

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
95-CVS-1158

HOKE COUNTY BOARD OF
EDUCATION; HALIFAX COUNTY
BOARD OF EDUCATION; ROBESON
COUNTY BOARD OF EDUCATION;
CUMBERLAND COUNTY BOARD OF
EDUCATION; VANCE COUNTY
BOARD OF EDUCATION; RANDY L.
HASTY, individually and as Guardian
Ad Litem of RANDELL B. HASTY;
STEVEN R. SUNKEL, individually and
as Guardian Ad Litem of ANDREW J.
SUNKEL; LIONEL WHIDBEE,
individually and as Guardian Ad Litem
of JEREMY L. WHIDBEE; TYRONE
WILLIAMS, individually and as
Guardian Ad Litem of TREVELYN L.
WILLIAMS; D.E. LOCKLEAR, JR.,
individually and as Guardian Ad Litem
of JASON E. LOCKLEAR; ANGUS B.
THOMPSON II, individually and as
Guardian Ad Litem of VANDALIAH J.
THOMPSON; MARY ELIZABETH
LOWERY, individually and as
Guardian Ad Litem of LANNIE RAE
LOWERY, JENNIE G. PEARSON,
individually and as Guardian Ad Litem
of SHARESE D. PEARSON; BENITA
TIPTON, individually and as Guardia
Ad Litem of WHITNEY B. TIPTON;
DANA HOLTON JENKINS,
individually and as Guardian Ad Litem
of RACHEL M. JENKINS; LEON R.
ROBINSON, individually and as
Guardian Ad Litem of JUSTIN A.
ROBINSON,

Plaintiffs,

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,

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WAKE CO., C.S.C.

BY

Plaintiff-Intervenor,

and

RAFAEL PENN; CLIFTON JONES,
individually and as Guardian Ad Litem
of CLIFTON MATTHEW JONES;
DONNA JENKINS DAWSON,
individually and as Guardian Ad Litem
of NEISHA SHEMAY DAWSON and
TYLER ANTHONY HOUGH-
JENKINS,

Plaintiff-Intervenors,

v.

STATE OF NORTH CAROLINA and
the STATE BOARD OF EDUCATION

Defendants,

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,

Realigned Defendant.

**CONSENT ORDER ON LEANDRO REMEDIAL ACTION PLAN FOR FISCAL
YEAR 2021**

This matter, coming before the Court pursuant to the January 21, 2020 Consent Order entered in this case, and the Court, having received and reviewed the “Joint Report to the Court on Sound Basic Education for All: Fiscal Year 2021 Action Plan for North Carolina” (Joint Report) submitted by the Parties on June 15, 2020, hereby finds as follows:

The January 21, 2020 Consent Order was negotiated by the State Board of Education (SBE); the Office of the Governor; and the Department of Justice, on behalf the State; the Plaintiff school districts; and the Plaintiff-Intervenors (collectively, the “Parties”). That Order required:

the State Defendants to work expeditiously and without delay to take all necessary actions to create and fully implement the following:

1. A system of teacher development and recruitment that ensures each classroom is staffed with a high-quality teacher who is supported with early and ongoing professional learning and provided competitive pay.
2. A system of principal development and recruitment that ensures each school is led by a high-quality principal who is supported with early and ongoing professional learning and provided competitive pay;
3. A finance system that provides adequate, equitable, and predictable funding to school districts and, importantly, adequate resources to address the needs of all North Carolina schools and students, especially at-risk students as defined by the *Leandro* decisions;
4. An assessment and accountability system that reliably assesses multiple measures of student performance against the *Leandro* standard and provides accountability consistent with the *Leandro* standard;
5. An assistance and turnaround function that provides necessary support to low-performing schools and districts;
6. A system of early education that provides access to high-quality prekindergarten and other early childhood learning opportunities to ensure that all students at-risk of educational failure, regardless of where they live in the State, enter kindergarten on track for school success; and
7. An alignment of high school to postsecondary and career expectations, as well as the provision of early postsecondary and workforce learning opportunities, to ensure student readiness to all students in the State.

The January 21 Order also required the parties to submit a status report setting out the “[s]pecific actions that the State Defendants must implement in 2020 to begin to address the issues identified by WestEd [the Court retained expert consultant].”

The status report was initially due in March 2020, but that deadline was extended in light of the COVID-19 pandemic. Despite the impacts and the restrictions of the pandemic, the Parties worked collaboratively and on June 15, 2020, submitted the Joint Report to the Court.

In the Joint Report, the Parties acknowledge that the Defendants’ initial remedial action steps have been limited by the impacts of COVID-19 pandemic and the Parties had to revise their strategies. However, the challenges created by the COVID-19 pandemic cannot result in the State falling further behind in its efforts to meet the constitutional standard for all children in North Carolina, particularly at-risk students, who have been disproportionately negatively impacted by the pandemic and resulting school closures. Consistent with that obligation, the State and the SBE committed to prioritizing the allocation of resources during fiscal year 2021 to serve the highest needs students, schools, and school districts.

The Parties agree that the steps outlined in Attachment A to this Order are the necessary and appropriate actions needed in Fiscal Year 2021 to begin to adequately address the constitutional violations in providing the opportunity for a sound basic education to all children in North Carolina. The State has represented to the Court that it is the intent of the State to complete the actions outlined in Attachment A in Fiscal Year 2021. Consistent with the Court's January 21 Order, the Parties have identified the State actors and agencies, including the General Assembly, whose direct involvement, cooperation, and assistance are necessary to implement the specific actions described in this report. The Parties agree to make their best efforts to secure the involvement, cooperation, and assistance of those entities. The Court finds that the actions in Attachment A are specifically aligned with the seven pillars of a sound basic education set forth above. The Court further finds that the Parties have agreed to certain funding levels that they currently estimate are required to implement these actions, including an increase of the Disadvantaged Student Supplemental Fund (DSSF) of \$60 million.

Pursuant to the January 2020 Order and in addition to the actions specified in Attachment A, the Parties are developing an eight year Leandro Comprehensive Remedial Plan that will identify long term actions the Defendants will take to meet the *Leandro* mandate. Like the Joint Report, the Leandro Comprehensive Remedial Plan will be aligned to the seven key areas above. It is the Parties' intent and the Court's expectation that the Leandro Comprehensive Remedial Plan will describe those actions and programs to be fully implemented by 2028 so that at-risk students will realize the full educational benefits of those actions and programs by 2030.


In light of the foregoing, the North Carolina Supreme Court's decisions in *Leandro v. State* and *Hoke County v. State*, and this Court's January 2020 Order, the findings of which are incorporated herein, it is hereby **ORDERED**:

- A. By June 30, 2021, the Defendants shall implement, the remedial actions listed in Attachment A of this Order.
- B. By December 31, 2020, the Defendants shall, in consultation with the Plaintiff parties, develop and present to the Court, a Leandro Comprehensive Remedial Plan to be fully implemented by the end of 2028 with the objective of fully satisfying the Defendants' *Leandro* obligations by the end of 2030.
- C. By December 15, 2020, and at the end of each quarter thereafter until December 15, 2021, the Defendants shall submit status reports to the Court. The purpose of these reports is to assist the Court's efforts to enter a final,

enforceable judgment in this case, while promoting transparency in these proceedings. To those ends, the status reports shall, at minimum, describe the progress the Defendants have made toward achieving each of the benchmarks identified in Attachment A and the funding levels agreed to by the Parties. Plaintiffs may submit a response to any of the Defendants' reports.

The Court shall retain jurisdiction over this matter until a final judgment is entered.

This the 1st day of September, 2020


The Honorable W. David Lee
North Carolina Superior Court Judge

Fiscal Year 2021 Remedial Plan and Action Steps

I. Qualified and Well-Prepared Teacher in Every Classroom:

- A. Increase the pipeline of diverse, well-prepared teachers by expanding the North Carolina Teaching Fellows program.**
 - 1. Increase the number of eligible teacher preparation programs from the current 5 to 8 to include high quality programs that serve additional regions of the state and to include minority-serving universities.
 - 2. Increase funding to support up to 250 Teaching Fellows for the 2021-22 academic year (90 additional Fellows).
 - 3. Expand eligible certification areas beyond STEM and special education to address significant vacancies.
 - 4. Develop and provide planning, training, and ongoing support for program leaders and Fellows, including training on topics such as culturally responsive teaching, teaching students with disabilities, and trauma-informed teaching.
 - 5. Expand the reduced payback period to Fellows who teach in high-poverty schools, not just schools that are low performing, to incentivize Fellows to teach in those schools.
 - 6. Develop targeted recruitment strategies to improve opportunities for talented minority candidates to be Teaching Fellows.

- B. Significantly increase the racial and ethnic diversity of North Carolina's qualified and well-prepared teacher workforce and ensure all teachers employ culturally responsive practices.**
 - 1. Develop a plan of actions by January 2021 that the State will take to increase the racial and ethnic diversity of qualified and well-prepared teachers through the work of Governor Cooper's DRIVE Task Force.
 - 2. Develop and implement a plan to monitor, review, coordinate, and implement programs and efforts to increase teacher diversity consistent with the work of Governor Cooper's DRIVE Task Force.

- C. Provide high-quality comprehensive mentoring and induction support services through the NC New Teacher Support Program to 300 additional beginning teachers in low-performing, high-poverty schools to increase both their effectiveness and their retention.**

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- D. Implement differentiated staffing models that include advanced teaching roles and additional compensation to retain and extend the reach of high-performing teachers.
 - 1. Create a permanent Advanced Teaching Roles program that will allow all interested districts to apply for one-time startup funds.
 - 2. Provide grants through current funding to a select number of additional districts to implement an Advanced Teaching Roles initiative.
 - 3. Provide class size waivers and other flexibility as necessary to successfully implement career pathways through the Advanced Teaching Roles program.
 - 4. Develop and implement a plan that will enable school districts to study the effectiveness of salary supplements and other aligned compensation models that support the implementation of advanced teaching roles.

- E. Increase educator compensation and create compensation incentives to enable low-wealth districts to attract and retain qualified and well-prepared teachers.
 - 1. Raise salaries for teachers and instructional support staff by an average of 5%.
 - 2. Conduct a North Carolina-specific wage comparability study to determine competitive pay for educators in comparison to professions that require similar education and credentials, and to identify the level of compensation and other specific State, regional, and local salary actions required to attract, recruit, and retain high-quality educators, particularly to low-wealth districts and high-poverty schools. Study will be completed by June 30, 2021. Study findings will be used to establish a benchmark for educator salary raises over the next seven years of *Leandro* implementation.

II. A Qualified and Well-Prepared Principal in Every School:

- A. Update the State's school administrator preparation and principal licensure requirements so that they align with NELP program approval standards, and pilot the revised standards during the 2020-2021 school year.

- B. Complete expansion of the Transforming Principal Preparation Program (TP₃) to 3 additional postsecondary institutions while maintaining high standards for participating programs and the paid internship requirement.

- C. By December 2020, develop a plan, to be implemented in the next Phase of the overall *Leandro* Plan, for the creation of a School Leadership Academy

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that provides mentoring, coaching, professional development, and ongoing support.

III. A Finance System that Provides Adequate, Equitable, and Efficient Resources

- A. Revise the State's school funding formula so that current and additional funding is distributed to students with the greatest need.
1. Remove 12.75 percent funding cap for students with disabilities to provide supplemental funding for all students with disabilities at the current formula rate.
 2. Increase funding for Disadvantaged Student Supplemental Funding (DSSF) allotment. Eliminate current restriction that allows districts to only devote a maximum of 35 percent of their DSSF allotment to salary supplements.
 3. Remove the 10.6 percent funding cap and the minimum funding eligibility for LEA/charter schools for the Limited English Proficiency allotment. Provide a fixed allotment amount per identified Limited English Proficiency student based on the 3-year average headcount of the LEA/charter school, and adopt a policy to adjust per-student dollar amounts annually for salary and benefit changes and any direct appropriations.
 4. Transfer the At-Risk Student Services/Alternative Schools allotment funding into the DSSF allotment, provided that no district receives a decrease in combined funding; expand allowable uses of the DSSF allotment to incorporate activities allowed under the current at-risk allotment. This reallocated funding must be counted as an independent supplement in addition to the DSSF funding described above, and not supplant those identified funds. No school district will receive a decrease in this combined funding.
- B. Lift restrictions on critical allotments through the ABC transfer system, and allow LEAs to transfer funds to or from the following allotment categories:
- Academically & Intellectually Gifted
 - At Risk Student Services/Alternative Schools
 - Children with Disabilities
 - Classroom Materials, Supplies and Equipment
 - Disadvantaged Student Supplemental Funding
 - Cooperative Innovative High Schools
 - Limited English Proficiency
 - Low Wealth Supplemental Funding

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- Position/MOE Allotments
- Non-Instructional Support
- Small County Supplemental Funding
- Textbooks
- Transportation

- C. Increase flexible funding for Student Instructional Support Personnel (SISP) through positional funding that increases the number of SISP (school counselors, nurses, social workers, and psychologists) to begin to meet national guidelines, initially prioritizing high-poverty schools. Develop and implement a plan to provide school districts appropriate flexibility in SISP position allotments so that they may strategically hire SISP staff to best meet the needs of their students.

IV. An Assessment and Accountability System that Reliably Assesses Multiple Measures of Student Performance

- A. Establish a more balanced and student-centered assessment system.
1. Expand the use of NC Check-Ins in grades 3-8 to additional school districts and schools by June 30, 2021.
 2. Develop and implement and plan to better align the Kindergarten Entry Assessment (KEA) with birth through third grade and rename the KEA the Early Learning Inventory (ELI).
 3. Launch the Innovative Assessment Demonstration pilot approved by the US Department of Education in 16 districts and charters to evaluate the feasibility and effectiveness to utilizing through-course formative assessment results to streamline and personalize a student's summative assessment.
- B. During the 2020-21 school year, develop a plan for piloting the use of additional student assessment item types (i.e., constructed-response, extended-response, and/ or performance-based assessment items) in NC Check-Ins during the 2021-22 school year in grade 4 math and grade 7 reading. The pilot will include low-performing schools in low-wealth districts and low-performing, high poverty schools across the state.
- C. Amend the current accountability model to include measures of progress toward providing all students with the opportunity to obtain a sound, basic education.
1. Adopt a coherent and singular definition of proficiency, aligning grade-level expectations and college- and career-ready expectations, to provide stakeholders with consistent and actionable measures of student progress and proficiency and to maintain high expectations of all students consistent with the rulings in this case.

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2. Revise the current weighting between student proficiency and student growth for the School Performance Grades.
3. Include additional measures of student success (per the ESSA definition) in the State's accountability system.

D. Develop and implement a plan for including on annual school report cards school-level information on the race/ethnicity, socioeconomic status, and other demographic information of all students, staff, students identified for exceptional children services, and students participating in advanced learning opportunities.

V. **An Assistance and Turnaround Function that Provides Necessary Support to Low-Performing Schools and Districts**

- A. Develop the State's capacity to fully support the improvement of its lowest-performing schools and districts.
1. By June 30, 2021, fully implement the NC State Board of Education's regional support model to support the improvement of low performing and high poverty schools by providing support in needed content areas and instructional and leadership coaching.
 2. By June 30, 2021, develop and initiate a plan to provide direct, comprehensive, and progressive turnaround assistance to the State's chronically low performing schools and low performing districts.

VI. **A System of Early Education that Provides Access to High-Quality Prekindergarten and Other Early Childhood Learning Opportunities**

- A. Expand the NC Pre-K program by increasing the average state rate per slot and the county administrator rate to 10 percent for oversight, monitoring, enrollment, and support.
- B. Increase high-quality early learning opportunities for at-risk children from birth through age three.
1. Implement a feasibility and cost study for a high-quality early learning program for birth through age 3 modeled on NC Pre-K to be completed by June 2022.
 2. Implement a study to develop alternative approaches to NC's current market rate model used to determine child care subsidy reimbursement rates to support high-quality early learning to be completed by June 2022.
- C. Expand the NC Infant-Toddler Program to provide high-quality early intervention services for children with special needs and increase access to services, by adding additional staff at the state and local level, providing interpreter services, creating a centralized provider network system, making

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salary adjustments to address recruitment and retention, and providing professional development.

- D. Increase funding for Smart Start with the goal of providing funding to meet 25 percent of the defined need for children aged birth to five by 2028.
- E. Expand funding for the Child Care WAGES program to provide educational attainment-based salary supplements to teachers in early learning programs serving children from birth to age five, prioritizing teachers in programs in high poverty school districts. This effort will increase retention and education among early childhood educators.
- F. Ensure quality transitions and alignment from early childhood programs to K-3 classrooms and strengthen elementary schools' readiness to support all children to achieve early grade success.
 - 1. Develop and implement a pilot program for prekindergarten and kindergarten teachers to learn, plan, and work together with professional development focused on formative assessment, family engagement, and developmentally appropriate practices for young children:
 - a. Allow families and prekindergarten teachers to systematically share information about children's strengths and needs with kindergarten teachers through an electronic information-sharing platform for the first time.
 - b. Align the Kindergarten Entry Assessment (Early Learning Inventory) with birth through third grade. The specific indicators of learning and development within these domains align with a subset of the indicators in the NC early learning standards and the NC Standard Course of Study.
 - c. The pilot will prioritize the inclusion of teachers from rural and low-wealth districts and from high-poverty schools across the State. The pilot will be conducted over two school years, 2021-22 and 2022-23.
- G. Fund and begin building a real-time, early childhood education workforce data system, including degrees, licensure, demographics, place of employment, and wages. The system will be readily accessible and usable for state and local users. Data system will be completed by June 2022.

VII. Alignment of High School to Postsecondary and Career Expectations for All Students

- A. Ensure students graduate prepared for college-level coursework by providing funding for NROC subscription and professional development for

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high school educators for College Career Ready Graduate courses in collaboration with the NC Community College System.

- B. Ensure all high school students have the option to complete high school courses leading to college credit, an associate degree, or a career-ready credential.
 - 1. Provide additional funding for approved Cooperative Innovative High Schools.
 - 2. Implement a policy or plan to allow flexibility with school calendars to ensure local schools can align with community college and university schedules.

- C. Strengthen college and career advising for high school students.
 - 1. Expand the NC Community College System Career Coaches program, which places career coaches employed by local community colleges with partnering high schools, prioritizing at-risk students.
 - 2. Provide matching funds to the College Advising Corps to expand the placement of college advisers in low wealth districts in North Carolina public schools.