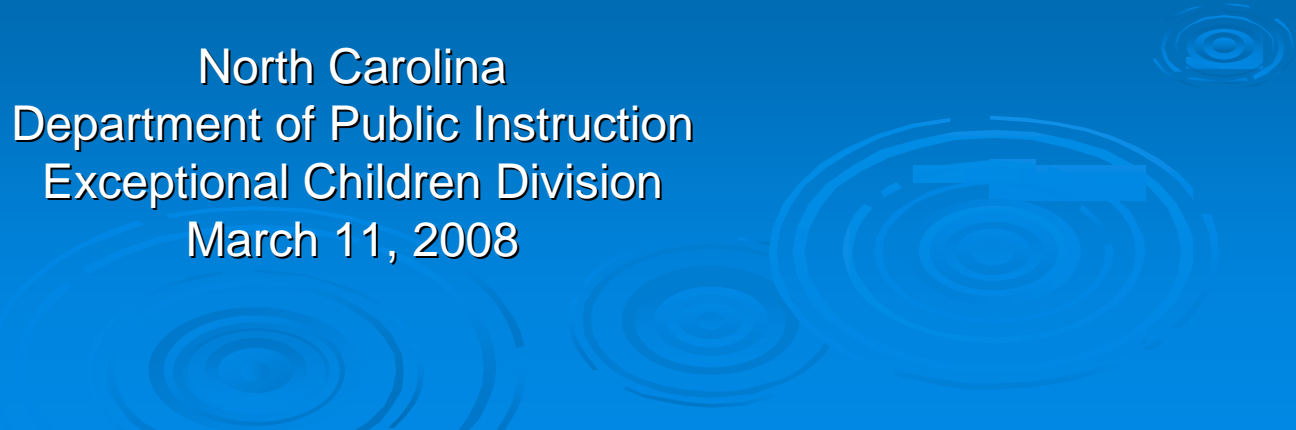


# **Students with Disabilities**

## **Report to the Joint Legislative Education Oversight Committee**

North Carolina  
Department of Public Instruction  
Exceptional Children Division  
March 11, 2008



# Key Changes to State Board Policies As a Result of Changes to Article 9

- Aligns age of eligibility with federal ages of **3 through 21**. A student who reaches the age of 22 during the school year may complete the year.
- Changes 60-day statute of limitation for filing due process petition to **1 year**.
- **Requires the party filing a due process petition to file with the Office of Administrative Hearings and the other party with a copy to the SEA.**

## Key Changes to State Board Policies as a Result of Changes in Article 9

- Requires LEAs to **use their State textbook funds** to provide, to the same extent as is provided to nondisabled students, textbooks for students with disabilities. LEAs also shall, at a minimum, provide teachers of children with disabilities with the same teachers' editions provided to teachers of nondisabled students.
- Adds **monitoring enforcement interventions** that align with IDEA. Includes an enforcement provision for an LEA's failure to implement corrective actions related to complaint investigations and due process hearing decisions.

## For a disciplinary change in placement when homebound is a consideration for the placement:

- Requires the student's IEP team to determine that homebound is the least restrictive environment for that student.
- Requires the IEP team to determine the nature of the homebound educational services that will be provided to the student.
- Requires the IEP team to evaluate monthly the appropriateness of the homebound instruction. (G.S. 115C-107.7 requires the review by the *head of the student's IEP Team*.)
- Defines educational services and homebound instruction.

# Recommendation

- G.S. 115C-107.7 “...the continued appropriateness of the homebound instruction shall be evaluated monthly by the LEA, the parent and relevant members of the student’s IEP Team”

# **North Carolina High Schools and Students with Disabilities: A Study of Educational Services and Outcomes**

North Carolina  
Department of Public Instruction  
Exceptional Children Division  
March 11, 2008

# NC Department of Public Instruction

## Design of the Study

- Review of the current data on high school students with disabilities (SWD) and their academic performance.
- Review of placement data for SWD.
- Review of focused monitoring data.
- Review of research.
- Recommendations.

# Student Performance

Fewer than 42% of students with disabilities scored Level III or above on the 2006-2007 End-of-Course Tests in core academic areas.



# 2006-2007 North Carolina State Level Performance Data for Select End-of-Course Multiple Choice Tests

	Algebra I at or above Level III	Biology at or above Level III	Civics- Economics at or above Level III	US History at or above Level III	English I at or above Level III
Non-Disabled Students	69.4%	67.6%	68.2%	66.3%	75.9%
Students with Disabilities	33.2%	37.6%	37.4%	41.8%	35.4%

# Service Delivery Models

NC had 48,387 students with disabilities in grades 9-12 in the 2006-2007 school year.

- 51.4% spent 80% or more of their day in general education (regular setting)
- 22.4% spent 40-79% of their day in general education (resource setting)
- 21.9% spent 39% or less of their day in general education (separate setting)
- 4.3% were in separate schools or homebound

# Settings by Ethnicity for Students with Disabilities

	% of Total	Regular	Resource	Separate	Other
<b>All SWD</b>	<b>100.0%</b>	<b>51.4%</b>	<b>22.4%</b>	<b>21.9%</b>	<b>4.3%</b>
<b>White</b>	<b>50.1%</b>	<b>58.0%</b>	<b>20.7%</b>	<b>17.5%</b>	<b>3.8%</b>
<b>Black</b>	<b>40.4%</b>	<b>43.5%</b>	<b>24.0%</b>	<b>27.7%</b>	<b>4.8%</b>
<b>Multicultural</b>	<b>1.8%</b>	<b>53.9%</b>	<b>21.8%</b>	<b>18.0%</b>	<b>3.3%</b>
<b>Hispanic</b>	<b>4.6%</b>	<b>50.0%</b>	<b>25.0%</b>	<b>21.7%</b>	<b>3.3%</b>
<b>Asian/Pacific</b>	<b>0.8%</b>	<b>53.0%</b>	<b>15.5%</b>	<b>26.0%</b>	<b>5.5%</b>
<b>Native American</b>	<b>1.6%</b>	<b>41.7%</b>	<b>36.5%</b>	<b>18.9%</b>	<b>2.9%</b>

# Student Outcomes

- 6 LEAs had over **80%** of students with disabilities **exit with a diploma.**
- 24 LEAs had **75%** of students with disabilities exit school with a **diploma, graduation certificate or certificate of achievement.**
- 4 LEAs had **100%** of students with disabilities exiting school as **dropouts.**

# Focused Monitoring Visits

Six onsite focused monitoring visits were conducted between February 2007 and December 2007.

# Monitoring Findings

- Students with disabilities enter high schools with very weak academic skills.
- A full continuum of special education services was not available or not utilized at the high school level.
- Placement decisions appear to have been made based on the course of study and not individual student needs.

# Monitoring Findings

- Students with disabilities who dropped out of school had repeatedly not made progress in the general curriculum.
- More students with disabilities drop out in the 9<sup>th</sup> and 10<sup>th</sup> grades than at any other grade levels.
- Students with disabilities tend to be older than their peers when they enter high school due to being retained in elementary or middle school.

# Monitoring Findings

- Transition components of students' IEPs did not always contain measurable post-school outcomes goals.
- Students with disabilities missing ten or more days for one or more consecutive years are more likely to fail core academic classes and drop out of school.
- IEPs of many students had no documentation of coordination with career/technical education staff.



# Best Practices

- Mid-South Regional Resource Center coordinated a review of “Best Practices” being used in 12 states.
- Rarely do studies or state initiatives separate specific findings for students with disabilities.
- “Although there is no specific high school reform design to address students with disabilities, the models themselves are expected to address all student learning needs.”

Ohio High School Director

# National Resources

- Four national centers have been developed that include special education specifically in their reform efforts.
- Recommendations from those centers have been included in the final recommendations of the legislative study.

# Recommendations

- Provide, support and sustain ongoing **professional development** based on the Principles of Universal Design for Learning (UDL).
- Establish a general education **tiered model of research-based interventions** to increase students' success in the general education environment.
- Provide a continuum of **literacy instruction** for all students.

# Recommendations

- Expand the **Positive Behavior Support** initiative to all high schools.
- Provide professional development and support for statewide implementation of **co-teaching**.
- Provide a **continuum of special education services** at every high school.


# Recommendations

- Include evidenced-based programs that address **dropout prevention** for students with disabilities.
- Establish **mentoring programs** for students with disabilities that encourage students to enroll in post-secondary education or training.

# **Status of Due Process Hearings**

Implementation of the  
Memorandum of Understanding  
Between the OAH and the DPI

November 16, 2006  
through  
March 3, 2008

A decorative graphic consisting of several concentric circles, resembling ripples in water, is located in the bottom right corner of the slide. The circles are light blue and have a subtle gradient.

# Memorandum of Understanding

## OAH and EC Division

- Developed and are successfully implementing internal operating procedures for the timely dissemination of Notices and documents to and from the parties and the exchange of documents and records between the OAH and DPI.
- Collaborating to develop forms and Notices that are specific to special education due process hearings and contain language that is easily understood by parents.
- Communicate regularly by telephone and meetings to discuss areas of concern and to explore and implement resolutions for both agencies.

# Memorandum of Understanding

## DPI Responsibilities

- Reference materials
- Training
  - 3 ALJs identified to attend national conferences on IDEA legal issues.
  - Local training on special education issues to ALJs hearing IDEA issues.
- Pay for Court Reporters, Interpreters, and 1 transcript for ALJ.

## DPI Activities

- Reference:
  - Provided subscription to *Special Ed Connection*, an internet reference center for special education law.
- Training:
  - Paid for ALJs to attend
    - 3 National IDEA Institutes
    - 3 National Hearing Officer Training Institutes
    - 3 NC-DPI EC Division Conferences
  - Court Reporters for
    - 11 hearings
  - Interpreters for
    - 1 hearing



# MOU and OAH ACTIVITIES

## OAH Responsibilities

- Provide a list of at least 3 ALJs who are qualified, by IDEA standards, to conduct special education hearings.
- Assign qualified ALJs to conduct due process hearings.
- Will not appoint temporary ALJs.
- Conduct due process hearings.
- Provide clerical support, hearing space, materials, and services related to due process hearings.

## OAH Activities

- OAH submitted a list of qualified ALJs with the names of all the ALJs.
- Judge Elkins handles the initial paperwork for all special education hearings.
- **Case Assignments**
  - 53 to Judge Elkins
  - 7 to Judge Mann
  - 2 to Judge Overby
  - 3 to Sabrina Brooks
  - 1 to Beecher Gray
- **ALJs conducting hearings:**
  - Judge Elkins – 5 hearings
  - Judge Overby - 2 hearings
  - Judge Brooks - 2 hearings

# ALJ Qualifications

**To conduct such special education hearings, independent administrative law judges (ALJ) must:**

- Possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts.
- Possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice;
- Possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
- Not be an employee of the SEA or the LEA that is involved in the education or care of the child.
- Not be a person having a personal or professional interest that conflict with the person's objectivity in the hearing.

# Due Process Hearings

**Between 11/16/06 and 3/3/08:**

- 66 petitions for hearings were filed.
- 73 cases were closed.
- 6 cases are open.
- 11 hearings were conducted.
  - 1 withdrawn before decision issued.
- 10 decisions issued.
  - 2 decisions to dismiss.
  - 4 decisions appealed.
- 9 decisions were issued within properly extended timelines.

# Memorandum of Understanding

## Agreement:

No ALJ employed by or contracted by the OAH will be appointed as a special education ALJ unless the ALJ meets the qualifications under IDEA 2004.

## **ALJs will not:**

- Stay the contested case action except for the purpose of granting an extension at the request of the parties.
- Award attorneys' fees.

**ALJs without adequate training conduct special education hearings.**

## **They have:**

- Issued extensions based upon their schedules.
- Issued extensions that did not state the date by which the decision would be mailed.
- Issued extensions at the close of hearings without written requests and to provide time for parties to prepare proposed decisions.
- Awarded attorneys' fees.

# Memorandum of Understanding

IDEA requires a 45-day timeline for the hearing and issuance of a written decision to the parties.

ALJs are authorized to:

- Grant extensions for cause at the request of either party as long as the extension does not result in the denial of the child's access to a free appropriate public education.

ALJs frequently:

- Extend the timelines at the close of a hearing to provide the parties time to receive the court transcript, *prepare proposed decisions* for the ALJ, and allow for the ALJ to prepare and issue a decision.
- In recent cases, the timelines for issuing a written decision have been extended from 45 to 75 days after the close of the hearing.

# Areas for Improvement

**FACT:** One ALJ is responsible for all initial intake and paperwork for EC cases. He tries to hear most EC cases but is often scheduled to hear non EC cases.

The EC cases have been reassigned to ALJs who have received minimal IDEA training, and they have issued extensions and decisions that conflict with the IDEA.

# Standard of Review

**FACT:** §115C-109.9 (a) The Review Officer conducting this review shall make an independent decision upon completion of the review. The decision of the Review Officer becomes final unless an aggrieved party brings a civil action under subsection (d) of this section.

**PROBLEM:** The ALJ decisions contain a lengthy and confusing Notice regarding the appeal. The Notice has expanded from a paragraph on how to file an appeal to more than a page directing how the review officer should review the ALJ's decision and issue a decision. The new language, which was *rejected* in the development of the MOU and exceeds §115C-109.9 (a), is not appropriate for the Notice.



# Areas for Improvement

## Recommendations:

- Identify at least 3 ALJs to receive intensive training on IDEA and related case law and
- Assign EC cases to ALJs with special education expertise.
- Adhere to the 45-day timeline for issuing decisions.
- Limit the time between close of hearing and issuance of decision.
- Decisions contain a Notice instructing parties how to file an appeal and omit language regarding standard of review.



# **Disproportionality In North Carolina**

Exceptional Children Division

# Federal Requirements for Disproportionality

- Report the percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification (State Performance Plan Indicator 9)
- Report the percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification (State Performance Plan Indicator 10)

(20 U.S.C. 1416(a)(3)(C))

# Federal Requirements for Disproportionality (continued)

- Determine districts with significant disproportionality with respect to the identification of children as children with disabilities, the placement in particular educational settings of these children, or disciplinary actions and require such districts to use 15% of VI-B funds to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified.

# State Performance Plan/Annual Performance Report Indicators 9 & 10

1. Determine the districts that have disproportionate representation, including, both over and under representation of minorities:
  - (a) in special education and related services (Indicator 9); and
  - b) in one of six specific disability categories (Indicator 10); and
2. Determine if the disproportionate representation in the identified districts is a result of inappropriate identification (through the review of policies, practices and procedures).

# Determination of Disproportionate Representation for Indicators 9 & 10

For over-representation to occur, there must be a  $\geq 3$  risk ratio\* of a racial or ethnic group in special education and related services or in one of six specific disability categories.

For under-representation to occur, data is examined when there is a risk ratio of  $\leq .03$  and then a determination is made.

\* Risk ratios are computed for districts with a minimum of 20 students of the particular race/ethnicity enrolled in the district and at least 10 students of the particular race/ethnicity identified in the disability category. Data is reviewed separately for districts with less than the minimum enrollments specified.

# Significant Disproportionality

- For the given year, determine districts with a  $\geq 3$  risk ratio\* of a racial or ethnic group in the identification, placement or discipline of students with disabilities; and
- Of the districts in number one, determine if a district has 3 years of trend data that have increased overtime and/or have not decreased below  $\geq 4$  risk ratio\* of a racial or ethnic group in the identification, placement, or discipline of students with disabilities.

\*Risk ratios are computed for districts with a minimum of 20 students of the particular race/ethnicity enrolled in the district and at least 10 students of the particular race/ethnicity identified in the disability category Data is reviewed separately for districts with less than the minimum enrollments specified.

# **2006 – 07 Determinations**

- **Indicator 9 – 0 Districts**
- **Indicator 10 – 22 Districts**
- **Significant Disproportionality – 43 Districts**

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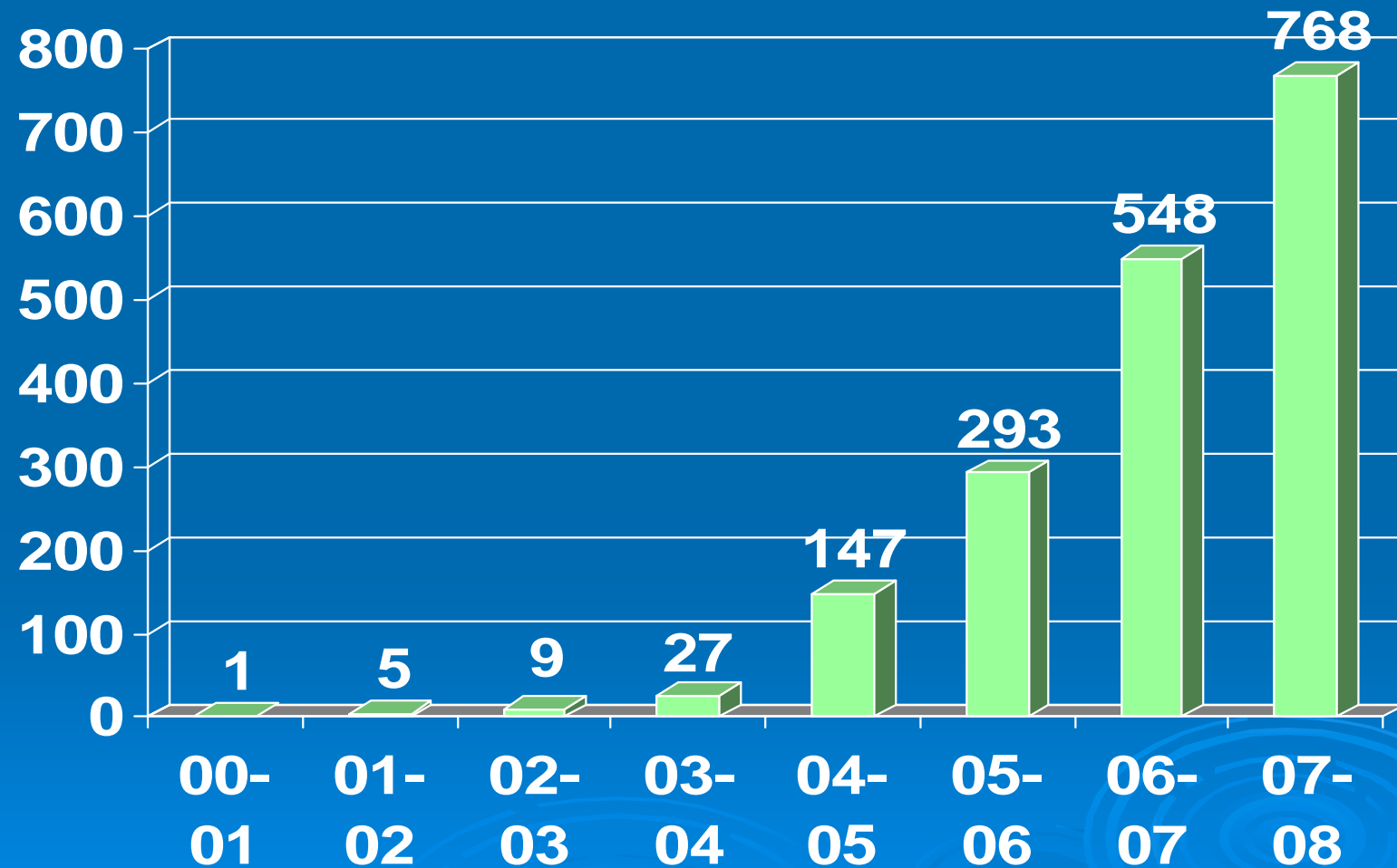
# Positive Behavior Support Consultant

- Heather Reynolds
- Began January 14, 2008
- New position

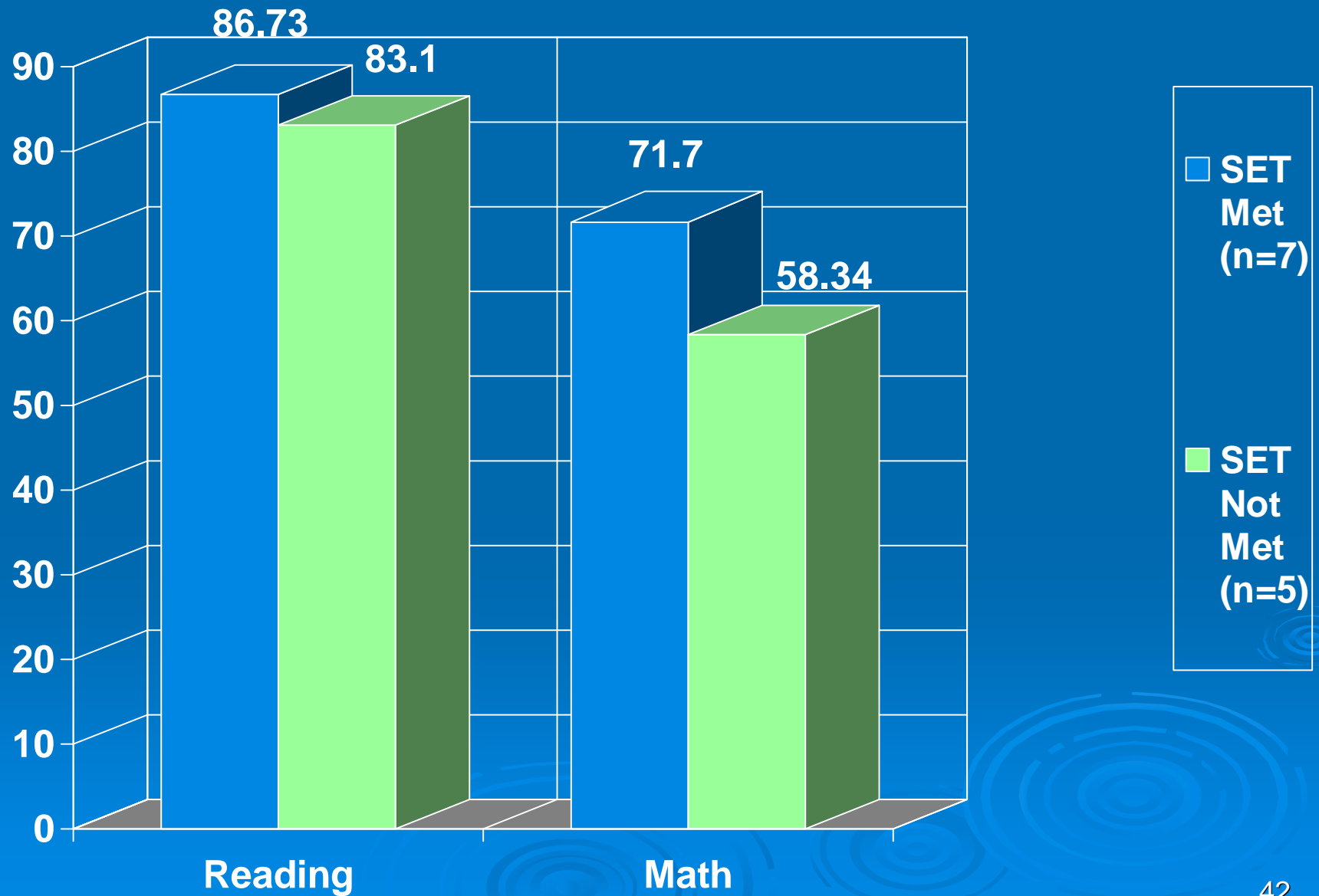




# Schools Implementing PBS in NC

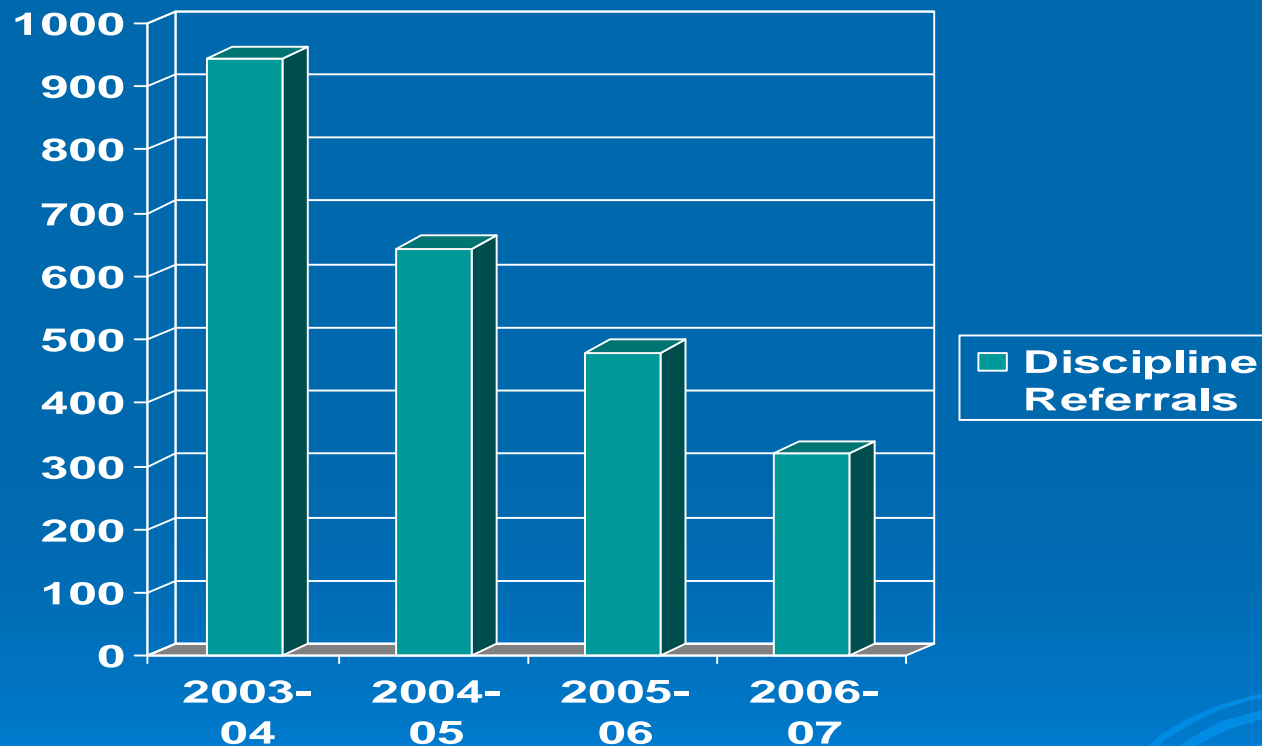


## Third Grade EOG Results in PBS Schools

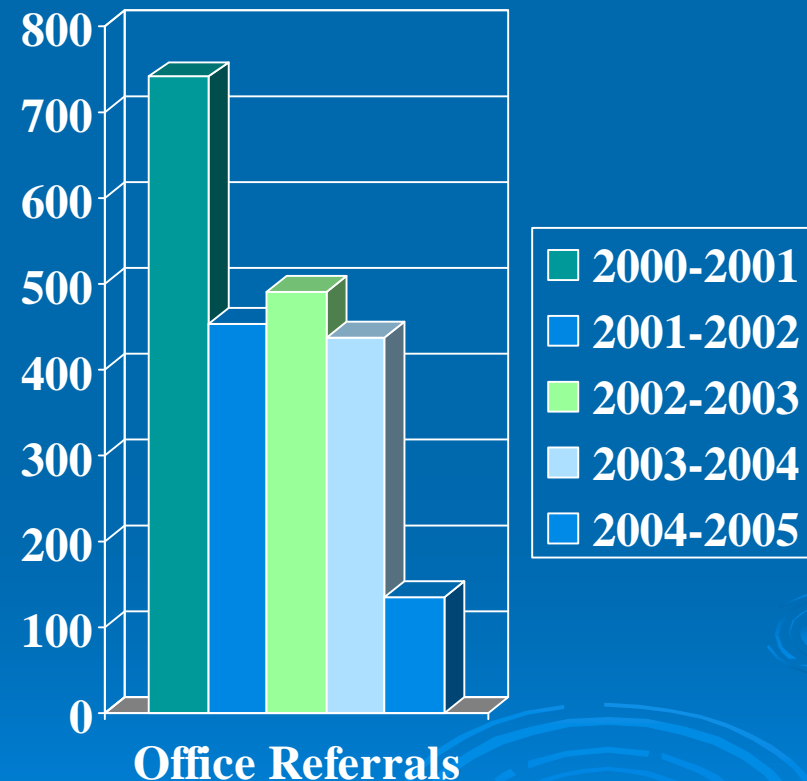
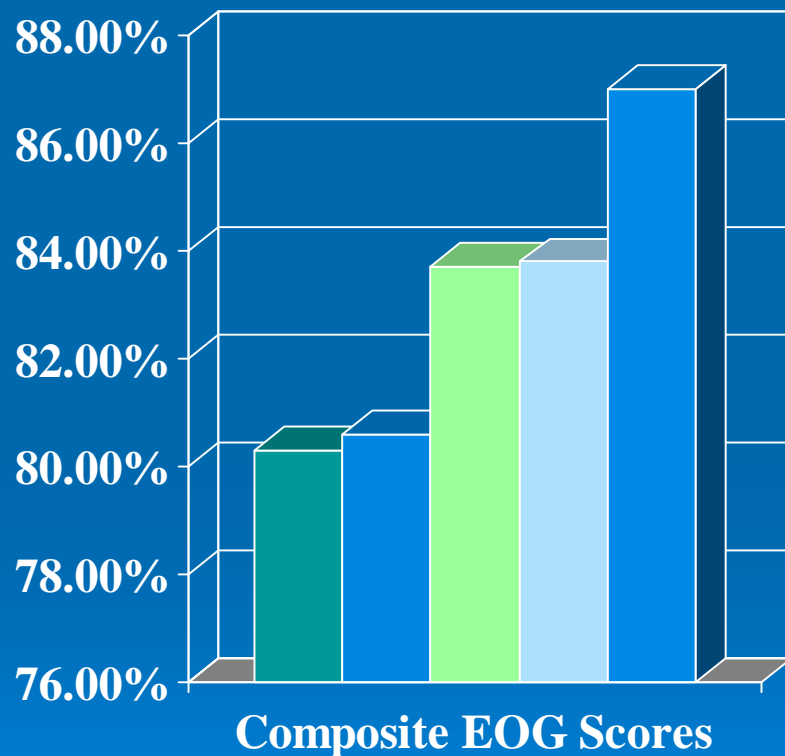


# Pine Valley Elementary School

## New Hanover County Schools

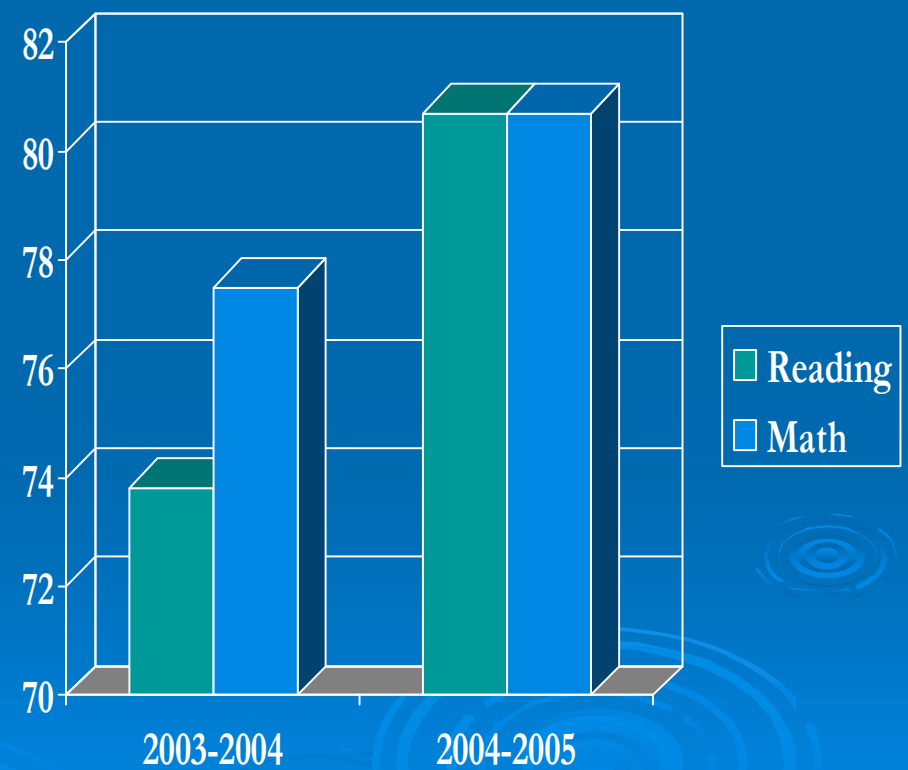
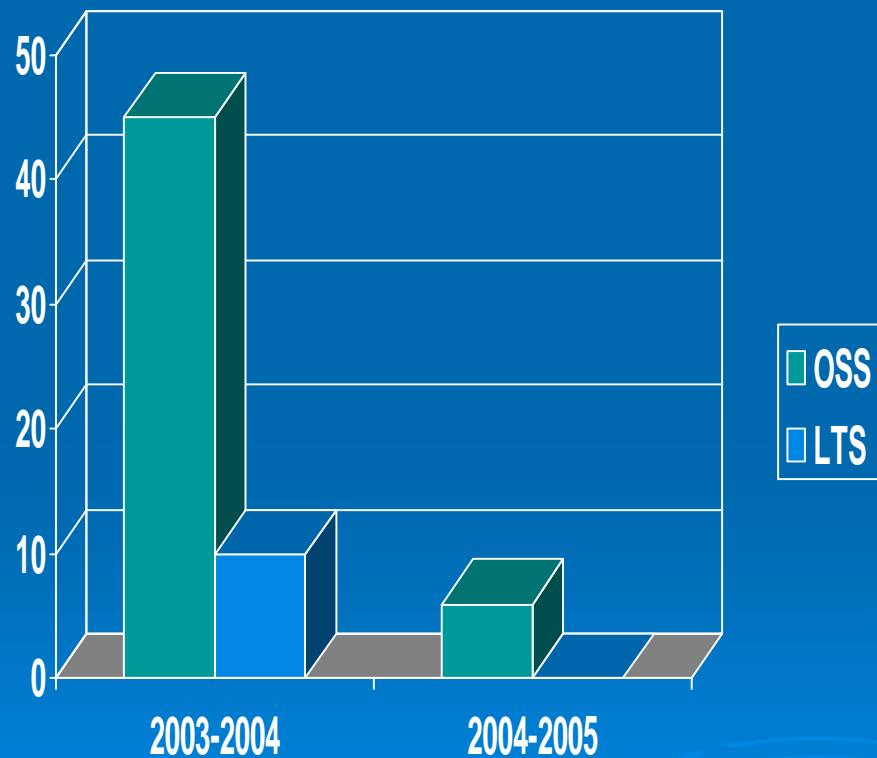


# Supply Elementary Brunswick County



# Selma Middle School (Johnston County)

## First Year of Implementation



# Brunson Elementary School

## Winston Salem/Forsyth County Schools

	2004-2005 School Year (Before PBS)	2005-2006 School Year 1 PBS	2006-2007 Year 2 PBS
Office Referrals	263	156	107
Suspensions	49	41	16
Administrator Time @ 20 min./referral	5,260 min. (88 hrs.) (15 days)	3,120 min. (52 hrs.) (9 days)	2,100 min. (35 hrs.) (6 days)
Instructional Time Missed @ 30 min./referral	7890 min. (132 hrs.) (22 days)	4680 min. (78 hrs.) (13 days)	3180 min. (53 hrs) (9 days)
Instructional Time Missed @ 6 hrs./suspension	34,920 min. (582 hrs.) (97 days)	30,240 min. (504 hrs.) (84 days)	6,480 (108 hrs.) (18 days)
<p style="text-align: center;"><i>Comparing 05-06(year 1 PBS) and 06-07(year2 PBS)</i></p> <p style="text-align: center;"><i>3 days of administrator time recovered</i></p> <p style="text-align: center;"><i><u>70</u> days of instructional time regained!</i></p>			

# Brunson Elementary Winston-Salem Forsyth

