of students in these districts,” the Court’s February 2009 Order identified the provision of “targeted educational resources” to intervention districts. [2/09 Order, pp. 53-54]

Considerable evidence has been presented to the Court on specific, targeted resources necessary for chronically low performing schools and districts to meet the unique needs of students in those districts. These could include access to resources for specialized professional development, specialized curriculum for particular high-needs students (for example, students whose first language is not English), access to experienced and knowledgeable teaching mentors, content specialists, language development specialists, or social services. Additionally, the availability of targeted educational resources could assist intervention districts and low performing schools in ensuring that students in those districts receive the constitutionally required “meaningful exposure” to the areas covered by the State’s content standards.

The State’s efforts at constitutional compliance should include a mechanism to make targeted educational resources available to intervention districts and low performing schools. Because instructional methodology, community engagement and adequate social services have all been repeatedly identified as key to improving student achievement of at-risk students, plaintiffs recommend and support a formula-based program to provide schools and/or districts with targeted resources in these areas.

2) Addressing Teacher Quality – Including Recruitment, Professional Development, and Retention – in Struggling Schools and Districts

In order to meet its constitutional obligation, the State needs to provide sustained, high quality, relevant professional development to teachers in high needs schools and districts. Current teacher training programs do not adequately prepare teachers for the instructional challenges of teaching in remote areas of Alaska or in chronically low performing schools. Nor are today’s teachers sufficiently prepared to implement intensive intervention strategies without significant additional training. If instructionally-focused interventions are to be successful in these districts, the State must provide teachers with the intensive training and ongoing professional development necessary to participate meaningfully in those interventions.

The importance of strong teachers is particularly vital in chronically struggling schools and districts, and for at-risk students. During the 2008 remedy phase hearing, education reform expert Dr. Linda Darling-Hammond described research showing that the combined effect of teacher characteristics, such as their qualifications, certifications and training, “more than offset the effects of race and socioeconomic status on students’ achievement at the school level.” This research shows that teacher qualifications and training “can compensate for” these other factors outside of schools’ control and can “provide the instructional supports that can help schools be much more powerful in their effects on student achievement.” [10/9/08 hearing testimony, p. 71]

In its February 2009 Order, the Court noted that DEED's interventions to-date had failed to "address teaching capacity due to high turnover, teacher inexperience and unique educational challenges in Alaska's chronically underperforming schools." [2/09 Order, p. 35] The Court described extensive evidence presented on the need to address these issues. [2/09 Order, pp. 35-36] Among other issues, the Court described high rates of teacher turnover in intervention districts, as well as a lack of an existing knowledge base amongst most teachers as to how to address the specific educational needs to students in these districts. [2/09 Order, pp. 35-39] The Court also explained the ongoing problem of attempting to build teacher capacity when such a large portion of a district's teaching staff turns over each year. [2/09 Order, p. 49-40]

In its March 2010 Order, the Court repeatedly notes the need for the State's interventions to include professional development to enable the teaching staff in intervention districts to effectively incorporate and implement the interventions. [See 3/10 Order, p. 7 (State must provide districts "with adequate professional training so that that curriculum can effectively be used in the district's classrooms.")]

As the Court described in the February 2009 Order, witnesses from multiple districts and the State testified about the need for "experienced master teachers and specialists" to provide ongoing, in depth training to teachers in struggling schools. [2/09 Order, pp. 37-40] And the Court quoted both former Commissioner Roger Sampson and current Commissioner Larry LeDoux describing the critical importance of "intensive, well-targeted professional development for teachers." [2/09 Order, pp. 37-38]

Accordingly, the State's plan for constitutional compliance must include a plan to work with intervention districts to provide significant, in-depth professional development, including intensive hands-on support from experienced master teachers, to teachers in those districts.

Also critical to addressing the teacher quality issues raised by the Court is the issue of recruitment and retention of high quality teachers. The Court addressed these issues in depth in its February 2009 Order, finding that DEED had "made no effort to address turnover problems in the intervention districts or to address the need for the considerable additional professional development necessitated by those turnover problems." [2/09 Order, pp. 39, 58] Despite having expressly ordered the State to address these issues, the Court in March 2010 found that "the State has failed to adequately address teacher retention and capacity." [3/10 Order, pp. 12-13]

Given the unquestioned effect of instructional quality on student success, and the significant and pervasive achievement gaps, particularly in remote areas of the State, the State needs to create "meaningful incentives" to allow rural schools to recruit and retain the highest quality teachers. [See 2/09 Order, p. 54] Such incentives could include a loan forgiveness program, or a grants-based program to assist individual districts in addressing specific turnover-related concerns in their district. [3/10 Order, p. 13]

The State's plan for constitutional compliance must include the direction of support and resources to issues of teacher retention. The State should collaborate with intervention districts in an individualized study of recruitment and retention needs, and should develop a plan to address those needs on an effective, individualized basis.

3) Access to High Quality Pre-Kindergarten with Parent Involvement

The Court has repeatedly criticized DEED for its refusal to consider and address “intensive early learning initiatives” as part of its interventions in chronically underperforming schools and districts. [2/09 Order, p. 33; 3/10 Order, p. 16] DEED’s refusal to address these issues – and, in particular, the issue of access to high quality pre-kindergarten – is puzzling given the wealth of knowledge regarding the long term academic and socioeconomic benefits of access to high quality pre-kindergarten for at-risk students.

As explained by Professor Linda Darling-Hammond, access to quality early childhood education is critically important to academic success:

Particularly for low-income kids or students who are coming into school non-Native English speakers, students who are coming from a different cultural context without the elements of language development that schools expect, preschool education has a large, well-documented effects on later success. [Dr. Darling-Hammond’s Expert Report, pp. 9-10]

Indeed, during the 2008 remedy phase hearing in the *Moore* case, one issue on which the State’s witnesses and plaintiffs’ witnesses consistently agreed was the importance of early childhood education. According to John Holst, the State’s very first witness, many students in remote and underperforming Alaska schools arrive to kindergarten several years behind their same-age peers in academic readiness. As a result, struggling schools are asked not only to provide these students with access to the skills and experiences covered in a kindergarten curriculum, but also to help them make years of academic progress during a single school year. Far more often than not, the result is that the students are unable to ever catch up.

In her testimony, Dr. Darling-Hammond explained that high-quality early childhood education is particularly important to meeting the needs of students in chronically struggling schools and districts:

High quality early childhood education can expand the amount of influence that schools have on student achievement. Because by closing the achievement gap substantially before students start school, they put the students who would normally be lower achieving on a more successful school trajectory. [10/29/08 hearing testimony, p. 72]

Witness after witness in the *Moore* case has testified that if one thing could improve education for at-risk Alaskan students, it would be access to high-quality pre-kindergarten. The reason for this is simple. Across settings – rural schools, urban schools, small schools, large

schools – access to high-quality pre-kindergarten improves short-term and long-term academic success, and pays great economic returns.

Given this evidence, the Court criticized the State for failing to “address the significant language development gap known to exist in the intervention districts, despite its well-documented connection to student achievement.” [2/09 Order, p. 35] The Court found that DEED’s interventions in chronically underperforming schools had “accord[ed] inadequate consideration of pre-kindergarten and other intensive early learning initiatives designed to address the unique educational challenges faced by students in Alaska’s chronically underperforming school districts.” [2/09 Order, p. 33] Likewise, the Court’s March 2010 Order directed the State to adequately address “attention to pre-kindergarten and other intensive early learning initiatives.” [3/10 Order, p. 16]

In light of the importance of intensive early learning opportunities, the State should make high quality early childhood education available to all students in at least the intervention districts and chronically low performing schools, if not to a wider selection of districts with at-risk students.

While DEED recently implemented a pre-k “pilot program” in a few locations, much more is needed. Given the extent of the available research showing the significant academic benefits of pre-kindergarten, the State should not limit access to high quality pre-K to only a few schools being served by a “pilot.” Likewise, the narrow choice of a “pilot,” which does not even serve all of the schools currently under DEED’s “intervention,” is questionable given that Judge Gleason has now twice found that the State is violating its constitutional obligation to provide meaningful support, assistance and educational resources to chronically underperforming schools and districts.

As a matter of constitutional compliance, the State must consider and address the early learning needs of students in struggling school districts. As a matter of education policy, the achievement gap in Alaska will continue to persist as long as the State continues to ignore the need for high quality pre-kindergarten education with a strong parental involvement component.

4) Ensuring Curriculum Alignment – Including Adequate Materials, Research-Based Instructional Strategies, Support and Professional Development

Judge Gleason has repeatedly criticized the Department for failing to ensure that an aligned curriculum is in place in chronically low performing districts. [6/07 Order, p. 15; 2/09 Order, pp. 28-30; 3/10 Order, pp. 5-8]

After the Court’s 2009 Order expressly criticized the State’s failure to make “any concerted effort to insure that curriculum in each intervention district is aligned with the [GLEs] for the State’s performance standards” (2/09 Order, p. 29), DEED responded by telling the Districts to each undertake the complex and time-consuming task of curriculum alignment. In her most recent order, the Court found DEED’s response “not constitutionally acceptable,” and



specifically instructed that DEED must insure that an aligned curriculum is available for use in each district by Fall 2010. [3/10 Order, p. 7]

Judge Gleason has made it clear that the State is constitutionally required to take whatever steps are necessary to enable chronically low performing districts and schools to offer a fully-aligned curriculum in each of the state performance standards. Further, Judge Gleason has agreed with the intervention districts that fully aligning the curriculum to the standards is a task well beyond the means of most small districts. State assistance and support to districts must include making available a standardized curriculum and related assessment materials from which districts and schools could draw.

Under the terms of the March 2010 Order, **the State must provide districts with access to an aligned curriculum for each grade level for each subject tested on the SBAs**. This curriculum should include sample lesson plans, research-based instructional strategies and formative assessments to support each subject tested on the SBAs for all grade levels. Plaintiffs further believe the State should likewise provide aligned curricula designed to provide meaningful exposure to each of the State content standards. And, as emphasized throughout Judge Gleason's March 2010 Order, **the State must provide sufficiently detailed professional development to ensure that teachers in the intervention districts are able to utilize the curriculum provided by the State**.

5) Technical Assistance and Enhancement of Educational Resources Within DEED

In order for the State's interventions to be effective and in order to bring the State into constitutional compliance, **the Legislature must take steps to enhance DEED's ability to effectively support and assist Districts**. These steps should include both the creation and funding of additional content specialist positions within the Department, and an organizational audit to determine how best to enhance DEED's ability to meaningfully support districts.

If DEED is going to provide meaningful technical assistance and support to Districts, **the Legislature must create and fund significant additional content specialist positions within DEED**. DEED currently lacks sufficient subject-matter expertise to offer in-depth technical support to districts and schools. DEED cannot meet its mandate to provide such technical support until it increases its staff to add that expertise. Significant additional content specialists in math, reading, language development, early childhood education, instructional interventions and other areas are necessary to enable DEED to provide much-needed technical support to chronically low performing schools and districts.

In addition, **the Legislature should authorize an organizational audit** to identify and address the systemic barriers to District-Department collaboration and the ways in which DEED can more effectively support the Districts and schools it oversees. The evidence presented in the *Moore* case indicates that the Department's capacity to effectively support Districts is hampered by a lack of staff within DEED to provide effective technical assistance. An organizational audit would assist to identify the specific areas in which the Department's capacity is lacking, and the remedies to those deficiencies.



6) Ensuring Community Participation and Engagement in Education Reform Efforts

The State's plan for constitutional compliance must include measures reasonably calculated to ensure community participation and engagement in education reform efforts. The February 2009 Order notes the Department's failure to consider or attempt measures "directed at improving student attendance and the school's interface with the local community." [2/09 Order, p. 54]

The State's efforts to comply with the Court's Order must include meaningful efforts to gain community buy-in and engagement in intervention districts and chronically low performing schools.

7) Providing Meaningful Remediation Efforts for Students in Intervention Districts and Chronically Low Performing Schools Who Have Been Unable to Pass the HSGQE

In 2007, the Court held that, where students have not been accorded a meaningful opportunity to achieve academic proficiency, it violated students' due process rights to condition receipt of a high school diploma on passage of the HSGQE. [6/07 Order, pp. 191-195] In its 2009 Order, the Court Ordered the State to develop "a plan of action" addressing whether adequate individualized HSGQE remediation plans were in place and being implemented for intervention district students who had not been able to pass the HSGQE. [2/09 Order, pp. 56, 58] The Court explained that such remediation plans should be individualized to focus on each student's particular areas of deficiency, and should include for each student an assigned professional to monitor the student's progress towards proficiency. [2/09 Order, p. 12]

The Court's 2010 Order finds that the State has still not demonstrated that such plans are in place or that the Department is providing adequate support to intervention districts on this issue. [3/10 Order, pp. 11, 16] The Court stated that "the Department must provide considerably more in the way of technical support and guidance to each such district." [3/10 Order, p. 12]

The State's HSGQE remediation efforts must include **working with intervention districts and other chronically underperforming schools to develop and implement individualized remediation plans** to insure that each student is being provided with a meaningful opportunity to learn the material covered by the test. The State's efforts must include **sufficient assistance, support, educational resources and professional development to insure that such plans are able to be effectively implemented**.

Implementation

Judge Gleason's February 2009 and March 2010 Orders state that time is of the essence in curing the State's ongoing constitutional violations. Additionally, it is the Legislature which is ultimately responsible for curing these violations.

Pre-Kindergarten

In its February 2009 Conclusions of Law, the Court held that the evidence presented “establishes that there is an array of promising, research-backed remedial measures to address the educational needs of students,” including implementation of high-quality pre-kindergarten. [2/09 Order, p. 54] Indeed, a wealth of research establishes the link between early literacy and long-term educational achievement, and establishes that access to high-quality pre-kindergarten services is a proven way of improving long-term educational achievement for at-risk students. Accordingly, Plaintiffs have prepared draft legislation intended to provide access to high quality pre-kindergarten to students in chronically underperforming schools and districts. The draft legislation is based on the available research identifying what components are necessary to constitute “high quality” pre-k known to achieve long term benefits. The draft legislation also includes assistance to districts to address barriers to establishing a pre-k program, such as teacher housing and classroom facilities.

Immediate Assistance through Targeted Educational Resources

Plaintiffs have also prepared draft legislation intended to provide immediate assistance to districts in order to provide meaningful educational opportunities for at-risk students, including students in poverty, students who are English Language Learners, students attending schools in which the Department has intervened, and students attending schools in which a significant percentage of students score Far Below Proficient on the Standards Based Assessment.

The bill provides a mechanism to address the various causes of low academic performance in chronically underperforming schools and school districts. These causes include students’ difficulties in English language development; districts’ difficulties in recruiting and retaining high quality teachers; and the lack of access to in-depth professional development related to instructional methodology and intensive interventions for struggling students in these districts.

The bill also provides for loan forgiveness and other incentives for teacher recruitment to struggling remote schools. Some remote districts faced teacher turnover of more than fifty percent at the end of the last school year. Losing half the teaching staff each year makes it virtually impossible for districts to provide staff with in-depth training and professional development, and creates turmoil and uncertainty within the school setting. The bill provides research-based recruitment and retention efforts focusing on financial incentives, as well as access to high quality professional development.

Because of the Departmental capacity issues addressed in the Court’s February 2009 Order, the draft bill also provides for an organizational audit of DEED, to assess and improve its ability to assist districts and chronically underperforming schools through meaningful educational content and assistance.



Other Immediate Relief Required by the Court's Order

In addition to the two pieces of legislation already in draft form, the State will need to address as to each intervention district the following specific issues identified in the March 2010 Order:

- Curriculum alignment, including research-based instructional strategies and adequate professional development;
- Meaningful access to the content standards, including individualized assessment of such access in each intervention district, and a plan for ensuring meaningful exposure;
- Individualized inquiry into teacher capacity needs; and
- HSGQE remediation, including technical support and assistance to effectively design and implement intensive individualized remediation plans.

Long-Term Analysis and Strategic Planning

In addition to the foregoing immediate remedial measures necessary to bring the State into basic constitutional compliance, the plaintiffs believe that the long term interests of the state educational system will be best served by the creation of a task force to study and recommend long-term solutions addressing, but not limited to, the following:

- Involvement of the university system to address teacher training and capacity issues;
- Design of long-term strategies for professional development statewide;
- Design of long-term strategies for teacher retention;
- Building and maintaining capacity within DEED;
- Development of professional standards boards and review of teacher certification requirements; and
- State development of research center/clearinghouse on curriculum and instructional strategies for use in Alaska's schools.

