

TENTH DISTRICT

From the Court of Appeals
No. P21-511

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TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Pursuant to Rule 37(a) of the North Carolina Rules of Appellate Procedure, Plaintiffs-Appellants Hoke County Board of Education *et al.* (collectively, the “Plaintiffs”) submit this response in opposition to the motion to dismiss and “conditional cross petition for writ of *supersedeas*” filed by Linda Combs, Controller of the State of North Carolina (“Ms. Combs”).

Ms. Combs’ filing consists of four primary arguments, each of which is addressed below in turn.

I. Plaintiffs’ Appeal Is Ripe And Proper: The Court of Appeals’ Writ of Prohibition Should Not Evade Review By This Court.

There are presently two appeals proceeding in this litigation: (1) *this* appeal, which is Plaintiffs’ appeal of the Court of Appeals’ 30 November 2021 Writ of Prohibition and (2) the State Defendant’s appeal of the trial court’s 10 November 2021 Order (the “Remedial Order”).

Ms. Combs contends that Plaintiffs’ appeal of the Writ of Prohibition should be dismissed as “premature and not ripe for determination.” *See* Ms. Combs’ Motion at 2 (¶2). Ms. Combs asserts that Plaintiffs should instead “cross appeal[]” the Remedial Order and present arguments in that appeal concerning the trial court’s Remedial Order. *Id.* at 2-3 (¶¶2, 4, 5). This argument is nonsensical.

Plaintiffs, of course, do not seek to appeal (by “cross-appeal[ing] or otherwise) the trial court’s Remedial Order. Plaintiffs—the *appellees* in the State’s appeal—contend that the trial court’s Remedial Order was proper in all respects under both the established factual record of the case and North Carolina jurisprudence. Simply put, it would make little sense for Plaintiffs to “appeal” the order that granted them the very relief they sought. Moreover, the State’s appeal (which is limited to the Remedial Order issued by the trial court on 10 November 2021) will not address what *subsequently* occurred at the Court of Appeals when Ms. Combs, a non-party, sought a Writ of Prohibition.

More importantly, what happened at the Court of Appeals should not evade the review of this Court as it will undermine the public confidence in our judicial system. As the dissent (J. Arrowood) made plain, the outcome of the entire proceeding at the Court of Appeals was infected by hasty gamesmanship played by a majority panel seemingly bent to decide issues in secret and without ample notice to litigants or the public. What happened at the Court of Appeals was improper. It undermined the integrity of our judicial branch.

Ms. Combs filed her petition with the Court of Appeals the afternoon before courts closed for two days for the Thanksgiving holiday. As soon as the Court opened after the holiday, the Court of Appeals *sua sponte* entered an order requiring all parties to respond to the petition by 9:00 a.m. the next day.

Plaintiffs' counsel were not even initially copied on that order. The Court of Appeals provided no reasoning for shortening the response time to less than twenty-four hours. Such a drastic shortening of the response time in a case of constitutional significance that had been pending for over 27 years was even more perplexing given the order Ms. Combs sought to prohibit was already stayed.

Judge Arrowood, in his dissent, recognized the actions of the majority as “arbitrary, capricious, and lack[ing] good cause and instead designed to allow this panel to rule on this petition during the month of November.” Judge Arrowood went on to say that the majority’s order shortening the response time was “a mechanism to permit the majority to hastily decide this matter on the merits, with only one day for a response, without a full briefing schedule, no public calendaring of the case, and no opportunity for arguments and on the last day this panel is constituted.” The majority’s actions demonstrated “a classic case of deciding a matter on the merits using a shadow docket of the courts.” Finally, acknowledging the stay of the trial court’s order, Judge Arrowood opined that his procedural concerns were exacerbated “by the fact that no adverse actions would occur to the petitioner during the regular response time.”

The irregularities at the Court of Appeals undermined the public confidence in our judiciary system and should not—indeed cannot—be

tolerated when fundamental, constitutional rights are involved, especially those of at-risk children across North Carolina. Appellate review by this Court is critical to renounce the majority’s use of its “shadow docket” and to afford all parties a full and fair opportunity to be heard on constitutional issues of critical importance to all of North Carolina and especially its children.

Ms. Comb’s suggestion that the Court of Appeals—rather than this Court—should “review” its *own* Writ of Prohibition is not only contrary to the most basic principles of fairness but would itself undermine public confidence in the judiciary system.

Plaintiffs do agree, however, that *both* appeals (the State’s appeal of the Remedial Order and Plaintiffs’ appeal of the Writ of Prohibition) should be heard by this Court. Indeed, when the record in that appeal is docketed with the Court of Appeals (which can be done as soon as the purported appellate intervenors Philip Berger and Timothy Moore approve the proposed record to which all parties to the case have already agreed), Plaintiffs intend to promptly petition this Court to “by-pass” the Court of Appeals in that matter – or specifically, petition for discretionary review under N.C. Gen. Stat. § 7A-31(b).¹

¹ The State has also indicated its intent to file a “by-pass” petition. *See Notice of Upcoming Filing*. Alternatively, this Court could decide to review the Court of Appeal’s decision together with the underlying appeal on its own initiative pursuant to N.C. Gen. Stat. § 7A-31 (b) and N.C.R. App. P. 15 (e)(2).

If granted, the Plaintiffs further anticipate seeking leave of this Court to consolidate both appeals for judicial economy.

Plaintiffs respectfully submit that, under such an approach, all parties (including Ms. Combs) and purported appellant intervenors (including Philip Berger and Timothy Moore) will have a full and fair opportunity to be heard on both the appeal of the trial courts' Remedial Order and the Court of Appeals' 30 November 2021 decision, and an opportunity to meaningfully address the critical issue that remains in this long-standing case: whether the judicial branch has the authority to order a meaningful remedy to an established and ongoing constitutional violation impacting the children of North Carolina.

II. The Supreme Court Is Not Subservient To The Court Of Appeals: The Writ Of Prohibition Is Subject To This Court's Review.

Ms. Combs also argues that the holdings in the Court of Appeals' 30 November 2021 decision are not subject to appellate review by this Court. According to Ms. Combs, this is because the document is an "order" rather than a "decision." *See* Ms. Combs' Motion at 3 (¶3), 20-21.

Regardless of the Court of Appeals' technical label to the document it issued on 30 November 2021 – whether calling it an "order" or "decision" – it is beyond any reasonable dispute that the document sets out the majority's decision on several substantive legal holdings and reaches the merits of the key issue: the enforceability of the Remedial Order.

The majority first held that the “trial court erred” in its “interpretation of Article I” which, the Court of Appeals decided, would render another provision of our Constitution . . . meaningless.” The majority also held that the “trial court erred” in its “reasoning” which, in the majority’s opinion, “would result in a host of ongoing constitutional appropriations, enforceable through court order, that would devastate the clear separation of powers between the Legislative and Judicial branches” The majority further decided that “[u]nder our Constitutional system” the trial court “lack[ed] the power to impose [its] judicial order.” And, without question, the Court of Appeals unequivocally held that the Remedial Order is unenforceable because – in the majority’s opinion – the trial court exceeded the constitutional authority of the judicial branch.

As the dissenting judge (J. Arrowood) correctly noted, the majority’s opinion “decide[d] the merits of the entire appeal.” Indeed, that decision by the Court of Appeals (irrespective of what label the majority placed on a document) operates to deny the at-risk children of North Carolina with the *only* remedy presented by North Carolina, a remedy the State concedes is necessary to correct the ongoing constitutional violations impacting them. Such a decision should not—and *cannot*—evade appellate review by this Court simply because the Court of Appeals effectively decided the merits of an appeal in a document labelled an “order.”

Ms. Combs further argues that a petition for a writ of *certiorari* is the only available procedural mechanism to challenge the legal holdings set out in the 30 November 2021 document issued by the Court of Appeals. This argument, however, is just an academic question of no practical consequence as Plaintiffs *did* file a petition for writ of *certiorari* as well.

Because Plaintiffs had already been denied a meaningful opportunity to be heard at the Court of Appeals and anticipating Ms. Combs or other non-parties may resort to procedural gamesmanship in an attempt to thwart meaningful judicial review of what happened at the Court of Appeals, Plaintiffs—out of an abundance of caution—filed: (1) a notice of appeal as of right pursuant to N.C. Gen. Stat. § 7A-30(2), (2) a notice of appeal as of right pursuant to N.C. Gen. Stat. § 7A-30(1) because the subject matter of the appeal directly involves substantial constitutional questions, (3) a petition for discretionary review pursuant to N.C. Gen. Stat. § 7A-31, and, in the alternative, (4) a petition for writ of *certiorari* to review the Court of Appeals’ 30 November 2021 decision.

Whether it derives from a notice of appeal and petition for discretionary review or, alternatively, a writ of *certiorari*, the critical point is that immediate and definitive resolution by this Court on a matter of the utmost public significance and North Carolina jurisprudence is necessary.

III. This Matter Involves Substantial Questions Arising Under Our Constitution.

Ms. Combs also argues that Writ of Prohibition “is justified” under the Constitution and North Carolina jurisprudence. *See* Ms. Combs’ Motion at 2 (¶1). This section of her filing (*id.* at 7-16) is an improper attempt to argue the *merits* of an appeal in the guise of a “motion to dismiss.” Ms. Combs will have a full opportunity to argue the merits of her position (something Plaintiffs were denied at the Court of Appeals) at the appropriate juncture, but a “motion to dismiss” is not the proper vehicle for doing so now.

To the extent Ms. Combs is arguing that an appeal as of right pursuant to N.C. Gen. Stat. § 7A-30(1) is improper, that argument is unfounded because the subject matter of the appeal directly involves substantial constitutional questions.

In the course of this 27-year-long litigation, many questions have been answered. But substantial questions arising under our Constitution remain in this case, and the children of North Carolina desperately need them answered.

There is no longer a question that the State is constitutionally obligated to ensure that every child in North Carolina, regardless of age, race, gender, socio-economic status, or the district in which he or she lives, is provided the opportunity to receive a sound basic education. Chief Justice Mitchell, writing on behalf of this unanimous Court, answered that critical question in 1997.

This Court held that Article IX of the Constitution guarantees all children this inalienable, fundamental right. *Leandro v. State*, 346 N.C. 336, 354, 488 S.E.2d 249, 259 (1997).

There is also no longer a question that the State has violated—and continues to violate—the Constitution by denying this fundamental right to at-risk children across North Carolina. In 2004, Justice Orr, again on behalf of this unanimous Court, answered that question and affirmed the trial court’s finding that the State Defendant had failed in its constitutional duty to provide students with the opportunity to obtain a sound basic education. *Leandro II*, 358 N.C. at 638, 599 S.E.2d at 390-91.

Further, the trial court annually reviewed the academic performance of every school in North Carolina from 2004-2015, as well as teacher and principal data and programmatic resources available to at-risk students, and issued an order finding and concluding, “in way too many districts across the state [] thousands of children in the public schools have failed to obtain and are not now obtaining a sound basic education as defined by and required by the *Leandro* decision.” See 17 March 2015 Order (App. 14). That order was not appealed. It is the law of the case.

The trial court again examined the record in 2018 and concluded and found that “the evidence before this court ... is wholly inadequate to demonstrate ... substantial compliance with the constitutional mandate of

Leandro measured by the applicable educational standards.” *See* 13 March 2018 Order (App. 9). That order was also not appealed. It is the law of the case. Indeed, the State has admitted to the trial court—repeatedly and unequivocally—to its continuing violation of the Constitution. *See, e.g.*, 21 January 2020 Order (App. 36) (State acknowledging that it has failed to meet its “constitutional duty to provide all North Carolina students with the opportunity to obtain a sound basic education.”); *id.* (App. 38) (State conceding that it has “yet to achieve the promise of our Constitution and provide all with the opportunity for a sound basic education”); State’s 15 March 2021 Submission (App. 57) (admitting that “this constitutional right has been and continues to be denied to many North Carolina children”); *id.* (“North Carolina’s PreK-12 education system leaves too many students behind, especially students of color and economically disadvantaged students.”).

And, there is no longer a question as to what *must* be done to remedy the ongoing constitutional violations. That question was answered by the State—acting in this case through its legislative and executive branches, *Leandro II*, 358 N.C. at 638, 599 S.E.2d at 390-91—when it presented the trial court with its Comprehensive Remedial Plan for constitutional compliance, the only such remedial plan presented to the court. The State also represented to the trial court—without equivocation—that the actions outlined in the Plan are the “necessary and appropriate actions that *must* be implemented to

address the continuing constitutional violations.” (App. 59). Based on the State’s representations and its own substantial review of the Comprehensive Remedial Plan, the trial court ordered the State to implement the Plan such that constitutional rights of North Carolina children would finally be vindicated. That order was not appealed. It is the law of the case.

The critical questions that *do* remain concern the role of the judicial branch in vindicating the fundamental constitutional rights of these at-risk children, the continuing violations of which have long been established. And, specifically, what remedial powers are available to the judicial branch when faced with a recalcitrant General Assembly that defiantly refuses to provide the funding necessary to implement the remedy needed by these children to correct constitutional violations?

Unfortunately for the children of North Carolina, the majority panel of the Court of Appeals held that the judicial branch is effectively powerless under the Constitution to vindicate the rights of these children. Under the majority’s reasoning, the General Assembly can ignore the constitutional violations indefinitely by simply withholding the necessary funds. Indeed, under the majority’s reasoning, the General Assembly could appropriate a mere \$1 – or some other ridiculously insufficient amount – to “fulfill” its obligation to provide a “general and uniform system of free public education,” and the people of North Carolina would have no judicial recourse. Indeed,

according to the majority, the children of this State must simply wait at least two more years for “the ballot box” to decide whether they will finally have their constitutional rights vindicated.

The majority’s decision thus raises a number of substantial constitutional questions of the utmost importance to the jurisprudence of this State. These include:

- Whether the General Assembly’s authority to appropriate funds pursuant to Article V, Section 7 of the North Carolina Constitution overrides and renders meaningless the constitutional right to a sound basic education under Article I, Section 15 and Article IX, Section 2.
- Whether the judicial branch, under Article I, Section 18 of the North Carolina Constitution, has the express and/or inherent authority to order a remedy for established constitutional violations that have persisted for over seventeen years, where the State has failed to act.
- Whether the judgment of the General Assembly overrides the power of the judiciary to order a remedy for established constitutional violations that have persisted for over seventeen years.
- Whether the State’s obligation under Article IX, Section 2 of the North Carolina Constitution to provide for a “general and uniform system of free public schools” is unenforceable and therefore meaningless when the General Assembly refuses to appropriate the funds necessary to do so.
- Whether the “right to the privilege of education” and the “duty of the State to guard and maintain that right” set forth in Article I, Section 15 of the North Carolina Constitution, which is the express will of the people, is an appropriation “made by law.”

Indeed, the answers to these questions will determine whether this Court's previous unanimous decisions in *Leandro I* and *Leandro II*, and indeed the rights enumerated in Article IX of our Constitution, have any real meaning or whether they ring hollow. They will determine whether the courts of North Carolina may meaningfully enforce a constitutional right, or if they are subservient to the will of the General Assembly. And, they will determine whether our State's "most valuable renewable resource" will be preserved by our tri-partite system of government, or destroyed by it. *Leandro*, 358 N.C. at 616, 599 S.E.2d at 377.

Despite Ms. Comb's suggestions to the contrary, these constitutional questions have not been conclusively foreclosed by prior precedent of this Court. The cases she cites do not involve the State's violation of a fundamental constitutional right.² Nor do they address the powers of the judiciary in terms of vindicating constitutional rights in the face of the State's long-term failure to do so. And none of them involve a violation of the fundamental right to a sound basic education.

² Plaintiffs also incorporate by reference, to avoid unnecessary repetition of argument, the extensive discussion of *Smith v. State*, 289 N.C. 303, 222 S.E.2d 412 (1976), *Able Outdoor, Inc. v. Harrelson*, 341 N.C. 167, 459 S.E.2d 626 (1995), *Cooper v. Berger*, 376 N.C. 22, 852 S.E.2d 46 (2020), and *Richmond County Board of Education v. Cowell*, 254 N.C. App. 422, 803 S.E.2d 27 (2017) in the Penn-Intervenors' Response, as well as in Plaintiffs' Notice of Appeal, Petition for Discretionary Review and Alternative Writ of *Certiorari*.

Indeed, the right to education is uniquely valued in our State Constitution's Declaration of Rights, which this Court has recognized as having "primacy...in the minds of the framers." *Corum v. University of North Carolina*, 330 N.C. 761, 782, 413 S.E.2d 276, 289-90 (1992). In addition to recognizing the "right to the privilege of education" in Article I, § 15, the Constitution later devotes an entire section to education. N.C. Const. Art IX. This article commands the General Assembly to "provide...a general uniform system of *free* public schools," N.C. Const. Art. IX, § 2(1) (emphasis added), and to "*faithfully appropriate*[] and use[] exclusively" certain proceeds from state lands, money stocks, bonds, other state property, and "grants, gifts and devises," together with other state revenue, to "*establish*[] and *maintain*[] a uniform system of *free* public schools," N.C. Const. Art. IX, § 6; N.C. Const. Art. IX, § 7(1) (emphasis added).

Ms. Combs fails to recognize that it is the reasoning of the Court of Appeals' majority that is inconsistent with prior precedent. This Court has repeatedly affirmed the courts' inherent powers as one of three separate, coordinate branches of the government. *Ex Parte McCown*, 139 N.C. 95, 105-06, 51 S.E. 957, 961 (1905) (citing N.C. Const. Art. I, § 4)). These inherent powers are not limited by the Constitution, but are instead protected by the Constitution. *Beard v. N. Carolina State Bar*, 320 N.C. 126, 129, 357 S.E.2d 694, 695 (1987). The General Assembly has no power to deprive the courts of

their “authority to do all things that are reasonably necessary for the proper administration of justice.” *State v. Buckner*, 351 N.C. 401, 411, 527 S.E.2d 307, 313 (2000). Allowing the General Assembly to destroy these inherent powers, which “are critical to the court’s autonomy and to its functional existence,” would destroy the courts “for all efficient and useful purposes.” *Matter of Alamance Cnty. Ct. Facilities*, 329 N.C. 84, 93–94, 405 S.E.2d 125, 22 129 (1991) (citing *Ex Parte Schenck*, 65 N.C. 353, 355 (1871)). Indeed, a deprivation of the judicial branch’s ability to protect constitutional rights would violate a fundamental judicial principle first recognized in *Marbury v. Madison*, “that every right, when withheld, must have a remedy, and every injury its proper redress.” 5 U.S. 137, 147, 2 L. Ed. 60 (1803). *See also* N.C. Const. Art I, Sec. 18. Indeed, this Court has previously held in this case:

Certainly, when the State fails to live up to its constitutional duties, a court is empowered to order the deficiency remedied, and if the offending branch of government or its agents either fail to do so or have consistently shown an inability to do so, a court is empowered to provide relief by imposing a specific remedy and instructing the recalcitrant state actors to implement it.

358 N.C. at 642, 599 S.E.2d at 393.

IV. Ms. Combs Cannot Seek A “Conditional” Writ Of *Supersedeas* Pertaining To An Order She Has Not Appealed.

Lastly, Ms. Combs asserts a “conditional cross motion for *supersedeas*” to stay enforcement the trial court’s Remedial Order during the *State’s* appeal.

But, as Ms. Combs acknowledges, she is a “non-party” to that case and has “no standing or unconditional right” to move for such a stay. *See* Ms. Combs’ Motion at 21. Simply put, Ms. Combs has not appealed the Remedial Order. She therefore has no standing to seek its stay pending an appeal by someone else.

The State Defendant appealed the Remedial Order and, accordingly, is the proper party to seek such a stay.

If a stay of the Remedial Order were to be sought by the State Defendant, Plaintiffs would not object so long as all appellate issues—the State’s appeal of the Remedial Order and Plaintiffs’ appeal of the Writ of Prohibition—could proceed without unnecessary delay. That is because, right now, thousands of at-risk children are being denied the opportunity to avail themselves of their fundamental constitutional right to a sound basic education. The State Defendant has admitted—and did so to the trial court without qualification—that significant constitutional violations are impacting North Carolina children right now. Immediate and final adjudication by this Court is necessary to prevent further and irreparable harm to these children. This Court has previously noted that this litigation, to the extent possible, should not be delayed because “[w]e cannot ... imperil even one more class unnecessarily.” *Leandro II*, 358 N.C. at 616, 599 S.E.2d at 377.

As explained above, Plaintiffs respectfully submit that this could best be accomplished by permitting the State's appeal to "by-pass" the Court of Appeals. That way, this Court could review the Court of Appeal's decision together with the State's underlying appeal. All parties (and non-parties properly before the Court) would then have a meaningful opportunity to fully address all applicable issues and arguments.

CONCLUSION

For the reasons stated above, Ms. Combs' motion to dismiss and "conditional cross petition for writ of *supersedeas*" should be denied.

This the 18th day of January 2022.

Electronically Submitted

Melanie Black Dubis
N.C. Bar No. 22027

N.C. R. App. P. 33(b) Certification: I certify that all the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

Scott E. Bayzle
N.C. Bar No. 33811
PARKER POE ADAMS & BERNSTEIN LLP
301 Fayetteville Street, Suite 1400 (27601)
P.O. Box 389
Raleigh, North Carolina 27602-0389
Telephone: (919) 828-0564
Facsimile: (919) 834-4564
E-mail: melaniedubis@parkerpoe.com
E-mail: scottbayzle@parkerpoe.com

H. Lawrence Armstrong, Jr.
ARMSTRONG LAW, PLLC
119 Whitfield Street
Enfield, North Carolina 27823
Telephone: (252) 445-5656
E-mail: hla@hlalaw.net

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on 18 January 2022 the foregoing was served upon the parties by electronic mail and US Mail addressed as follows:

Amar Majmundar
Senior Deputy Attorney General
NORTH CAROLINA DEPARTMENT OF JUSTICE
P.O. Box 629
Raleigh, North Carolina 27602
AMajmundar@ncdoj.gov
Counsel for State of North Carolina

Matthew Tulchin
Tiffany Lucas
NORTH CAROLINA DEPARTMENT OF JUSTICE
114 W. Edenton Street
Raleigh, North Carolina 27603
MTulchin@ncdoj.gov
TLucas@ncdoj.gov
Counsel for State Board of Education

Thomas J. Ziko
Legal Specialist
STATE BOARD OF EDUCATION
6302 Mail Service Center
Raleigh, North Carolina 27699-6302
Thomas.Ziko@dpi.nc.gov
NRamee@tharringtonsmith.com
Counsel for State Board of Education

Neal Ramee
David Nolan
THARRINGTON SMITH, LLP
P.O. Box 1151
Raleigh, North Carolina 27602
nramee@tharringtonsmith.com
dnolan@tharringtonsmith.com
Counsel for Charlotte-Mecklenburg Schools

Elizabeth Haddix
David Hinojosa
Lawyers Committee for Civil Rights Under Law
1500 K. Street NW, Suite 900
Washington, DC 20005
ehaddix@lawyerscommittee.org
dhinojosa@lawyerscommittee.org
Counsel for Penn Intervenors

Robert N. Hunter, Jr.
HIGGINS BENJAMIN, PLLC
301 North Elm Street, Suite 800
Greensboro, NC 27401
rnhunterjr@greensborolaw.com
Counsel for Linda Combs, NC Controller

Matthew Tilley
Russ Ferguson
W. Clark Goodman
WOMBLE BOND DICKINSON
301 S. College Street, Suite 3500
Charlotte, NC 28202-6037
matthew.tilley@wbd-us.com
russ.ferguson@wbd-us.com
clarkgoodman@wbd-us.com

Honorable W. David Lee
c/o Union County Judicial Center
P.O. Box 5038
Monroe, NC 28112
david.lee2@nccourts.org

Electronically Submitted
Melanie Black Dubis
N.C. Bar No. 22027

No. _____

TENTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

HOKE COUNTY BOARD OF)
EDUCATION; et al.,)
Plaintiffs,)

and)
)

CHARLOTTE-MECKLENBURG BOARD)
OF EDUCATION,)
Plaintiff-Intervenor,)

and)
)

RAFAEL PENN, et al.,)
Plaintiff-Intervenors,)

v.)
)

STATE OF NORTH CAROLINA and the)
STATE BOARD OF EDUCATION,)
Defendants-Appellees,)

and)
)

CHARLOTTE-MECKLENBURG BOARD)
OF EDUCATION,)
Realigned Defendant.)

From the Court of Appeals
No. P21-511

**APPENDIX TO PLAINTIFFS' RESPONSE TO MS. COMBS' MOTION
TO DISMISS AND "CONDITIONAL CROSS PETITION FOR WRIT OF
SUPERSEDEAS**

Order dated 17 March 2015	App. 1
Order dated 13 March 2018	App. 15
Order dated 21 January 2020	App. 22
State’s Comprehensive Remedial Plan dated 15 March 2021	App. 56

NORTH CAROLINA:

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

WAKE COUNTY:

HOKE COUNTY BOARD
OF EDUCATION, et al,
Plaintiffs,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,
Plaintiff-Intervenor,

and

RAFAEL PENN; CLIFTON JONES, et al.,
Plaintiff - Intervenor,
v.

STATE OF NORTH CAROLINA and STATE BOARD OF EDUCATION,
Defendants,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,
Realigned Defendant

NOTICE OF HEARING AND ORDER RE: HEARING

TAKE NOTICE that the Court will hold a hearing in this case during a special scheduled session of the Wake County Superior Court to begin on Wednesday, April 8, 2015 at 10:00 a.m. in Courtroom 10A (or such other Courtroom in the Wake County Courthouse as is available), Wake County Courthouse and to continue on Thursday, April 9, 2015.

The purpose of this hearing is for the State of North Carolina, acting through its Executive Branch, including but not limited to the State Board of Education and The Department of Public Instruction, and the Legislative Branch, to report to the Court regarding any efforts, proposals, or plans to: ONE: (a) reduce, diminish or eliminate any educational standards in any subject taught in the public schools of North Carolina, present or in progress, including the Read to Achieve program which seeks to have all children reading at grade level (level 4) by the end of the third grade; (b) reduce, diminish or eliminate any assessments, EOG, EOC, or ACTs (formative, benchmark, or summative) now required in the public schools of North Carolina; (c) reduce, diminish or eliminate accountability standards now in effect for measuring a student's equal opportunity to obtain a sound basic education as set forth in the Leandro decisions; (d) reduce, diminish or eliminate any accountability measures in place to evaluate superintendent, principal and teacher performance in delivering a sound basic education to the school children of North Carolina; and

TWO: (a) review the results of the 2013-14 EOC, EOG and ACT tests from the public schools of North Carolina, which indicate that in way too many school districts across the state, thousands

of children in the public schools have failed to obtain, and are not now obtaining a sound basic education as defined by and required by the *Leandro* decisions. A short report on the 2012-2013 and 2013-2014 EOG results statewide in reading and math for grades 3 and 8 and on the 2012-2013 and 2013-2014 EOC results statewide in Math I and Biology which are high school level courses follows:

Statewide EOG results for Grade 3 and 8 Reading and Math for 2012-13 and 2013-14 school years.

Reading Results – Grade 3 2012-13 All Students
107,424 students tested. 54.8% - 58,868 3rd graders were below grade level.

Reading Results - Grade 8 2012-13 All Students 52.3% - 60,344 8th graders were below grade level.

Reading Results – Grade 3 2013-14 All Students
115,381 students tested. 62.3% - 60,344 3rd graders were below grade level. (Level 4 –CCR)

Reading Results- Grade 8 2013 -14 All Students
116,626 students tested. 57.7% - 67,293 8th graders were below grade level. (Level 4-CCR)

Math Results – Grade 3 2012-13 - All Students.
107,427 students tested. 53.2% - 57,151 3rd graders were below grade level.

Math Results – Grade 8 2012-13 – All Students.
113,987 students tested. 65.8% - 75,003 8th graders were below grade level.

Math Results – Grade 3 2013-14 – All Students.
115,407 students tested. 51.7% - 59,665 3rd graders were below grade level. (Level 4-CCR)

Math Results – Grade 8 2013-14 – All Students.
116,649 students tested. 65.4% - 76,288 8th graders were below grade level. (Level 4-CCR)

Statewide EOC results for Math 1 and Biology for 2012-13 and 2013-14 school years.

Math I Results – 2012-13 – All Students.
156,804 students tested. 57.4%-89,317 students were below grade level.

Math 1 Results – 2013-14 – All Students.
154,435 students tested. 53.1% - 82,005 students were below grade level. (CCR)

Biology Results- 2012-13 – All Students.
109,897 students tested. 54.5% - 59,894 students were below grade level.

Biology Results – 2013-14 – All Students.
111,830 students tested. 54.9% - 65,238 students were below grade level. (CCR)

If this information isn't dismal enough, in 2013-14 there were 348 public schools, including charters, in which fewer than 50% of the students' test scores were at or above the new Level 3 (which is not CCR grade level) and the school had an EVAAS growth status of does not meet

Expected Growth. The cost of maintaining these schools is staggering and yet, there is no student academic success or growth for 50% of the children that attend.

At this hearing, the Court and the State of North Carolina will schedule another hearing at which the State of North Carolina will propose a definite plan of action as to how the State of North Carolina intends to correct the educational deficiencies in the student population as evidenced by the measures of output extant in the K-3 assessments, not reading on grade level by the third grade, and the other measures of student achievement evidenced by the EOG, EOC and ACT tests.

This is necessary to meet the requirements and duties of the State of North Carolina with regard to its children having the equal opportunity to obtain a sound basic education as mandated the Constitution of North Carolina and mandated by the North Carolina Supreme Court in *Leandro*.

The Law -- Excerpts from *Leandro I* and *Leandro II* follow:

FIRST: We conclude that Article I, Section 16 and Article IX, Section 2 of the North Carolina Constitution combine to guarantee every child of this state an opportunity to receive a sound basic education in our public schools. For purposes of our Constitution, a 'sound basic education' is one that will provide the student with at least:

1. sufficient ability to read, write and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society;
2. sufficient fundamental knowledge of geography, history and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community state and nation;
3. sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education and training; and
4. sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society..." *Leandro I*, p 347.

Note: It is crystal clear that the *Leandro* "sound basic education" is supposed to provide each student with **at least sufficient academic and vocational skills to enable the student to successfully engage in college and community college education and training so as to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.**

As of today, the language utilized within the N.C. K-12 education administration bureaucracy to describe what *Leandro* (and the North Carolina Constitution) requires in regard to standards 3 and 4 above--is "college and career ready" or CCR in shorthand.

SECOND: Article I, Section 15 and Article IX, Section 2 of the North Carolina Constitution, as interpreted by *Leandro*, guarantee to each and every child the right to an equal opportunity to obtain a sound basic education requires that each child be afforded the opportunity to attend a public school which has the following educational resources, at a minimum:

1. First, that every classroom be staffed with a competent, certified, well-trained teacher who is teaching the standard course of study by implementing effective educational

methods that provide differentiated, individualized instruction, assessment and remediation to the students in that classroom.

2. Second, that every school be led by a well-trained competent principal with the leadership skills and the ability to hire competent, certified and well-trained teachers who can implement an effective and cost-effective instructional program that meets the needs of at-risk children so that they can have the equal opportunity to obtain a sound basic education by achieving grade level or above academic performance.
3. Third, that every school be provided, in the most cost effective manner, the resources necessary to support the effective instructional program within that school so that the educational needs of all children, including at-risk children, to have the equal opportunity to obtain a sound basic education, can be met. ***Leandro II, 358 NC 636.***

FOURTH: That a child who is showing Level III (grade level) or above proficiency on the State's ABC tests, End of Grade (EOG) or End of Course (EOC), is obtaining a sound basic education in that subject matter and that a child who is not showing Level III proficiency (performing below grade level) on the ABC tests is not obtaining a sound basic education in that subject matter. ***Leandro II, 358 NC 624, 625.*** (Level III is now called Level 4 or College and Career Ready (CCR)).

The foregoing has been the law since April 4, 2002, when the Final Judgment was entered on the liability phase of this case. The North Carolina Supreme Court set the law in stone on July 30, 2004, over ten (10) years ago. Since that time, this Court has undertaken to monitor the State's progress with respect to carrying out its constitutionally mandated requirement that each and every child be afforded the equal opportunity to obtain a sound basic education. **The North Carolina Supreme Court, over one year ago, declared that its mandates in this case remain "in full force and effect."** *Hoke County Bd. of Educ. v. State, 367 NC 156 (2013)*

Despite the North Carolina Supreme Court's declaration that its mandates in Leandro remain in full force and effect, in March, 2014 - less than five months after the Supreme Court's affirmation of *Leandro's* mandates -- The SBE and DPI, elected to "redefine" the Achievement Levels for EOG and EOC standardized assessments by administratively eliminating Level I, Level II, Level III and Level IV as the four levels of academic achievement for the EOG and EOC assessments and in their place, created 5 "new" Achievement Levels numbered 1,2,3,4 and adding a "new" Level 5.

The Court views the intended/or unintended purpose behind this "change" was to water down the definition of grade level academic achievement which -- under the *Leandro* decision is Level III, grade level performance, and substitute in its place a lower standard of academic achievement (new Level 3) which was to be characterized as the "new" standard of satisfactory academic achievement, which standard is less than the constitutional standard for grade level academic achievement (Level III) as defined in *Leandro*. The Level III standard definition has been approved by the Supreme Court and has been used for more than a decade by this Court to measure actual academic achievement in the EOC and EOG assessments for determining if the children of North Carolina are performing at grade level and thus obtaining a sound basic education.

On January 21 and 22 of this year, the Court held a hearing, after due notice, in which the Executive Branch, through the State Board of Education ("SBE") and the Department of Public Instruction ("DPI") were provided with the opportunity to report concerning matters relating to the academic progress that our children in the public schools of North Carolina had made during the 2013-2014 school year and an explanation of the SBE's redefining and relabelling the standards

for academic achievement into levels 1-5 for purposes of defining academic achievement in grades 3-8 and in certain high school courses. In addition, the SBE and DPI were to report on the results of the 3 ACT tests given in the 8th, 10th and 11th grades to all children in the public schools of North Carolina.

The Court, after listening to the testimony concerning the reason(s) for redefine and relabeling the standards for academic achievement into levels 1-5 for purposes of defining academic achievement in grades 3-8 and in certain high school courses, will continue to review EOG and EOC course scores at the "old" level III (grade level) which is now level 4 ("college and career ready" or "CCR") in determining whether the children of North Carolina have obtained a sound basic education in that course or subject for the previous year.

The Court is concerned, as a result of the actions of the SBE and DPI regarding the relabeling and redefinition of the academic levels to create a new level 3 and publicly label academic achievement in that level as GLP (grade level performance) that the State of North Carolina acting through either the Executive or Legislative branch, or both, will press for reduced academic standards and for the reduction or elimination of assessments and EOC and EOG tests rather than face the fact of academic weaknesses of thousands of children and attack the problem head on to provide the children with an equal opportunity to obtain a sound basic education.

Regardless of whatever excuse or reason reducing or eliminating academic standards and assessments may be based on, including educational leaders and parent pressure, politics or an unconstitutional desire to reduce children's equal opportunities to obtain a sound basic education, the reduction of academic standards and elimination of assessments and EOC and EOG tests would be a direct violation of the *Leandro* mandates regarding assessments and testing to determine whether each child is obtaining a sound basic education.

The bottom line is that in 2014, the SBE and DPI through their actions in redefining achievement levels, has begun to nibble away at accountability and academic standards so that parents and educators can "feel good" when their child is performing at the "new grade level performance" and yet has **not achieved mastery of the subject matter so that they can perform on grade level in the next grade without some extra help from the next year's teacher.**

In regards to any further erosion and elimination of standards and assessments which would screen out the children's actual academic level of performance so that no one can know if the child is obtaining a sound basic education, it is time to go back over *Leandro's* mandates once again and explain in detail: (1) the critical importance of employing valid, transparent assessments to measure whether each child's opportunity to obtain a sound basic education is being met and (2) the requirement that the public schools, principals and teachers are accountable for providing each child an equal opportunity to obtain a sound basic education each day in every classroom.

No matter how many times the Court has issued Notices of Hearings and Orders regarding unacceptable academic performance, and even after the North Carolina Supreme Court plainly stated that the mandates of *Leandro* remain "in full force and effect" many adults involved in education, educators and school board members and others, still seem unable to understand that **the constitutional right to have an equal opportunity to obtain a sound basic education is a right vested in each and every child in North Carolina regardless of their respective age or educational needs.**

The children of North Carolina are our state's most valuable renewable resource. 358 NC 616. Each and every child in North Carolina is vested with the constitutional right to have an equal opportunity to obtain a sound basic education. This constitutional right does not belong to educators or to adults, including parents – the right belongs to the children.

"In *Leandro*, this Court held that the state's Constitution 'guarantees every child of this state an opportunity to receive a sound basic education in our public schools.' 346 NC 347, 358 NC 619

We read *Leandro* and our state Constitution, as argued by plaintiffs, as according the right at issue (an opportunity to receive a sound basic education) to all children of North Carolina, regardless of their respective ages or needs. Whether it be the infant Zoe, the toddler Riley, the preschooler Nathaniel, the "at-risk" middle-schooler Jerome, or the not "at-risk" seventh-grader Louise, the constitutional right articulated in *Leandro* is vested in them all. *Leandro II*, 358 NC 620.

In *Leandro*, this Court decreed that the children of the state enjoy the right to avail themselves of the opportunity for a sound basic education. 346 NC 347 The Court then proceeded to declare that "an education that does not serve the purpose of preparing students to participate and compete in the society in which they live and work is devoid of substance and is constitutionally inadequate." *Leandro I*, 346 NC 345.

Leandro II affirmed the trial court's determination that a child who is showing Level III (grade level) or above proficiency on the State's ABC tests, End of Grade (EOG) or End of Course (EOC), is obtaining a sound basic education in that subject matter AND that a child who is not showing Level III proficiency (performing below grade level) on the ABC tests is not obtaining a sound basic education in that subject matter and established Level III proficiency as the standard bearer for test score evidence. 358 NC 624,625, *supra*.

"After considering the evidence and arguments from both sides, the trial court ruled that Level III proficiency (*EOG and EOC test scores*) was the required standard. The trial court rejected the State's argument that Level II proficiency more closely describes the 'minimal level of performance which is indicative of a student being on track to acquire' a *Leandro*-comporting education and concluded that: (1)'a student who is performing below grade level (as defined by Level I or Level II) is not obtaining a sound basic education under the *Leandro* standard'; and (2)'a student who is performing at grade level or above (as defined by Level III or Level IV) is obtaining a sound basic education under the *Leandro* standard.'

On appeal, although the State assigned error to the trial court's conclusion concerning the Level III standard, it made no argument to that effect in its brief. As a consequence, the issue is considered abandoned under the appellate rules, N.C. R. App. P. 28(b)(6). In addition, our own examination of the issue reveals no grounds to disturb the trial court's findings and preliminary conclusions pertaining to the question of which test score standard should be used. As a consequence, we find no error in the trial court's ruling that a showing of Level III proficiency is the proper standard for demonstrating compliance with the *Leandro* decision.

"With Level III proficiency established as the standard-bearer for test-score evidence, we turn our attention to whether the number of Hoke County students failing to achieve Level III proficiency is inordinate enough to be considered an appropriate factor in the trial court's

determination that a large number of Hoke County students had been improperly denied their opportunity to obtain a sound basic education.

At trial, EOG and EOC test scores from across the state and from Hoke County were submitted into evidence. In addition, education and testing experts were called to testify about what the scores mean, how statewide scores compare to those of Hoke County, and what such comparisons might indicate. In its third memorandum of decision, the trial court initially assessed the quantitative elements of the test score evidence and concluded that it clearly shows that Hoke County students are failing to achieve Level III proficiency in numbers far beyond the state average. In turn, the trial court then proceeded to conclude that the failure of such a large contingent of Hoke County students to achieve Level III proficiency is indicative that they are not obtaining a sound basic education in the subjects tested. In other words, evidence tending to show Hoke County students were faring poorly in such standardized test subject areas as mathematics, English and history was relevant to the primary inquiry:

Were Hoke County students being denied the opportunity to obtain an education that comports with the *Leandro* mandate --- one in which students gain sufficient knowledge of fundamental math, science, English and history in order to function in society and/or engage in post-secondary education or vocational training. 346 N.C. 347, *supra*." We agree with the trial court's assessment that test score evidence indicating Hoke County student performance in subject areas that correspond to the very core of this Court's definition of a sound basic education is relevant to the inquiry at issue." *Leandro II*, 358 N.C. 624, 625

"Footnote: 11. We note that the test score evidence, in and of itself, addresses the question of whether students are obtaining a sound basic education rather than the question of whether they were afforded their opportunity to obtain one. This distinction is important. While a clear showing of a failure to obtain a sound basic education is a prerequisite for demonstrating a legal basis for the designated plaintiff school children's case, the failure to obtain such an education is not the ultimate issue in dispute." 358 NC 625, 626

In *Leandro II*, the Supreme Court also affirmed the trial court's determination that the State of North Carolina was ultimately responsible for providing the children with the equal opportunity to obtain a sound basic education and when that right was not be properly provided, the State must assume responsibility for, and correct, those educational methods and practices that contribute to the failure to provide children with a constitutionally - conforming education. When the State assesses and implements plans to correct educational obligations in the face of a constitutional deficiency in an LEA, or particular school, the solution proposed must ensure competent teachers in classrooms, competent principals in schools and adequate resources to support the instructional and support programs in that school so as to be *Leandro* compliant. *Leandro II*, 358NC 635, 636.

Assessments and Tests ensure that there is Accountability for students and educators and the billions of dollars spent for the purpose of providing our children with the equal opportunity to obtain a sound basic education.

a. Student accountability.

What is the primary objective measurement to determine whether or not the child's right to have the opportunity to obtain sound basic education is being met in the first instance? The primary

objective measurement is how the child is performing on the End of Grade (EOG) or End of Course Tests (EOC) and ACT tests given statewide each year so that all children's academic progress is assessed on the same subject matter for each subject and course regardless of where they live.

The North Carolina Supreme Court has declared that a child who is performing at Level III grade level or above (now called CCR or new Level 4 or Level 5) proficiency on the standardized End of Grade and End of Course tests given statewide each year is **obtaining a sound basic education in that particular subject area or high school course and the reverse is also the case – when a child is performing at Level I, or Level II, (now new Levels 1,2 or 3) below grade level on the End of Grade and End of Course tests, that the child is not obtaining a sound basic education.**

The Supreme Court has also declared that evidence tending to show large numbers of students failing to achieve Level III proficiency on the EOG and EOC tests is **relevant to the primary inquiry as to whether or not those students are obtaining a sound basic education. "We note that the test score evidence, in and of itself, addresses the question of whether students are obtaining a sound basic education...." Leandro II, 358 NC 626.**

It is the **child's constitutional right** to be provided with the equal opportunity to obtain a sound basic education in the core subjects in grades K-12 so they can graduate from high school with sufficient academic and vocational skills to enable the child to compete with others in further formal education or gainful employment in contemporary society. **246 NC 347.** In order to determine if the child is obtaining those skills, the child's progress is measured by the EOG and EOC tests.

Specifically identified core subjects required by the constitution under Leandro are: **fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; fundamental knowledge of geography, history and basic economic and political systems; and sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education and training. 246 NC 347.**

In 2011, the North Carolina General Assembly enacted laws related to the North Carolina testing program that basically prohibited the State from giving high school End of Course (EOC) tests in all but three (3) subjects that were required by the federal government. This legislation essentially ended EOC tests in many of the *Leandro* subjects set out by the Supreme Court in *Leandro I*. These high school courses were civics and economics, Algebra II, physical science and American History. This Court objected to the deletion of the high school EOC tests because there was no longer any measurable statewide accountability for high schools in those subject areas and as a result, the Court was of the opinion, that it would be difficult, if not impossible to know whether or not high school students were obtaining a sound basic education in those Leandro subjects. Nevertheless, the legislation passed.

However, in the aftermath of this firestorm in February and March 2011, the General Assembly, thanks to the common sense efforts of Senator Rucho and others, elected to begin using the ACT, a nationally recognized testing company, to measure high school students against national standards and by using ACT tests that were nationally recognized and normed. The first two ACT tests adopted were the ACT and PLAN. The ACT, which is recognized as a valid instrument for college admissions was to be given to all eleventh graders (Juniors in high school) during the second semester of their junior year beginning in the school year 2011-2012.

The PLAN is a curriculum based test for 10th graders. The PLAN was also given to 10th graders statewide beginning in the school year 2011-2012. The EXPLORE test was adopted and used for 8th graders beginning in 2012-2013. 115C-174.11(c)(4); 115C-174.18; 115C-174.22.

Bottom line in 2012-2013, our 8th grade, 10th grade and 11th grade students were, with some statutory exception taking ACT tests, which covered English, math, science, reading comprehension and writing (ACT).

The ACT tests measure our North Carolina students against nationally normed standards. PLAN and ACT were given in 2011-12, 2012-13 and 2013-14. The results for far too many North Carolina high school students on PLAN and ACT in reading and math and science fall way short of the benchmark scores for those subjects. The adult excuse for these poor results can be summed up as there is no real motivation for the students to do well, or some other excuse.

b. Educator accountability.

The flip side of using EOG and EOC and the ACT tests is obvious. If the student is not tested in a subject with the statewide, standardized EOG, EOC and ACT tests given to all students, there is no objective measurement of that student's performance to determine if he or she is performing at Level III (now level 4) or above, or Level I or II (below grade level) and not obtaining a sound basic education in that subject (now level 1, 2 and 3).

Without an objective statewide measurement of a student's academic progress in a subject, there is no objective statewide measurement of an school, principal or classroom teacher's effectiveness in providing a child with the opportunity to obtain a sound basic education. In short, no means of holding an educator accountable for a failure in classroom instruction.

Not only is the child entitled to be objectively measured to determine whether he or she is obtaining a sound basic education, it is of critical importance to have the statewide assessments and test scores available to ensure that LEAs, superintendents, principals and teachers in all schools, including high schools, are held accountable for the lack of academic progress and growth of the children they are being paid to educate. Likewise, these same assessments and tests also provide important data showing successful schools, principals and classroom teachers whose students are clearly making academic progress and performing at grade level or above.

These tests and assessments are also necessary to determine the child's weaknesses and for the educator to use the data obtained by the assessment or test to drive individual classroom instruction for the child.

The EOG, EOC and ACT tests provide the data on academic performance and are given statewide so all schools are measured against themselves and others in the state. Using valid rigorous assessments also form the basis for measuring academic growth for each child and for the entire school. What is growth?

Growth measures a child's expected academic progress in a subject.

A child's expected academic progress for each is measured using a growth formula. The growth formula predicts where each child should be academically at the end of the course. Put

another way, the growth formula predicts how far the child should grow academically by the end of the particular course.

The growth formula for each child in elementary, middle and high school is used to predict their academic growth for each core subject which is measured by assessments and testing.

The growth formula for each child expects each child to make academic progress each year even if the child is performing at Level 1 or Level 2. The growth for the entire school is reported in the ABCs report. However, the growth measurement is not part of the performance composite which simply reports on the academic success or failure of the students in a school by course or in grades 3-8, by reading, math and science EOG tests.

The assessment of academic performance by EOC and EOG tests is mandated by **Leandro** for each child as part of their vested constitutional right to have the opportunity to obtain a sound basic education and is an integral part of measuring and assessing their academic performance to determine if they are functioning at Level III (now 4) or above - ie - obtaining a sound basic education.

Furthermore, the fact that educators do not like the "tests" and assessments because the results hold them accountable for the failure of their students to obtain a sound basic education in the subject matter they teach is not a rational or a valid ground upon which to lower academic standards or to simply eliminate EOC or EOG standardized testing under North Carolina's accountability and testing system.

Those educators who desire not to be identified and held accountable when their students fail to obtain a sound basic education in the course(s) taught is simply no excuse to eliminate assessments and testing, especially in K-8. To the contrary, the exposure to public accountability for academic results is necessary and legitimate in order to protect the children's right to obtain a sound basic education and keep the public informed on the progress of the public schools in their county.

Today in North Carolina, assessment and test data drives classroom instruction and accountability. The DPI compiles Reading Assessment data for K-3 as well as EOG, EOC, and ACT test results on every single child (as well as growth where it can be legitimately measured) in the state and for every school in the state, down to the individual classroom and section of course taught. Upon proper request, the DPI can furnish the data on EOC and EOG tests results, including scale scores, on any educator, by class, by section, in any school in North Carolina. In other words, an educator may no longer be "anonymous" when it comes to the data relating to the academic performance of his or her students on the K-3 assessments, EOG EOC and ACT tests. This data is available to the principal of the school, the Superintendent of the District and others. As a result, there is no place for a non Leandro compliant school, principal or educator to hide from the data revealed by test results. This is transparent public accountability and is also the accountability required by Leandro so that each child's academic progress can be measured to determine if the child is obtaining a sound basic education and tailoring classroom instruction to overcome any deficiencies.

As a result of today's heightened awareness and available data relating to individual school and student academic achievement in each classroom, the natural reaction by the affected adults who are in education, is to seek a way to eliminate the source of the data that holds them

accountable. The only way out from under the microscope of accountability is to eliminate the assessments and tests themselves.

Helping non Leandro compliant teachers and principals escape from public scrutiny and accountability by eliminating is invalid, simply wrong and in violation of the children's rights to obtain a sound basic education

Teaching to the test is a "red herring" phrase to draw attention away from the real problem – a failure of basic classroom instruction.

The tired old refrain and criticism from uninformed parents, politicians and educators who do not want to be accountable to the effect that K-3 assessments, EOG, EOC and ACT tests are a "distraction and waste of time" because the teachers spend their classroom time "Teaching to the Test" is a Red Herring and not a valid or permissible reason for eliminating assessments, tests and accountability in public schools in North Carolina.

To understand why this is so, one must have a basic understanding of how the educational process is designed to work in each classroom.

The State of North Carolina's curriculum for all of the subjects and courses offered to students in pre-K through 12th grade is known as the Standard Course of Study ("SCOS").

The SCOS prescribes the content of each course or subject. The content area for each course or subject to be taught contains critical standards that all students need to master during the length of the course that is being taught.

The SCOS for each course or subject is designed for the content area to be mastered over a period of 180 days of instruction, or hours if the course is a "block" course in high school. During this period of instruction, the student is expected to master the critical standards that build upon each other as the course goes on during the year.

As critical part of the teaching process of students in any course or subject, the SCOS must be taught at a deliberate but rational pace so that the students can master each critical standard in the course by the end of the year or the block.

In order to effectively accomplish the mastery of the content or subject matter of the course within the time period allotted, the classroom teacher must set the pace of the instruction so as to finish the SCOS critical standards for the course by the end of the school year or allotted hours in a block course.

This necessary function is accomplished by using what is commonly known as a **pacing guide**. While **pacing guides are not provided by DPI, each individual LEA and school typically have pacing guides in place for use by each classroom teacher. If pacing guides are not in use, the school principal is not doing his or her job in a Leandro compliant manner.**

In addition to teaching the SCOS in proper sequence and in a proper time frame, the classroom teacher should also be engaged in frequent assessments of his or her students to determine whether or not they are mastering the critical standards required to obtain a sound basic education in the particular course, to wit: Level III (now 4) or Level IV (now 5) (grade level or above).

What are assessments?

Formative Assessment- What classroom teachers should be using on a weekly basis to keep up with a child's progress in a subject. A process used by teachers and students during instruction that provides feedback to adjust ongoing teaching and learning to help students improve their achievement of intended instructional outcomes.

Formative assessment is found at the classroom level and happens minute-to-minute or in short cycles. Formative assessment is not graded or used in accountability systems. The feedback involved in formative assessment is descriptive in nature so that students know what they need to know next to improve learning. A formative assessment is not a test.

Interim/Benchmark Assessment.

Interim/benchmark assessments are given to students periodically throughout the year or course to determine how much learning has taken place up to a particular point in time (summative). These assessments provide information for programs and instructional support. The main users of this information are teacher teams, curriculum coordinators, and principals.

Summative Assessment – End of Grade Tests/ End of Course Tests. ACT tests.

A measure of student learning to provide evidence of student competence or program effectiveness. Summative assessments are found at the classroom, district and state level and can be graded and used in accountability systems. The information gathered from summative assessments is evaluative and is used to categorize students so performance among students can be compared.

Classroom assessments should promote learning (formative) and help determine how much learning has taken place at a particular point in time (summative). Both ways of assessing are essential to student learning and the information gathered is used to inform students, teachers and parents. An important feature is to measure student growth which should be a major factor in determining teacher effectiveness.

A teacher who is competent and knows how to differentiate instruction among the students in the classroom will utilize formative assessments to determine if a child is mastering the critical standard being taught at that point in the course which is supposed to align with the pacing guide for the course.

By engaging in proper classroom instruction, which includes following the pacing guide, using frequent formative assessments, and properly prepared common benchmark assessments and targeted interventions to assist students master the critical standards during the course of the school year or block period, there is no excuse for any student not to be properly prepared to take the summative assessment (EOG or EOC) at the end of the course. This is not "teaching to the test" but rather proper, competent instruction that should be the standard in every single school and classroom. This is so because when students are properly instructed during the length of the course, they have mastered the curriculum to the extent that when they take the EOG or EOC summative assessments they will be prepared to show that they have mastered the course critical content as Level III (4) or above.

The same is true for K-2 assessments now in place in North Carolina. Refer to *Report from the Court re: The Reading Problem* for the K-2 assessment process. (filed May 5, 2014)

The bottom line is that the SCOS contains critical standards that should be taught with the use of pacing guides utilizing formative assessments and benchmark assessments throughout the length of the course to ensure that the student has mastered the course material. If properly utilized, each student should be prepared to succeed on the EOG or EOC or to meet the benchmarks on the ACT tests. This procedure is not "teaching to the test."

The problem comes when the teacher does not properly use formative assessments, benchmark assessments and the children in the class do not know the subject's critical standards because they have not been properly and timely taught and/or remediated during the course of the school year. "Teaching to the test" is just another excuse by adults who have not properly instructed the children in the classroom over the length of the course.

- c. **Educational costs to the taxpayer is in the billions. When assessments and tests are eliminated or standards diminished, the billions spent on public schools will be spent without the taxpayers knowing whether or not the money is spent on educating children effectively and to meet the sound basic education requirements.**

Another important factor in being able to use EOC test data, in addition to providing objective academic results on student and school academic performance, is accountability to the public so that the public may know, not only the level of academic achievement, but also whether that academic achievement justifies the cost to taxpayers of maintaining public schools wherein the test data indicates that students are not obtaining a sound basic education. This applies to all schools - elementary, middle and high schools.

It is inconceivable that any responsible business enterprise would spend billions of dollars a year in salaries without knowing whether its employees are doing their jobs in a proper manner. The business of education should be treated no differently considering that the bulk of the expense to maintain any school, especially high schools, is salaries and benefits to the employees who are supposed to be Leandro compliant, to wit: competent, certified professionals.

The bottom line is that the valid assessments of student achievement in North Carolina show that many thousands of children in K-12 are not performing at grade level in multiple subject areas and thus, are not obtaining a sound basic education. This is an ongoing problem that needs to be dealt with and corrected.

Accordingly, The State of North Carolina, acting through its Executive Branch, including but not limited to the State Board of Education and the Department of Public Instruction, and its Legislative Branch, is directed to appear for a hearing in this case during a special scheduled session of the Wake County Superior Court to begin on Wednesday, April 8, 2015 at 10:00 a.m. in Courtroom 10A (or such other Courtroom in the Wake County Courthouse as is available), Wake County Courthouse and to continue on Thursday, April 9, 2015.

The purpose of this hearing is for the State of North Carolina, acting through its Executive Branch, including but not limited to the State Board of Education and The Department of Public Instruction, and its Legislative Branch, to disclose and fully report to the Court regarding any efforts, proposals, or plans to: ONE: (a) reduce, diminish or eliminate any educational standards in any subject taught in the public schools of North Carolina, present or in progress, including the Read to Achieve program which seeks to have all children reading at grade level (level 4) by the end of the third grade; (b) reduce, diminish or eliminate any assessments, EOG,

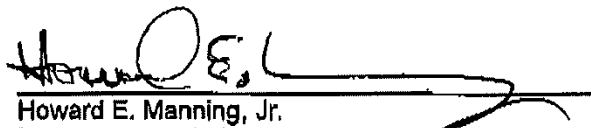
EOC, or ACTs (formative, benchmark, or summative) now required in the public schools of North Carolina; (c) reduce, diminish or eliminate accountability standards now in effect for measuring a student's equal opportunity to obtain a sound basic education as set forth in the Leandro decisions; (d) reduce, diminish or eliminate any accountability measures in place to evaluate superintendent, principal and teacher performance in delivering a sound basic education to the school children of North Carolina; and

TWO: (a) review the results of the 2013-14 EOC, EOG and ACT tests from the public schools of North Carolina, which indicate in way too many school districts across the state that thousands of children in the public schools have failed to obtain and are not now obtaining a sound basic education as defined by and required by the Leandro decisions.

At this hearing, the Court and the State of North Carolina will schedule another hearing at which the State of North Carolina will propose a definite plan of action as to how the State of North Carolina intends to correct the educational deficiencies in the student population as evidenced by the measures of output extant in the K-3 assessments, not reading on grade level by the third grade, and the other measures of student achievement evidenced by the EOG, EOC and ACT tests.

This is necessary to meet the requirements and duties of the State of North Carolina with regard to its children having the equal opportunity to obtain a sound basic education as mandated the Constitution of North Carolina and defined by Leandro I and Leandro II and to maintain the mandates of Leandro in "full force and effect."

SO ORDERED, this the 17th day of March, 2015.


Howard E. Manning, Jr.
Superior Court Judge

FILED

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
COUNTY OF WAKE 2018 MAR 13 PM 12:22 SUPERIOR COURT DIVISION

WAKE COUNTY, C.S.C. 95 CVS 1158

HOKE COUNTY BOARD OF EDUCATION, et al.,

Plaintiffs

and

ASHEVILLE CITY BOARD OF EDUCATION, et al.,

Plaintiff-Intervenors

v.

STATE OF NORTH CAROLINA, et al.,

Defendants

This cause coming on before the Honorable W. David Lee, Judge Presiding pursuant to Rule 2.1 of the General Rules of Practice at the February 15, 2018 special session of Wake County Superior Court upon motion of the North Carolina State Board of Education (hereinafter "SBE") pursuant to Rule 12 and Rule 60 of the Rules of Civil Procedure for relief from the judgment dated April 4, 2002 "and any other applicable remedial Superior Court Orders." The SBE seeks through this unusual request to be released "from the remedial jurisdiction of this Court."

Based upon the evidence, arguments and contentions presently before the Court, the Court makes the following findings of fact by at least a preponderance of the evidence:

1. The matters before this court are justiciable matters of a civil nature and this court exercises the subject-matter jurisdiction conferred by N.C.Gen.Stat. 7A-240. The Superior Court division is the proper division

where, as here, the principal relief prayed for is the enforcement or declaration of any claim of constitutional right. See N.C.Gen.Stat. 7A-245(a) (4). Moreover, personal jurisdiction over the person of the SBE has existed and has been exercised over the movant, with its active participation in these proceedings for more than twenty years.

2. The law of this case includes, *inter alia*, our Supreme Court's holding in *Leandro I* that there is a constitutional requirement that every child in this state have equal access to a sound basic education and that the state is required to provide children a qualitatively adequate education, i.e. an education that meets some minimum standard of quality.
3. The SBE is constitutionally empowered under Article IX, Section 5 of the North Carolina Constitution to supervise and administer the public school system and the educational funds referenced therein for the system's support. The SBE is also charged with making all needed rules and regulations related thereto. The Defendant State of North Carolina has the ultimate constitutional obligation to insure that every child has the opportunity to receive a sound basic education. Together, the actions and decisions of these defendants are indispensable in undertaking to deliver the *Leandro* right to every child.
4. At the commencement of this litigation the SBE, together with the State moved pursuant to 12 to dismiss the claims now before the court, which motion was denied by the trial court. This denial was affirmed on appeal. Principles of *res judicata* and collateral estoppel preclude a reexamination of the current motion strictly on Rule 12 grounds. This court is constrained, however, to consider the merits of the instant motion within the context of Rule 60 based upon the SBE's contentions that the circumstances have changed and that the claim to enforce the *Leandro* right is now moot.
5. Rule 60(b)(5) affords relief where the court's judgment has been satisfied, released or discharged or where it is no longer equitable that the judgment should have prospective application. There has been no final non-appealable judgment relating to the remediation and enforcement of the

Leandro constitutional right. The last Supreme Court pronouncement in this case (*Leandro II*) remanded the proceedings to the trial court and “ultimately into the hands of the legislature and executive branches” for remedial action, noting in the decision that “(W)hether the State meets this challenge remains to be determined.” As to binding force of this right, the SBE acknowledged in July of 2013 in its brief to the North Carolina Supreme Court that it is “bound by its judicially mandated constitutional obligations.” *New Brief of Defendant-Appellee State Board of Education* (N.C. Supreme Court, July 24, 2013). As to remediation and enforcement, Judge Manning’s last order of March 17, 2015 concluded that “a definite plan of action is still necessary to meet the requirements and duties of the State of North Carolina with regard to its children having equal opportunity to obtain a sound basic education.” Again, the SBE is constitutionally bound to administer and supervise the execution of such a plan.

6. *Leandro I* cautions that....“the courts of the state must grant every reasonable deference to the legislative and executive branches when considering whether they have established and are administering a system that provides the children...with a sound basic education.” In *Leandro II* the trial court determined that such a showing had been made against the state defendants. The liability judgment then entered against the state defendants was affirmed in *Leandro II* and the defendants were ordered to address and correct the constitutional violations.
7. The SBE contends that the present circumstances of the educational system in Hoke County have so changed since the 2002 judgment that there is no longer a justiciable controversy before the court. The SBE supports this contention by summarizing changes and reforms, both legislative and executive in nature, that have occurred since 2002. However, the SBE has failed to present convincing evidence that either the *impact or effect* of these changes and reforms have moved the State nearer to providing children the fundamental right guaranteed by our State Constitution.
8. The statewide implications and applications of this case have been established throughout the course of this proceeding, as perhaps best

evidenced by the Judge Manning's comprehensive review as well as by the SBE's comprehensive list of statewide changes and reforms that SBE contends has eliminated a justiciable controversy with respect to *Leandro* compliance.

9. In terms of assessing compliance with *Leandro*, our Supreme Court has recognized that one metric for evaluation is education "outputs," i.e. test scores. Rather than demonstrating the absence of a justiciable controversy, a review of these outputs reveal an ebb and flow that at no time has demonstrated even remote compliance with the tenants of *Leandro*. As Judge Manning noted in his last order dated March 17, 2015, the results of the 2013-14 EOC, EOG, and ACT tests from the public schools indicate that "in way too many school districts across the state, thousands of children in the public schools have failed to obtain, and are not now obtaining a sound basic education as defined by and required by the *Leandro* decision." Judge Manning's order reviews in detail reading, math and biology results, generally within the 2012-2014 time frame, reflecting in each and every category that more than half of the students tested below grade level. Additional hard facts in evidence before this court in include the SBE admission in 2015 that the demand for new teachers is not being met; that there were then more schools rated "D" or "F" than can be served; that the federal funding ("Race to the Top") ended in 2014-15, resulting in (1) the State Department of Public Instruction losing over half the staff-from 147 to 57-dedicated to serving those low performing schools and (2) loss of critical funding used to develop and implement effective teaching. In Hoke County, the LSA has been forced to hire lateral entry candidates-people with no formal training to work with this most at-risk population-to fill these positions. Earlier submissions to this court also indicate that in 2014 North Carolina ranked 49th out of 50 states in terms of percentage of its eleventh graders meeting the ACT reading benchmark. These are but a few examples revealing that the SBE is not supervising and administering a public school system that is *Leandro* compliant. The court record is replete with evidence that the *Leandro* right continues to be denied to hundreds of thousands of North Carolina children.

10. Rule 60(b)(6) affords relief “for any other reason justifying relief from the operation of a judgment.” Our appellate courts have called this provision of the Rule “a grand reservoir of equitable power to do justice in a particular case.” Norton v. Sawyer, 30 N.C.App 420, 426 (1976). Further, a determination under Rule 60 rests in the sound discretion of the trial judge. Harris v. Harris, 307 N.C. 684 (1983).
11. The SBE argues that legislation enacted by both Congress and our General Assembly now adequately address those criteria that our Supreme Court has decreed constitute a “sound basic education” (See *Leandro I*) and that the legislation also addresses the educational resources to which every child has the right of access—competent, certified, well-trained teachers, a well-trained competent Principal, and resources necessary the effective instructional program (See *Leandro II*). The SBE further argues that these enactments must be presumed by this court to be constitutional.
12. This court indeed indulges in the presumption of constitutionality with respect to each and every one of the legislative enactments cited by the SBE. That these enactments are constitutional and seek to make available to children in this State better educational opportunities is not the issue before the court. The issue is whether the court should continue to exercise such remedial jurisdiction as may be necessary to safeguard and enforce the much more fundamental *constitutional right* of every child to have the opportunity to receive a sound basic education. Again, the evidence before this court upon the SBE motion is wholly inadequate to demonstrate that these enactments translate into substantial compliance with the constitutional mandate of *Leandro* measured by applicable educational standards.
13. The SBE’s motion was filed in July, 2017 and to the extent that it is based on changed circumstances is untimely, the SBE’s brief hearkening to changes made in 2012, some five years before the filing of its motion.

Based on the foregoing findings of fact the Court makes the following conclusions of law:


1. The changes in the factual landscape that have occurred during the pendency of this litigation do not serve to divest the court of its jurisdiction to address the constitutional right at issue in this cause. The court has jurisdiction over the subject matter and over the person of the defendant. To the extent that the SBE seeks dismissal pursuant to Rule 12(b)(1) or (2) the motion should be denied. To the extent that the SBE seeks dismissal pursuant to Rule 12(b)(6), the trial court's previous denial of that motion having been affirmed on appeal in *Leandro I*, the re-assertion of that motion should be denied.
2. There is an ongoing constitutional violation of every child's right to receive the opportunity for a sound basic education. This court not only has the *power* to hear and enter appropriate orders declaratory and remedial in nature, but also has a *duty* to address this violation. This court retains both subject matter jurisdiction and jurisdiction over the parties as it undertakes this duty. Both state defendants have been proper parties to this litigation since its inception and each remain so.
3. The State recognizes its continuing constitutional obligations and has most recently joined with the plaintiffs in an effort to adopt a comprehensive approach to address those obligations. The successful delivery of the *Leandro* right necessarily requires the active participation of the SBE in the discharge of its constitutional duty to supervise and administer the school system and its funding. The SBE has a significant non-delegable role in affording the constitutional entitlements of *Leandro* to every child. The SBE has been and continues to be in the better position than the court to identify in detail those curricula best designed to ensure that a child receives a sound basic education.¹
4. These state defendants have the burden of proving that remedial efforts have afforded substantial compliance with the constitutional directives of our Supreme Court. To date, neither defendant has met this burden. Both

law and equity demand the prospective application of the constitutional guarantee of *Leandro* to every child in this State.

5. The Rule 60 motion is untimely, the same not having been filed within a reasonable time as required by Rule 60(b) (6). Further, the movant has failed to demonstrate that such extraordinary circumstances exists that justice demands relief from the previous rulings of the court or from the burden of the movant to establish that it has presented a remedial plan of action that addresses the liability of the movant established by the law of this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, in the Court's discretion, that the motion of the defendant SBE should be and the same is hereby DENIED.

This the 7th day of March, 2018.


W. David Lee, Judge Presiding

¹ In *Leandro I*, the Supreme Court recognized that "judges are not experts in education and are not particularly able to identify in detail those curricula best designed to ensure that a child receives a sound basic education." *Leandro I* reminded the trial court that judicial intrusion into the area of expertise as to what course of action will lead to a sound basic education is justified only upon a showing that the right is being denied, it initially being the province of the legislative and executive branches of government to take appropriate action. This court notes that both branches have had more than a decade since the Supreme Court remand in *Leandro II* to chart a course that would adequately address this continuing constitutional violation. The clear import of the *Leandro* decisions is that if the defendants are unable to do so, it will be the *duty* (emphasis mine) of the court to enter a judgment "granting declaratory relief and such other relief as needed to correct the wrong while minimizing the encroachment upon the other branches of government." (*Leandro I*)

This trial court has held status conference after status conference and continues to exercise tremendous judicial restraint. This court is encouraged by Governor Cooper's creation of the Governor's Commission on Access to Sound Basic Education. Concurrent with the entry of this Order, this court has also appointed, with the consent of the plaintiffs, the Penn Intervenors and the State of North Carolina a consultant. This consultant has court approval to work with the Commission with a view toward submitting recommendations to the parties, the Commission and this Court of specific actions to achieve *Leandro* compliance. The time is drawing nigh, however, when due deference to both the legislative and executive branches of government must yield to the court's duty to adequately safeguard and actively enforce the constitutional mandate on which this case is premised. It is the sincere desire of this court that the legislative and executive branches heed the call.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF WAKE

95-CVS-1158

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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 T.
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 B. TIPTON, individually and as Guardian
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,

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, DENISE

HOLLIS JORDAN, individually and as guardian ad litem of SHAUNDRA DOROTHEA JORDAN and BURRELL JORDAN, V; TERRY DARNELL BELK, individually and as guardian ad litem of KIMBERLY SHANALLE SMITH; SUSAN JANNETTE STRONG, individually as guardian ad litem of TRACEY ANNETTE STRONG and ASHLEY CATHERINE STRONG; CHARLOTTE BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,

Plaintiff-Intervenors,

v.

STATE OF NORTH CAROLINA and the STATE BOARD OF EDUCATION,

Defendants,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,

Realigned Defendant.

**CONSENT ORDER REGARDING NEED FOR REMEDIAL, SYSTEMIC ACTIONS
FOR THE ACHIEVEMENT OF *LEANDRO* COMPLIANCE**

At issue in this long-running matter is one of the most important rights enumerated in our State Constitution: the fundamental right of every child in North Carolina to have the opportunity to receive a sound basic education in a public school. As this Court has found, this constitutional right has been denied to many North Carolina children.

The State of North Carolina, North Carolina State Board of Education, and other actors have taken significant steps over time in an effort to improve student achievement and students' opportunity to access a sound basic education. Many of these efforts have made a positive impact on the lives of public school students and improved public schooling in the State.

However, historic and current data before the Court show that considerable, systemic work is necessary to deliver fully the *Leandro* right to all children in the State. In short, North Carolina's PreK-12 public education system leaves too many students behind — especially students of color and economically disadvantaged students. As a result, thousands of students are not being prepared for full participation in the global, interconnected economy and the society in which they will live, work, and engage as citizens. The costs to those students, individually, and to the State are considerable and if left unattended will result in a North Carolina that does not meet its vast potential.

The educational obstacles facing the State's at-risk students are real, steep, and require urgency. The Court is encouraged that the parties to this case — Defendants State of North Carolina ("State") and the State Board of Education ("State Board") (collectively, the "State Defendants"), as well as the Plaintiffs and Plaintiff-Intervenors (collectively, "Plaintiffs") — are in agreement that the time has come to take decisive and concrete action (*i.e.*, immediate, short term actions and the implementation of a mid-term and long-term remedial action plan) to bring North Carolina into constitutional compliance so that all students have access to the opportunity to obtain a sound basic education.

The Court is also encouraged by Governor Cooper's creation of the Governor's Commission on Access to Sound Basic Education and the Commission's work thus far and is hopeful that the parties, with the help of the Governor, can obtain the support necessary from the General Assembly and other public institutions to implement and sustain the necessary changes to the State's educational system and deliver the constitutional guarantee of *Leandro* to every child in the State.

At this critical moment and in years ahead, the Parties and the Court shall proceed with benefit of the detailed findings, research, and recommendations of the Court's independent non-party consultant, WestEd. These findings are collected in WestEd's comprehensive report entitled, "*Sound Basic Education for All: An Action Plan for North Carolina*" and its underlying studies (collectively, the "WestEd Report"). The WestEd Report confirms what this Court has previously made clear: that the State Defendants have not yet ensured the provision of education that meets the required constitutional standard to all school children in North Carolina. *See* March 18, 2018 Order ("The court record is replete with evidence that the *Leandro* right continues to be denied to hundreds of thousands of North Carolina children [and that the actions the State has taken so far are] wholly inadequate to demonstrate substantial compliance with the constitutional mandate of *Leandro* measured by applicable educational standards.").

The WestEd Report offers detailed findings about the current state of *Leandro* compliance in North Carolina, as well as important, comprehensive short- and long-term recommendations for a path forward to achieve constitutional compliance. These findings and recommendations are rooted in an unprecedented body of research and analysis, which will inform decision-making and this Court's approach to this case.

Our Supreme Court recognized that a sound basic education is one that, among other things, "enable[s] the student to function in a complex and rapidly changing society . . . and compete on an equal basis with others in further formal education or gainful employment in contemporary society." North Carolina continuously changes and a *Leandro*-conforming educational system must take this into account. North Carolina continues to grow. Our student body is larger, more diverse, and more economically disadvantaged today than it was 25 years ago. Advances in science and technology have re-set expectations for the skills and competencies our students must have in order to be ready for the future. The Parties agree that brain science and research show that new approaches are required for the provision of early learning and pre-K education with broader access for young children's participation. Our education system must adjust to and keep pace with the major ongoing technological, social, and economic changes in our society.

To prepare its schoolchildren to compete in the future, the Parties have agreed that North Carolina must do more to meet these changes and challenges. As the original *Leandro* decision affirmed, “[a]n education that does not serve the purpose of preparing students to participate and compete in the society in which they live and work is devoid of substance and is constitutionally inadequate” *Leandro v. State*, 346 N.C. 336, 345, 488 S.E.2d 249, 254 (1997).

In his final order issued on March 17, 2015 before retiring, The Honorable Howard Manning concluded that “a definite plan of action is still necessary to meet the requirements and duties of the state of North Carolina with regard to its children having equal opportunity to obtain a sound basic education.” See 3/17/2015 Order (“in way too many school districts across the state, thousands of children in the public schools have failed to obtain and are not now obtaining a sound basic education as defined by and required by the *Leandro* decision.”). That remains true today. As outlined in greater detail below and in accordance with the Court’s prior rulings, the Court orders the Defendants, in consultation with each other and the Plaintiffs, to work expeditiously and without delay to create and fully implement a definite plan of action to achieve *Leandro* compliance.

Based upon WestEd’s findings, research, and recommendations and the evidence of record in this case, the Court and the Parties conclude that a definite plan of action for the provision of the constitutional *Leandro* rights must ensure a system of education that at its base includes seven components as described below. The Parties stipulate that the following components are required to implement the *Leandro* tenants as set forth in prior holdings of the Supreme Court and this Court’s prior orders. The Parties further stipulate that these components are necessary to address critical needs in public education and to ensure that the State is providing the opportunity for a sound basic education to *each* North Carolina child, and further holds itself accountable for doing so:

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 pre-kindergarten 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.

It is the State's duty to implement the fiscal, programmatic, and strategic steps necessary to ensure these seven components are in place and, ultimately, to achieve the outcomes for students required by the Constitution.

The Parties agree that the constitutional rights at issue implicate the mission and require the work of the State's numerous institutions and agencies, which all share in the responsibility for ensuring that every child receives the opportunity for a sound basic education. As a constitutional actor, however, the State Board of Education must play a significant role in delivering the *Leandro* right to all students. N.C. Const. art. IX, § 5 ("The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.")

This Court will issue a subsequent order or orders regarding the definite plan of action and its critical components, including the identification of specific concrete, definitive actions (preliminary short-term actions and mid-term and long-term action plans) that will be taken to implement the above seven components and to correct the constitutional deficiencies, so that the State may finally meet its constitutional obligations to North Carolina's children.

At the outset, the Court reviews its previous rulings, the *Leandro* tenets and recent procedural history.

The Court's Rulings and *Leandro's* Tenets

Leandro v. State, 346 N.C. 336, 488 S.E.2d 249 (1997) (*Leandro I*)

More than twenty-five (25) years ago, in May of 1994, Plaintiffs initiated this action and alleged that certain guaranteed educational rights conferred by the North Carolina Constitution were being denied to North Carolina's school-aged children. The Court denied the State Defendants' motion to dismiss and a unanimous Supreme Court affirmed these constitutional obligations. *Leandro I*, 346 N.C. 336, 488 S.E.2d 249 (1997).

Leandro I contained three principal holdings: (1) the State Constitution does not require equal funding of public school systems, and consequently the challenged system of funding was not unconstitutional, *id.* at 349, 488 S.E.2d at 256; (2) the State Constitution does not require students in every school system to receive the same educational opportunities, *id.* at 350, 488

S.E.2d at 256; but (3) the State Constitution does require that each student in all school systems have the “opportunity to receive a sound basic education in our public schools,” *id.* at 347, 488 S.E.2d at 255. The Supreme Court defined a sound basic education as:

one that will provide the student with at least: (1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student’s community, state, and nation; (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and (4) sufficient academic or vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.

346 N.C. at 347, 488 S.E.2d at 255 (internal citations omitted).

The Supreme Court also held that the Constitution requires the State to ensure that each and every child, regardless of age, need, or district, has access to a sound basic education in a public school. 346 N.C. at 345, 488 S.E.2d at 254 (holding that “an education that does not serve the purpose of preparing students to participate and compete in the society in which they live and work is devoid of substance and is constitutionally inadequate”).

The Supreme Court indicated that there were at least three potentially relevant, but not dispositive, factors that may be weighed by a trial court in determining whether the opportunity offered students was constitutionally sufficient. These were: (1) educational goals and standards established by the General Assembly, *id.* at 355, 488 S.E.2d at 259, which were presumably sufficient to provide students an opportunity to obtain a sound basic education; (2) student performance on standardized achievement tests, *id.* at 355, 488 S.E.2d at 260; and (3) the level of State educational expenditures to support the public school system, *id.* at 355, 488 S.E.2d at 260. The Court recognized “that the value of standardized tests [was] the subject of much debate. Therefore, they may not be treated as absolutely authoritative” on the issue of the opportunity for a sound basic education. *Id.* at 355, 488 S.E.2d at 260. Stated differently, test scores are only one of several factors to be weighed in determining whether the State is meeting its constitutional obligations to North Carolina children.

Finally, the Supreme Court held that educational standards established by the State were presumptively sufficient to provide students the opportunity for a sound basic education and expressly imposed on plaintiffs the burden to prove their claims by “[a] clear showing,” *id.* at 357, 488 S.E.2d at 261, for only such a showing “will justify a judicial intrusion into an area so clearly the province . . . of the legislative and executive branches.” *Id.* The Supreme Court remanded the case for a determination as to whether the State was, in fact, denying this fundamental constitutional right to the children:

If on remand of this case to the trial court, that court makes findings and conclusions from competent evidence to the effect that [the State Defendants] are denying children of the state a sound basic education, a denial of a fundamental right will have been established. It will then become incumbent upon [the State] to establish that their actions denying this fundamental right are “necessary to promote a compelling governmental interest.” If [the State Defendants] are unable to do so, it will then be the duty of the court to enter a judgment granting declaratory relief and such other relief as needed to correct the wrong while minimizing the encroachment upon the other branches of government.

346 N.C. at 357, 488 S.E.2d at 261 (internal citations omitted).

The Supreme Court recognized that, while making such determinations, “the courts of the state must grant every reasonable deference to the legislative and executive branches when considering whether they have established and are administering a system that provides the children of the various school districts of the state a sound basic education.” *Id.*

Liability Judgment and *Hoke County Bd. of Educ. v. State*, 358 N.C. 605, 599 S.E.2d 365 (2004) (*Leandro II*)

The trial proceedings continued for over a year, involved more than 40 witnesses, and included hundreds of exhibits. The trial court issued four memoranda of decision collectively totaling over 400 pages of findings of fact and conclusions of law.

On April 4, 2002, the trial court found that the Plaintiffs had met their burden of demonstrating constitutional non-compliance and entered a liability judgment against the State (incorporating the previous memoranda of decision) (collectively, the “Liability Judgment”) finding continuing constitutional violations. With some modifications, the Liability Judgment was unanimously affirmed by the Supreme Court in *Leandro II*.

The Court found, and the Supreme Court unanimously affirmed, that the State was constitutionally obligated to provide each and every child the opportunity to attend a public school with access to the following:

First, that every classroom be staffed with a competent, certified, well-trained teacher who is teaching the standard course of study by implementing effective educational methods that provide differentiated, individualized instruction, assessment and remediation to the students in that classroom.

Second, that every school be led by a well-trained competent Principal with the leadership skills and the ability to hire and retain competent, certified and well-trained teachers who can implement an effective and cost-effective instructional program that meets the needs of at-risk children so that they can have the opportunity to obtain a sound basic education by achieving grade level or above academic performance.

Third, that every school be provided, in the most cost effective manner, the resources necessary to support the effective instructional program within that school so that the educational needs of all children, including at-risk children, to have the equal opportunity to obtain a sound basic education, can be met.

Liability Judgment, pp. 109-10; *Leandro II*, 358 N.C. at 636, 599 S.E.2d at 389.

The trial court also found, and the Supreme Court unanimously affirmed, that the State had not provided, and was not providing, competent certified teachers, well-trained competent principals, and the resources necessary to afford all children, including those at-risk, an equal opportunity to obtain a sound basic education, and that State Defendants were responsible for these constitutional violations. See Liability Judgment, p. 110, *Leandro II*, 358 N.C. at 647-48, 599 S.E.2d at 396.

Further, the Court found, and the Supreme Court unanimously affirmed, that at-risk children¹ require more resources, time, and focused attention in order to receive a sound basic education. *Leandro II*, 358 N.C. 641, 599 S.E.2d at 392. Specifically,

- (a) "At-risk children need adequately targeted remediation services." Liability Judgment at p. 50.
- (b) "Enabling at-risk children to perform well in school requires more time and more resources." Memorandum of Decision, Sect. Two, p. 10.
- (c) "From this review, it became crystal clear to the Court that there are two distinct groups attending the public schools in North Carolina – those children at risk of academic failure that are not obtaining a sound basic education and those children who are not at risk of academic failure and who are obtaining a sound basic education. The major factors which can be used to identify ... those children at-risk and those not at-risk, are (1) socio-economic status (2) level of parental education and (3) free and reduced price lunch participation, all of which are inextricably intertwined with each other." Memorandum of Decision, Sect. Three, p. 64.
- (d) "[A]n 'at-risk' student is generally described as one who holds or demonstrates one or more of the following characteristics: (1) member of low-income family; (2) participate in free or reduced-cost lunch programs; (3) have parents with a low-level education; (4) show limited proficiency in English; (5) are a member of a racial or ethnic minority group; (6) live in a home headed by a single parent or guardian." *Leandro II*, 358 N.C. at 389, 599 S.E.2d at 635, n. 16.

Regarding early childhood education, the Supreme Court affirmed the trial court's findings that the "State was providing inadequate resources" to "at-risk" prospective enrollees" ("pre-k" children), "that the State's failings were contributing to the 'at-risk' prospective enrollees'

¹ Children who are "at-risk" of academic failure are discussed at length in this Court's Memorandum of Decision, Sect. Two of October 26, 2000.

subsequent failure to avail themselves of the opportunity to obtain a sound basic education,” and that “State efforts towards providing remedial aid to ‘at-risk’ prospective enrollees were inadequate.” *Id.* at 641-42, 599 S.E.2d at 392-33. While the Supreme Court did not uphold the trial court’s specific remedy of pre-K at that time, the Court affirmed the findings that (i) “there was an inordinate number of ‘at-risk’ children who were entering the Hoke County school district” each year, (ii) “such ‘at-risk’ children were starting behind their non ‘at-risk’ counterparts,” and (iii) “such ‘at-risk’ children were likely to stay behind, or fall further behind, their non ‘at-risk’ counterparts as they continued their education.” *Id.* at 641, 599 S.E.2d at 392.

In addition, the trial court found, and the Supreme Court unanimously affirmed, that “the State of North Carolina is ultimately responsible for providing each child with access to a sound basic education and that this responsibility cannot be abdicated by transferring responsibility to local boards of education.” Liability Judgment, p. 110; *Leandro II*, 358 N.C. at 635, 599 S.E.2d at 389. It is ultimately the State’s responsibility to ensure that each child has the opportunity to a *Leandro*-conforming education.² The Supreme Court has held that the State may not shift responsibility for constitutional violations onto the local districts. *Id.*

The Supreme Court remanded the case for the trial court to oversee the implementation of a remedial framework to correct and address the constitutional deficiencies. From 2004-2015, more than 20 hearings were held on this issue, the nature and scope of which are set out in the previous orders of this Court, all of which are in the record.

In 2013, the Supreme Court confirmed that the Liability Judgment and the mandates of *Leandro I* and *Leandro II* remain “in full force and effect.” On November 8, 2013, the Supreme Court dismissed an appeal by the State concerning legislative enactments about pre-kindergarten programming on mootness grounds. In the dismissal order, the Supreme Court held, “Our mandates in *Leandro* and *Hoke County* [*Leandro II*] remain in full force and effect.” *Hoke County Bd. of Ed. v. State*, 367 N.C. 156, 160, 749 S.E.2d 451, 455 (2013).

Recent Procedural History and Appointment of the Court’s Non-party, Independent Consultant WestEd

In July 2017, the State Board filed a Motion for Relief pursuant to Rule 60 and Rule 12, requesting that the Court relinquish jurisdiction in this case. The State Board asserted that programs implemented in the State, changes in factual circumstances, and changes in state and federal law had resulted in an education system wholly different than the one that was the subject of the original action such that these circumstances support relief under Rule 60. The Court denied the State Board’s motion on March 7, 2018.

In its March 2018 Order, the Court reiterated the “evidence before this Court upon the SBE [State Board] Motion is wholly inadequate to demonstrate that [enactments by the State Defendants] translate into substantial compliance with the constitutional mandate of *Leandro* measured by applicable educational standards.” *See* Order, p. 5, ¶ 12.

² *See also Silver v. Halifax Cty. Bd. of Comm’rs*, 371 N.C. 855, 821 S.E.2d 755 (2018) (affirming that the constitutional responsibility of providing the opportunity to a sound basic education resides with the State – specifically the legislative and executive branches – rather than with a local governmental unit).

In January 2018, the State and the Plaintiffs filed a joint motion for case management and scheduling order in which the parties proposed to nominate, for this Court's consideration and appointment, an independent, non-party consultant to assess the current status of *Leandro* compliance in North Carolina for the Court and to make detailed, comprehensive, written recommendations for specific actions necessary to achieve sustained compliance with the constitutional mandates articulated in the *Leandro* case.

On February 1, 2018, the Court issued a *Case Management and Scheduling Order* setting forth, among other things, the parameters for the consultant's work and a detailed timeline for completion of such work should the Court choose to appoint the nominated non-party as the Court's consultant. In the *Case Management and Scheduling Order*, this Court took judicial notice of Executive Order No. 10 dated July 21, 2017, superseded and replaced by Executive Order No. 27 dated November 15, 2017, which created the Governor's Commission on Access to Sound Basic Education ("Commission").

Thereafter, on March 13, 2018, this Court issued an Order appointing WestEd to serve as the Court's independent, non-party consultant pursuant to the terms of the *Case Management Order* issued on February 1, 2018. Prior to the appointment, the Court thoroughly reviewed WestEd's extensive qualifications, experience, expertise, and background information (including the resumes of the WestEd team members to lead this project) regarding educational research and innovation, as well as WestEd's submission regarding their proposed scope of work.

The Court charged WestEd with submitting final recommendations to the Parties, the Commission, and the Court within twelve months from the date of appointment³. WestEd's recommendations were to "consist of the consultant's conclusions as to detailed and comprehensive actions that the State should take to achieve sustained compliance" with constitutional mandates to provide every child with an equal opportunity to a sound basic education in North Carolina.

All Parties agree that WestEd is, and was, qualified to serve in this capacity.

WestEd's Process and a *Sound Basic Education for All: An Action Plan for North Carolina*

WestEd is a non-profit, non-partisan, educational research, development, and service organization with more than 650 employees in 17 offices across the nation and more than 50 years of experience. WestEd's work centers around providing research, recommendations and sustained professional services to improve public education systems, student achievement, educator effectiveness, and educational leadership. WestEd has extensive experience in working with numerous states and state education agencies ("SEA") in multiple areas, including: developing and evaluating assessments and standards, development of educator evaluation systems, providing quality professional development to a wide range of education professionals, developing strong school turnaround leaders to close the achievement gap, and researching and advising on school finance policy. In addition, WestEd leads the U.S. Department of Education's National Center on

³ This deadline was subsequently extended for, among other reasons, the devastation wrought by Hurricanes Matthew and Florence, which delayed WestEd's data collection and visits to certain districts.

School Turnaround whose work addresses a number of factors relevant in this case, including: developing SEA staff capacity and SEA organizational structures, building school and district capacity by providing leadership training to ensure leaders have the skills to produce positive outcomes for all students, and creating policies and practices to ensure a pipeline of turnaround leaders.

In support of its work, WestEd also engaged the Friday Institute for Educational Innovation at North Carolina State University and the Learning Policy Institute (LPI), a national education policy and research organization with extensive experience in North Carolina.

Under WestEd's leadership, these three organizations also collaborated to conduct 13 studies⁴ to better identify, define, and understand key issues and challenges related to North Carolina's education system and to offer a framework of change for the State. The researchers developed and carried out a comprehensive research agenda to investigate the current state and major needs of North Carolina public education, including in the following overarching areas: (1) access to effective educators, (2) access to effective school leaders, (3) adequate and equitable school funding and other resources, and (4) adequate accountability and assessment systems.

After more than a year of extensive research, evaluation, and analysis, WestEd's work on behalf of the Court culminated in its submission of its draft report to the Court on June 18, 2019, and a final report on October 4, 2019 ("WestEd Report").

A detailed description of WestEd's work and analysis is set out in the WestEd Report. Among other things, WestEd:

- Analyzed educational data at the North Carolina Education Research Data Center at Duke University, which includes data on students, teachers, schools and districts in the state.
- Analyzed data from Education Policy Initiative at the University of North Carolina.

⁴ The study report titles are: (1) *Best Practices to Recruit and Retain Well-Prepared Teachers in All Classrooms* (Darling-Hammon et al., 2019); (2) *Developing and Supporting North Carolina's Teachers* (Minnici, Beatson, Berg-Jacobson, & Ennis, 2019); (3) *Educator Supply, Demand, and Quality in North Carolina: Current Status and Recommendations* (Darling-Hammond et al., 2019); (4) *How Teaching and Learning Conditions Affect Teacher Retention and School Performance in North Carolina* (Berry, Bastian, Darling-Hammond, & Kini, 2019); (5) *Retaining and Extending the Reach of Excellent Educators: Current Practices, Educator Perceptions, and Future Directions* (Smith & Hassel, 2019); (6) *Attracting, Preparing, Supporting, and Retaining Education Leaders in North Carolina* (Koehler, Peterson & Agnew, 2019); (7) *A Study of Cost Adequacy, Distribution, and Alignment of Funding for North Carolina's K-12 Public Education System* (Willis et al., 2019); (8) *Addressing Leandro: Supporting Student Learning by Mitigating Student Hunger* (Bowden & Davis, 2019); (9) *High-Quality Early Childhood Education in North Carolina: A Fundamental Step to Ensure a Sound Basic Education* (Agnew, Brooks, Browning, & Westervelt, 2019); (10) *Leandro Action Plan: Ensuring a Sound Basic Education for All North Carolina Students Success Factors Study* (Townsend, Mullennix, Tyrone, & Samberg, 2019); (11) *Providing an Equal Opportunity for a Sound Basic Education in North Carolina's High-Poverty Schools: Assessing Needs and Opportunities* (Oakes et al., 2019); (12) *North Carolina's Statewide Accountability System: How to Effectively Measure Progress Toward Meeting the Leandro Tenets* (Cardichon, Darling-Hammond, Espinoza, & Kostyo, 2019); and (13) *North Carolina's Statewide Assessment System: How Does the Statewide Assessment System Support Progress Toward Meeting the Leandro Tenets?* (Brunetti, Hemberg, Brandt, & McNeilly, 2019).

- Analyzed demographic, economic, social and other North Carolina data from the American Community Survey of the United States Census Bureau.
- Analyzed data regarding North Carolina principals obtained from surveys administered to all principals statewide in the fall of 2018.
- Analyzed data from the North Carolina Teacher Working Conditions Survey.
- Analyzed data on teacher effectiveness and experience from the National Center for Education Statistics.
- Analyzed the State's Every Student Succeeds (ESSA) Consolidated Plan.
- Conducted site visits across North Carolina.
- Conducted interviews and focus groups with teachers, principals, superintendents, other district and state professionals across North Carolina.
- Conducted interviews and focus groups with public-sector leaders, as well as interviews with and local school board members.
- Conducted interviews with several State Board of Education members and North Carolina Department of Public Instruction staff.
- Facilitated in-person professional judgment panels to collect data on the effective allocation of resources to meet student needs in North Carolina.
- Conducted a cost-function analysis using data housed at Duke University's NCERDC, National Center for Education Statistics, U.S. Bureau of Labor Statistics, U.S. Department of Housing and Urban Development, and the U.S. Census Bureau.
- Analyzed data from a variety of other sources, including: an independent operational assessment of NCDPI commissioned by the General Assembly; the North Carolina Plan to Ensure Equitable Access to Excellent Educators; Outcomes for Beginning Teachers in a University-Based Support Program in Low-Performing Schools; Race-to-the-Top Professional Development Evaluation Report; valuation reports on teacher and leader preparation programs and educational innovations; presentations made to the North Carolina Governor's Commission on Access to a Sound Basic Education; manuals and reports published by NCDPI; multi-year data from the NCDPI on district allotments, expenditures, student demographics, and school characteristics; and North Carolina education legislation.

Findings of Fact and Conclusions of Law: The Current State of *Leandro* Compliance

Based on a thorough review and consideration of WestEd's Report, of the evidence of record in this case, items for which the Court has properly taken judicial notice, and the consent of all Parties, this Court hereby makes the following findings of fact and conclusions of law regarding the current status of *Leandro* compliance and the challenges and barriers to the State Defendants achieving constitutional compliance.

A. North Carolina Has Substantial Assets To Draw Upon To Develop A Successful PreK-12 Education System That Meets The *Leandro* Tenets.

The State Defendants recognize there is a moral and constitutional imperative for North Carolina to fulfill the promise of its Constitution and provide a *Leandro*-compliant PreK-12 public education system that provides *every* child with the opportunity for a sound basic education.

Throughout the State's history, North Carolina leaders have recognized that a strong public education system serves both the economic and the social progress of the State. WestEd presented research studies supporting the wisdom of a commitment to and investment in public education. For each high school graduate, society gains a number of economic benefits, including higher tax revenue and lower government spending on health, crime, and welfare costs. For example, one cost analysis estimated that each new high school graduate yielded a public benefit of \$209,000 in higher government revenues and lower spending, compared with an investment of \$82,000 to help each student achieve graduation. According to this analysis, the net economic benefit is 2.5 times greater than the cost. [WestEd Report, p. 12 (citing Belfield & Levin, 2007)].

North Carolina has tremendous assets to draw upon in undertaking the systemic work of educating its school children, including a strong state economy, a deep and long-standing commitment to public education to support the social and economic welfare of its citizens, and an engaged business community that sees the value and economic benefits of the public education system. The State Defendants can leverage many of these assets and build on North Carolina's strong history of leadership for education to transform the public education system to ensure access to a sound basic education for all students. [WestEd Report, pp. 167-68].

Historically, the State and the State Board of Education have shown leadership in public education and made wise investments in strategies and initiatives. For example, during the 1980s and 1990s, North Carolina moved its education system forward in many ways. Advancements included establishing a new system of curriculum standards and assessments, strengthening the teaching profession, increasing funding for education, and implementing other initiatives that led to substantial increases in students' achievement. [WestEd Report, pp. 11-12].

During the 1990s, North Carolina posted the largest student achievement gains of any state in mathematics, and it realized substantial progress in reading, becoming the first southern state to score above the national average in fourth grade reading and math, although it had entered the decade near the bottom of the state rankings. [WestEd Report, pp. 12-13]. Of all states during the 1990s, it was also the most successful in narrowing the minority-White achievement gap. [*Id.* (citing National Education Goals Panel, 1999)]. As a result, North Carolina became widely recognized nationally as a leading state for educational innovation and effectiveness. [*Id.*]

In the early 2000s, North Carolina continued its efforts to improve educational outcomes after the *Leandro* rulings. [WestEd Report, pp. 14-15]. For example, the State launched a statewide expansion of its Pre-K program (More at Four) and reduced class sizes in grades K through 3. The State developed 125 Cooperative Innovative High Schools and numerous early college high schools, which were designed to make college possible for young adults who otherwise have few opportunities to continue with higher education. During this time, the State expanded the services of the North Carolina Teacher Academy and increased North Carolina Teaching Fellows from 400 to 500 students annually. The State also revised standards for reading and math to better align with college and career readiness on multiple occasions and implemented new statewide systems of teacher and principal evaluations to align with improving student outcomes in the classroom. [WestEd Report, p. 17]. Further, during that time, the Department of Public Instruction developed its Division of District and School Transformation and provided significant support and assistance in 135 school and six districts, including support in the State Board's intervention in Halifax County Schools within the context of this case. [WestEd Report, p. 16].

During this time, North Carolina implemented statewide efforts in an attempt to support the public education system. Those efforts included deployment of the "Home Base" and PowerSchool technology platforms; creation of the North Carolina Virtual Public School ("NCVPS"); implementation of the Read to Achieve program; implementation of the Race to the Top grant programs; and the Whole Child framework; and supporting the North Carolina Teacher Working Conditions Survey.

More recently, the State Board approved a new Strategic Plan setting forth the agency's mission "to use its constitutional authority to guard and maintain the right to a sound, basic education for every child in North Carolina Public Schools." The Strategic Plan describes three overarching goals that the State Board has determined will be its focus for the period August 8, 2019 through September 30, 2025. Those goals are: (1) eliminating opportunity gaps by 2025; (2) improving school and district performance by 2025; and (3) increasing educator preparedness to meet the needs of every student. For each of those goals, the State Board has developed strategies and initiatives to achieve success.

Although education improvement efforts have continued, resources committed to education decreased during the Great Recession and some valuable programs were discontinued. As a result, the challenges of providing every student with a sound basic education increased. Cutbacks that began during the recession after 2008, along with much deeper legislative cuts over the last few years, have eliminated or greatly reduced many of the programs that were put in place and have begun to undermine the quality and equity gains that were previously made. Declines in achievement have occurred since 2013 in mathematics and reading on the National Assessment of Educational Progress (NAEP), and achievement gaps have widened. [WestEd Report, pp. 12-14, 22-29].

As the WestEd Report discusses, other promising initiatives, along with many other statewide, regional, district, community, and school efforts, were put in place. Many of these efforts, however, were neither sustained nor scaled up to make a sustained impact. Accordingly, these efforts were insufficient to adequately address the *Leandro* requirements. [WestEd Report,

p. 17]. The Defendants have not yet met their constitutional duty to provide all North Carolina students with the opportunity to obtain a sound basic education.

B. Despite Numerous Initiatives, Many Children Are Not Receiving A *Leandro*-Conforming Education; Systemic Changes And Investments Are Required To Deliver the Constitutional Right To All Children.

As the WestEd Report and the record in this case demonstrate, the State Defendants have implemented numerous ambitious programs and initiatives over the last 20 years, but the *Leandro* mandate remains unmet. Many of these programs, however, have not endured or have not been expanded statewide as needs dictated. The Court finds and concludes that North Carolina faces greater challenges than ever in meeting its constitutional obligations, many children across North Carolina are still not receiving the constitutionally-required opportunity for a sound basic education, and systemic changes and investments are required for the State Defendants to deliver each of the *Leandro* tenets.

1. The State Defendants Face Greater Challenges Than Ever.

WestEd found, and the Parties do not dispute, that many children across North Carolina, especially at-risk and economically-disadvantaged students, are not now receiving a *Leandro*-conforming education.

The State faces greater challenges than ever in meeting its constitutional obligation to provide every student with the opportunity to obtain a sound basic education. [WestEd Report, p. 17].

In the last two decades, North Carolina's public school student population has grown by about 25% overall, and the number of children with higher needs, who require additional supports to meet high standards, has increased by 88% in the last 15 years. [WestEd Report, p. 20].

North Carolina has 807 high-poverty district schools and 36 high-poverty charter schools; this represents one third of all the State's districts and slightly more than 20% of the State's charter schools.⁵ [WestEd Report, p. 246]. More than 400,000 students—over a quarter of the students in North Carolina—attend a high-poverty school. [*Id.* at 245]. This is significant because, among other things:

- HPSs serve a disproportionate number of students with other academic risk factors, including students who have parents with low education levels, who have limited proficiency in English, who are members of a racial or ethnic minority group, and who have families headed by a single parent. [WestEd Report, pp. 96-97, 246].
- There is a strong negative relationship between at-risk students attending HPSs and the attainment of a sound basic education. [WestEd Report, p. 97, 247-48]. This is in large

⁵ High-poverty schools ("HPS") are schools in which 75% or more of the students are eligible for federally subsidized free or reduced-cost school meals because of their families' low income.

part due to less access to qualified teachers, qualified principals, and sufficient educational resources. [WestEd Report, pp. 98-100; 248-52].

- Students of color comprise 77% of students attending district HPSs and 93% of those attending charter HPSs – far greater percentages than their 52% representation statewide. White students – 49% of the student population statewide – comprise only 23% of students in district HPSs and 7% in charter HPSs. The communities in which HPSs and low-poverty schools (“LPSs”) are located display racial patterns with nearly all LPSs in majority-White communities and with HPSs in majority-minority communities at twice the rate one would expect given residential patterns. [WestEd Report, p. 246].
- Students’ opportunity for a sound basic education is limited in high-poverty schools by a lack of supports and services to help mitigate barriers to learning associated with adverse out-of-school conditions in communities of concentrated poverty. [WestEd Report, pp. 252-54].

The number of economically-disadvantaged students (those eligible for free or reduced-price lunch programs) in public schools has grown from 470,316 in 2000–01 to 885,934 in 2015–16, an 88% increase over 15 years. [WestEd Report, p. 20]. In fact, more than 475,000 children in North Carolina, or 21% of all the state’s children, are in families below the federal poverty level (*i.e.*, \$24,600 for a family of four). About one third of those families are at the deep poverty level, with family incomes of less than half of the poverty level. Child poverty is most concentrated in the counties in the northeast, north central, and Sandhills regions of the state. [WestEd Report, p. 96]. However, even in higher wealth counties, low-wealth students are concentrated in high poverty schools, and recommendations to address the challenges these students face must focus on high poverty schools, not only high poverty school districts. [WestEd Report pp. 103-106]. In 2016-17, approximately 60% of North Carolina’s public school students were eligible for free or reduced-price lunch. [WestEd Report, p. 96].

The proportion of economically-disadvantaged students is especially high in many of the economically-distressed rural districts. [WestEd Report, p. 20]. Over half of the high poverty schools in the state are in rural communities; the next highest concentration, nearly a third, are in urban communities. [WestEd Report p. 96]

Large achievement gaps between subgroups of students continue unabated, with, on average, the achievement of black, Hispanic, and Native American students lagging far behind that of white and Asian students and the achievement of economically-disadvantaged students lagging far behind that of their more advantaged peers. [WestEd Report, pp. 21-31].

The proficiency gap between black and white students was 29.9% in 2013, the first year the current standards were implemented, and was at 30.2% in 2018. The proficiency gap between Hispanic and white students has also increased (rather than decreased) during this period, from 22.8% in 2013 to 24.6% in 2018. [WestEd Report, p. 23].

Presently, only 32% of EDS students meet college-and-career-readiness benchmarks on North Carolina’s end-of-course tests, compared to 61% of non-EDS students. Similarly, only 39%

of EDS students meet the UNC system's minimal standard on the ACT college-readiness exam, compared to 69% of non-EDS students. [WestEd Report, pp. 27-28].

In addition, the number of students who are English learners more than doubled over 15 years, increasing from 44,165 (3% of all students) in 2000 to 102,090 (7% of all students) in 2015 [WestEd Report, p. 20 (National Center for Education Statistics, 2017)]. The increased diversity of the student population and the increased number of English learners drive the need to invest further in developing an educator workforce that is racially and ethnically diverse and employs culturally responsive teaching approaches in order to successfully educate all of the state's students. [WestEd Report, pp. 20, 64, 141, 203].

State funding for education has not kept pace with the growth and needs of the preK-12 student body. The State does not currently provide adequate resources to ensure that all students have the opportunity to obtain a sound basic education, as well as to meet higher standards and become college-and-career ready. [WestEd Report, p. 21]. There is inadequate funding to meet student needs, especially among economically-disadvantaged students and students in high-poverty schools. [WestEd Report, p. 41].

As of fiscal year (FY) 2016, the most recent year for which national rankings are available, North Carolina's per-pupil spending was the sixth lowest in the nation [WestEd Report, p. 21 (U.S. Census Bureau, 2018)]. When adjusted to 2018 dollars, per-pupil spending in North Carolina has *declined* by about 6% since 2009–10. [WestEd Report, p. 21].

The result confirmed by WestEd for each *Leandro* tenet (discussed below)—across multiple data sets and after extensive research and analysis — is that the State of North Carolina and the State Board of Education are not providing and administering a *Leandro*-compliant PreK-12 public education system.⁶

In sum, the State and the State Board of Education have yet to achieve the promise of our Constitution and provide all with the opportunity for a sound basic education. For the State and State Board of Education to make necessary progress in the provision of the *Leandro* right, the Parties agree that three significant areas require immediate attention:

(1) the initiatives and infrastructure for PreK-12 education supplied by the Defendants must be bolstered in order to address the expanding educational needs of a growing, increasingly diverse North Carolina student body;

(2) important additional state-level investments in education are needed to assure students' constitutional rights; and

⁶ Herein, the Court has not articulated every finding or conclusion that could be made based upon the data and reporting provided by WestEd. As a general matter, the Court takes full notice of the WestEd Report, including its satellite studies and accepts the data presented as true and correct. The Parties have consented to the entry of this Order and stipulate to the findings and conclusions expressly set forth herein. With regard to matters addressed in the WestEd Report not expressly set forth herein, the Parties have reserved the right to challenge those as needed, in future proceedings and/or in connection with the submission of subsequent filings that will follow in this matter.

(3) the implementation of a comprehensive, definite plan – supported by coordinated governance systems – that addresses the critical needs that must be met in order to serve every North Carolina student and, in particular, economically-disadvantaged and minority students.

2. Systemic, Synchronous Action And Investments Are Necessary to Successfully Deliver the *Leandro* Tenets

Systemic, sustained approaches deployed by the State and the State Board of Education to increase the capacity of North Carolina’s Pre-K–12 public education system are necessary to ensure every child receives the opportunity for a sound basic education. Across numerous areas, the present (sometimes piecemeal) approaches utilized by the State are insufficient to address the critical needs of all students and growing challenges across North Carolina. The WestEd Report and the record evidence in this case illuminate North Carolina’s systemic deficiencies and identify critical needs across a number of interrelated areas. These are addressed below in turn.

Teacher Quality and Supply

North Carolina can never succeed in providing the opportunity for a sound basic education to all children without vastly improved systems and approaches for recruiting, preparing, supporting, developing, and retaining teachers. A framework for placing and retaining highly-effective teachers where they are most needed to foster the academic growth of at-risk students must be created and sustained. The current teacher shortages and high turnover — particularly in high-poverty schools and districts — are a function of uneven preparation and mentoring, inadequate compensation, and poor working conditions. [WestEd Report, p. 62].

North Carolina has invested in building a strong core of teacher-leaders, piloted models to leverage teacher leadership, and launched innovative programs for preparing teachers and principals. [WestEd Report p. 168]. However, North Carolina has gone from having a highly-qualified teacher force as recently as a decade ago to having one that is uneven in terms of the number of candidates, the quality of teacher preparation (particularly in high-poverty schools and districts), the extent to which teachers have met standards before they enter teaching, and teachers’ growth and development once they enter the classroom. [WestEd Report, p. 53].

Social and economic changes are impacting the education workforce, leading both to fewer young people choosing teaching as a profession and to fewer of those who do enter teaching remaining in the profession past the first few years. For example, enrollment in traditional teacher education programs declined by more than 50% between 2008–09 and 2015–16. Likewise, the number of teacher credentials issued between 2011 and 2016 declined by 30%. [WestEd Report, pp. 17-18].

The North Carolina teacher supply is shrinking, and teacher shortages are widespread. [WestEd Report, p. 53].

The total number of teachers employed in North Carolina has decreased by 5% from 2009 to 2018, even as student enrollments have increased. [WestEd Report, pp. 18, 53]. The annual teacher attrition rate in North Carolina is 8.1%, which is higher than the national average. [WestEd Report, p. 47].

Salaries and working conditions influence both retention and school effectiveness of teachers. Even after years of increases in teacher salaries, North Carolina lags behind numerous other states in average pay and is not paying salaries at a competitive level. [WestEd Report, pp. 56-57].

Multivariate statistical analyses of the predictors of teacher retention show that the size of the teacher salary supplement (*i.e.*, additional funds provided by some local education agencies to account for variances such as geographic location, market conditions, and school demographics) is a significant predictor of retention. Low-wealth districts have limited, if any, means to offer significant salary supplements to retain effective teachers. [WestEd Report, p. 58].

The proportion of teachers in North Carolina who are not fully licensed has doubled since 2011, from 4% to 8%, and in high-poverty schools, as many as 20% of teachers are unlicensed. [WestEd Report, pp. 54, 98]. WestEd found that attrition, vacancies, and the hiring of unqualified teachers are significantly higher in high-poverty communities. [WestEd Report, p. 54].

Enrollment in traditional teacher education programs declined by more than 50% between 2008-09 and 2015-16. [WestEd Report, pp. 17-18].

The source of teacher supply has dramatically shifted in recent years, with 25% of candidates now entering through alternative routes (*i.e.*, lateral entry) without pre-service preparation. Presently, only about 35% of the state's teachers are entering through North Carolina colleges and universities—a share that was as high as 60% in 2001 and 50% in 2010. Changes in the sources of teacher supply are important because researchers have found that teachers prepared at North Carolina schools of education are generally significantly more effective than those prepared out of state and they stay in North Carolina schools at much higher rates than their peers who enter teaching through other pathways. [WestEd Report, p. 54].

Professional development programs enhance the professional skills of educators, including the New Teacher Support Program for teachers during their first three years in the profession; the many programs for experienced teachers provided by the North Carolina Center for the Advancement of Teaching, the Distinguished Leadership Practice, and the Future-Ready Leadership programs for current and future principals provided by North Carolina Principals and Assistant Principals' Association ("NCPAPA"); and other statewide, regional, and district programs. However, existing professional development programs operate on a small scale.⁷ The New Teacher Support Program, for example, supports fewer than 10% of beginning teachers, a much smaller proportion than the statewide mentoring program that reached all beginning teachers in the 1990s. [WestEd Report, pp. 15, 66]. Likewise, the effective Teaching Fellows program, which recruits and prepares talented individuals to teach in content areas and in geographic parts

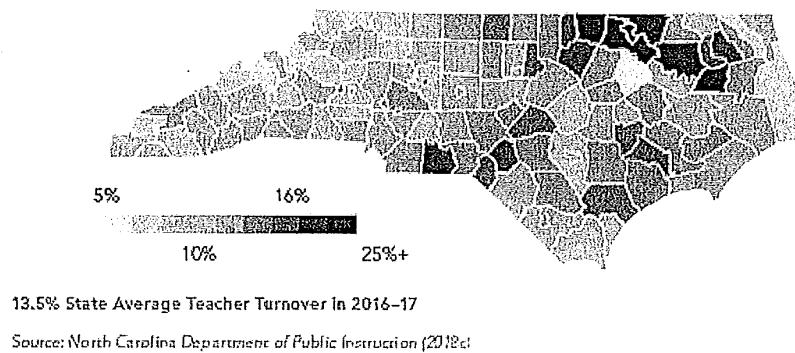
⁷ NCPAPA, not the NCDPI, has developed and delivers many of these professional learning opportunities. Since *Race to the Top* (RttT), North Carolina has not taken a leadership role in providing professional development to school administrators as the NCPAPA has. Researchers suggest that North Carolina would be wise to study its current priorities and better allocate resources, information, and models to give principals more access to high-quality professional development. [WestEd sub-report, *Attracting, preparing, supporting and retaining educational leaders in North Carolina* (Koehler, P., & Peterson, M. (2019)), pp. 15-16].

of the state in which there are shortages of qualified teachers, is operational again, but not as large as it once was. [WestEd Report, p. 56].

Access to effective, diverse, and experienced teachers is critical for students' academic success and well-being, especially for economically-disadvantaged students and students of color. [WestEd Report, pp. 59-60]

Recruiting and retaining qualified teachers in high-poverty schools is a significant challenge, with some of the rural districts losing more than 20% of their teachers in a single year.

Exhibit 5. Teacher turnover in K-12 traditional public schools, by district (2016-17)



[WestEd Report, pp. 17-18, Exh. 5].

Teachers of color are an important resource, as recent research — much of it conducted in North Carolina — has found a positive impact of having a same-race teacher on the long-term education achievement and attainment of students of color, particularly for African American students [WestEd Report, p. 59 (e.g., Dee, 2004; Gershenson, Hart, Lindsay, & Papageorge, 2017)]. North Carolina's current teacher workforce, however, has only about 20% teachers of color, although more than half of the state's students are students of color. [WestEd Report, p. 59]. Between 2011 and 2016, teacher education enrollments in minority-serving institutions, including historically black colleges and universities, declined by more than 60%. [WestEd Report, pp. 51-52].

There is an inequitable distribution of qualified teachers in North Carolina public schools. High-poverty schools have far more beginning teachers and far more lateral-entry teachers. [WestEd Report, pp. 18-19 (Exhibits 6-7)]. Teachers who are insufficiently prepared are more likely to leave teaching, and more of these teachers are hired into high-poverty schools, which most need a stable, experienced workforce. [WestEd Report, pp. 17-18]. This inequitable distribution negatively impacts students in high-poverty schools. [WestEd Report, p. 18]. High-poverty schools have nearly double the one-year teacher turnover rates of low-poverty schools [WestEd Report, p. 99]. The proportion of teachers in North Carolina who are not fully licensed has doubled since 2011, from 4% to 8%, and in high-poverty schools, as many as 20% of teachers are unlicensed. [WestEd Report, p. 47].

Access to, and the quality of, professional learning opportunities vary across schools and districts, and state-level efforts to support teacher growth and development are inadequate and inequitable. The once-extensive infrastructure and funding for professional learning in North Carolina has been greatly reduced. There has been a significant decrease in funding and support for professional learning for teachers over the last decade. This has resulted in a reduced capacity to provide adequate professional development for teachers in recent years, especially in low-wealth districts. Low-wealth districts especially have few resources to find substitute teachers so that teachers can attend any professional development sessions that are provided, and they have limited money to pay for teachers' time outside of school hours or for travel to conferences. [WestEd Report, p. 60].

The North Carolina educator workforce is highly committed and working diligently every day to meet the needs of at-risk children, even contributing their own resources whenever they can to fill needs. [WestEd Report, p. 168] Unfortunately, their effort and commitment is not enough to address the issue. In order to improve the quality of the teaching workforce, North Carolina must implement wide-scale infrastructure for professional learning at the State, district, and school levels. [WestEd Report, pp. 68-69].

Principal Quality and Supply

School leadership is the second most important factor influencing student learning, after teacher effectiveness. [WestEd Report, p. 70 (Leithwood, Seashore Louis, Anderson, & Wahlstrom, 2004)]. Since effective principals are critical for recruiting and retaining excellent teachers and ensuring they have supportive working conditions and opportunities for professional growth, the importance of the principal to students' success goes well beyond what is found in the statistical analyses. [WestEd Report, p. 70].

In 2018–19, North Carolina had 2,389 state-funded principal positions, 1,987 assistant principal positions, and 226 charter school principals, for a total of 4,602 school administrators [WestEd Report, p. 70 (North Carolina Department of Public Instruction, 2019a)].

While North Carolina has developed effective programs to recruit and retain effective principals, these programs are far too limited in scale. Consequently, many districts, especially low-wealth districts, lack meaningful resources to recruit and retain qualified and well-trained principals. [WestEd Report, pp. 72, 78].

There has been a significant reduction in the numbers of candidates entering principal preparation programs over the past decade; many schools are led by inexperienced principals with fewer than three years of experience; and the current principal compensation structure may be a disincentive to becoming a principal, particularly for becoming a principal in a low-performing school. In addition, changes to the context within which schools operate (e.g., advances in technology, changes in the conditions and characteristics of children, and higher levels of accountability for student achievement) have increased demands on what principals need to know and be able to do. [WestEd Report, p. 72].

While North Carolina has adopted appropriate standards for principals (North Carolina Standards for School Executives) and evaluation procedures that reflect those standards, models

of high-quality pre-service training in the Northeast Leadership Academy (“NELA”) and Transforming Principal Preparation (“TPP”) programs, these programs need to be scaled to reach aspiring principals in *all* regions and schools of the State, especially those in high-poverty areas. [WestEd Report, pp. 78-80].

In North Carolina, principals of high-poverty schools, on average, do not have the longevity in their schools necessary to make sustainable changes. A survey of the state’s principals conducted by WestEd showed that 64% of respondents who are principals in high-poverty schools have been the principal in their current school for three or fewer years and only 5% have been in place for 11 or more years. Data from 2016 and 2017 show that about 30% of principals in the highest-poverty schools left their school each year, as compared with about 17% in other schools, resulting in many high-need schools having a new principal each year. [WestEd Report, pp. 70-71]

For principals to become more effective and grow in their profession, they need ongoing professional learning opportunities. Even the most effective administrator preparation programs cannot prepare principals for all the necessary knowledge typically obtained over time at different schools throughout their careers. [WestEd Report, p. 79 (Matlach, 2015)]. Ensuring that principals have access to job-embedded, ongoing, and customized professional development and coaching can increase their competence and improve retention. [WestEd Report, p. 79 (Goldring & Taie, 2014)].

The need for effective leaders is especially important in persistently low-performing schools and high-poverty schools. Compared with other schools, these schools tend to have less-prepared and less-experienced teachers, much higher teacher turnover rates, students with additional needs, and fewer resources while also being faced with pressure to show increased student growth and proficiency each year. Research indicates that only with strong, talented leadership are these schools able to make the fundamental shifts in practice needed to increase positive outcomes for all students. [WestEd Report, p. 70 (Grissom, 2011)].

Resources and School Funding

North Carolina does not presently provide adequate resources and funding to ensure that all students, especially those at-risk, have the opportunity to receive a sound basic education. [WestEd Report, p. 41]. There is inadequate funding to meet student needs, especially among economically-disadvantaged students and students in high-poverty schools. [WestEd Report, pp. 35-49].

Educating today’s students to meet high standards and to be successful in this century requires new investments in, among other things, infrastructure, instructional tools, technology, and the educator workforce. [WestEd Report, p. 20].

In the last two decades, North Carolina’s public school student population has grown by approximately 25% overall, and the number of children with higher needs, who require additional supports to meet high standards, has increased significantly. [WestEd Report, p. 20].

The number of economically-disadvantaged students (those eligible for free or reduced-price lunch programs) in public schools has grown from 470,316 in 2000–01 to 885,934 in 2015–

16, an 88% increase over 15 years. [WestEd Report, p. 20]. The increase of economically-disadvantaged students by more than 400,000 is the result of the overall growth in the student population, combined with the significant increase in the proportion of students who are economically disadvantaged, from 39% in 2000–01 to 57% in 2015–16. [WestEd Report, p. 20 (National Center for Education Statistics, 2018)].

The proportion of economically disadvantaged students is especially high in many of the economically-distressed rural districts, followed by urban districts. The high per-pupil costs associated with serving high concentrations of economically disadvantaged students affects a substantial proportion of North Carolina schools; approximately 31% of schools in the State are serving student populations in which more than 90% of students are economically disadvantaged. [WestEd Report, p. 36].

State funding for education has not kept pace with this growth, and the State does not currently provide adequate resources to ensure that all students have the opportunity to obtain a sound basic education. As of fiscal year (FY) 2017, the most recent year for which national rankings are available, North Carolina’s per-pupil spending was the sixth lowest in the nation (U.S. Census Bureau, 2019). When adjusted to 2018 dollars, per-pupil spending in North Carolina has declined about 6% since 2009–10. [WestEd Report, pp. 21, 35].

Compared with the nationwide average and with neighboring states, North Carolina’s public education system receives a significantly higher proportion of its funding from state-level appropriations. [WestEd Report, p. 34 (Ex. 22)]. Consequently, the State plays the most critical role in determining the level and distribution of funding for K–12 education, and the State must implement the funding structures that attend to adequacy, equity, and alignment.

Exhibit 22 (WestEd Report): Public Education Funding by Source, FY 2016

	Federal	State	Local
North Carolina	12%	62%	26%
South Carolina	10%	48%	43%
Tennessee	12%	46%	42%
Georgia	10%	46%	45%
U.S. Average	8%	47%	45%

[WestEd Report, p. 34].

In North Carolina, the need – and opportunity – to address inequity is particularly significant because the State has an above-average proportion of high-need students. As of fiscal year (FY) 2017, the most recent year for which national data are available, 53.1% of North Carolina’s enrolled K–12 students were eligible for free lunch, which is a federal definition for the most economically-disadvantaged student population. Compared with other states with reportable data, North Carolina has the ninth-highest proportion of this student population in the country. [WestEd Study, *“A Study of Cost Adequacy, Distribution, and Alignment of Funding for North Carolina K-12 Public Education System”* (Willis, J., Krausen, K., Berg-Jacobson, A., Taylor, L., Caparas, R., Lewis, R., & Jaquet, K. (2019) (“WestEd Cost Study”)), p. 5]. Moreover, these students are frequently, though not always, concentrated in communities with less ability to

provide local supplemental funding. [WestEd Cost Study (citing Public School Forum of North Carolina, 2018)]. Even in better resourced and urban districts these students are also concentrated in high poverty schools, and face the same challenges.

Higher levels of funding are required to meet the needs of at-risk student populations, including English learners, economically-disadvantaged students, and exceptional children. Many school districts, including many rural districts, lack the funding necessary to meet the educational needs of historically underserved student populations and economically-disadvantaged students. [WestEd Report, pp. 35-49].

Lack of spending flexibility at the district level is an obstacle to aligning funding with student needs. Restrictions on the allowable uses of allotments, including new restrictions around the Classroom Teacher allotment, hamper districts' ability to align funding to student needs. When funds are restricted to a particular use and cannot be transferred, it restricts district leaders' ability to make decisions about how to allocate resources to make the greatest impact on student outcomes given their local circumstances. [WestEd Report, pp. 40, 187].

For example, recent legislated restrictions on the transfer of funds from the Classroom Teacher allotment presented a particularly significant challenge, reducing districts' funding flexibility, creating inequities, and reducing some districts' overall funding. Prior to the 2012–13 school year, districts could transfer Classroom Teacher allotment funds to another area at the statewide average teacher salary level. Now, districts can only transfer these funds at a starting teacher salary level, rather than the average salary level. [WestEd Report, p. 40].

Over the past two decades the number of students enrolled in charter schools in North Carolina has increased, similar to the rate of growth in charter enrollment nationally. [WestEd Cost Study, p. 8 (citing National Center for Education Statistics, 2018)]. When a student exits a traditional public school district to enroll in a charter school, the per-pupil funding follows the student, which district financial officers identify as an administrative burden that obstructs districts' budget forecasting and planning processes. The proportion of North Carolina public school students attending charter schools has risen from 0.3% in FY 1998 to 6.6% in FY 2018.⁸ [WestEd Cost Study, p. 8].

⁸ Data indicate that the growth of charter school enrollment impacts where and how the State's public schools serve high-need students. WestEd found that in 2016–17, 807 (33%) of the state's traditional public schools and 36 (21%) of the state's charter schools qualified as high-poverty schools, with 389,204 (26%) of traditional public school students and 15,301 (17%) of charter school students attending these schools. Using the same data, WestEd also found that only 162 (7%) of traditional public schools in North Carolina were low-poverty schools — defined as having less than 25% of their students being economically disadvantaged — with 10% (147,901) of the state's traditional public school students attending these schools. Thus, a much higher percentage of charter schools, 46% (77 schools), qualify as low poverty, with 55% (51,073) of charter school students attending these schools. [WestEd Report, p. 96]. Recent data from the Department of Public Instruction indicate that high-need students (i.e., students receiving free and reduced price lunch, English language learners, and students with disabilities) are less-concentrated in North Carolina charter schools than in traditional public schools:

Charter schools are exempt from the state's allotment system requirements and are afforded a great deal of financial and educational flexibility. For example, each charter school receives a single allotment of flexible funds, is not required to use statewide salary schedules to determine staff compensation, and is not subject to the class size maximums for grades K-3 [WestEd Cost Study, p. 8].

Assessment and Accountability System

North Carolina continues to revise its core curriculum standards and assessments several times. The State updated the mathematics standards prior to the 2005-06 school year and the English language arts standards prior to 2007-08 and then updated both again for 2013-14. Each of these updates aimed to make the standards more rigorous, to reflect what is required to prepare students for success in the increasingly technological and complex society, and to make North Carolina's standards more comparable with those of other states and countries whose students perform well on national and international assessments. As a result, the bar for meeting proficiency has been raised in ways that are necessary and appropriate, but that also increase the challenges for schools in preparing students to achieve proficiency. [WestEd Report, p. 17].

While the State has adopted more rigorous standards, there has not been adequate State investment in, and leadership for, implementing the standards and providing the professional learning, instructional materials, and other supports needed to change practice in schools and classrooms. [WestEd Report, p. 17].

Charter School Student Demographics
2017-2018 School Year

	Charter Schools		Traditional Public Schools		All	
Demographic	Count	Percentage	Count	Percentage	Count	Percentage
Total White	55,401	54.9%	686,652	47.9%	742,053	48.4%
Total Black	26,349	26.1%	361,746	25.2%	388,095	25.3%
Total Hispanic	10,040	9.9%	256,848	17.9%	266,888	17.4%
Other	9,196	9.1%	128,000	8.9%	137,196	8.9%
Male	50,443	50.0%	736,972	51.4%	787,415	51.3%
Female	50,543	50.0%	696,274	48.6%	746,817	48.7%
Total Enrollment	100,984	100.0%	1,433,244	100.0%	1,534,232	100.0%

	Charter		LEA		Charter + LEA	
Special Education	Count	Percentage	Count	Percentage	Count	Percentage
FRPL	28,199	33.2%	841,089	59.4%	869,288	57.3%
ELL	3,607	3.6%	112,575	7.9%	116,182	7.6%
SWD	10,154	10.3%	173,102	12.2%	183,256	12.0%

*FRPL: Free and Reduced-Price Lunch

*ELL: English Language Learners

*SWD: Students with Disabilities

Charter Schools Annual Report to the North Carolina General Assembly, at 4 (February 15, 2019), <https://legislative.ncpublicschools.gov/legislative-reports/charterschoolsannualreport2019.pdf/view>; see also WestEd Report, p. 96.

The student achievement goals in North Carolina's approved plan under the federal Every Student Succeeds Act provide further reason for concern. As shown in Exhibit 21 to WestEd's report, this plan sets goals for the year 2027 in reading and math for grade 3–8 students and for high school students on the state's EOG and EOC tests. Even if these goals are met, which would require an ambitious average annual increase of 2% to 3% in the number of students proficient in each area, more than one third of grade 3–8 students and more than one fourth of high school students would remain below proficient in reading, and more than one fourth of students from grade 3 through high school would remain below proficient in mathematics. That is, even if the ESSA plan's goals for 2027 are all met, North Carolina would continue to leave far too many students behind and would still be far from achieving success for every student. [WestEd Report, pp. 30-31].

The State's accountability system presently does not address all measures necessary to measure Defendants' progress toward providing all students with access to a sound basic education, even though North Carolina currently collects data that could be used for that purpose. [WestEd Report, pp. 119-23]. The State has developed high-quality data systems to track the progress of students; measure the effectiveness of teachers, schools, and districts; assess staffing and working conditions within schools; analyze the impact of programs and legislation; and identify needs that must be addressed. The data systems must be better updated and utilized to track indicators pertaining to the extent to which the state is meeting its requirement to provide every student with the opportunity to obtain a sound basic education. [WestEd Report, p. 16].

As presently configured, North Carolina's data system does not produce consolidated reports that would inform the evaluation and continuous improvement of educational programs. Revisions to the accountability systems are necessary to provide more robust information to educators, parents, policymakers, and others about the educational effectiveness of each school and about the learning and progress of individual children and of subgroups of children. [WestEd Report, p. 32]. Similarly, data presently available is not fully utilized to inform instructions in districts and in classrooms. NCDPI should provide stronger guidance and resources to LEAs on the use of data from the NC Check-Ins, end-of-year assessments, and the Education Value-Added Assessment System (EVAAS) to inform student and school improvement and close educational opportunity and achievement gaps. [WestEd Report, p. 111].

Low-Performing and High-Poverty Schools

High-poverty schools are those in which at least 75% of the students are economically disadvantaged. North Carolina has 807 high-poverty traditional public schools (33% of public schools) and 36 high-poverty charter schools (21% of charter schools), located in urban, rural, and suburban communities and in every region in the state. These schools serve higher proportions than other schools of students with additional risk factors, including students of color, students who have disabilities, and English learners. [WestEd Report, p. 128].

In 2016–17, 807 (33%) of the state's traditional public schools and 36 (21%) of the state's charter schools qualified as high-poverty schools, with 389,204 (26%) of traditional public school students and 15,301 (17%) of charter school students attending these schools. [WestEd Report, p. 96].

In contrast, only 162 (7%) of traditional public schools in North Carolina were low-poverty schools — defined as having less than 25% of their students being economically disadvantaged — with 10% (147,901) of the state’s traditional public school students attending these schools. A much higher percentage of charter schools, 46% (77 schools), qualify as low poverty, with 55% (51,073) of charter school students attending these schools. [WestEd Report, p. 96].

The highest poverty rates are among African American, Hispanic, and American Indian families, and larger percentages of students of color attend high-poverty schools. Across all traditional public schools, enrollment is 52% students of color; in high-poverty schools, enrollment is 77% students of color. In charter schools overall, enrollment is 44% students of color; in high-poverty charter schools, enrollment is 93% students of color. A total of 567 (70%) of the state’s high-poverty traditional public schools enroll 75% or more students of color; 694 (86%) enroll at least 50% students of color. [WestEd Report, p. 97].

Data shows that students attending HPSs in North Carolina are far less likely to receive a sound basic education. These schools serve disproportionate numbers of students with other academic risk factors, including students who have parents with low education levels, who have limited proficiency in English, who are members of a racial or ethnic minority group, and who have families headed by a single parent. [WestEd Report, p. 97].

Students in high-poverty schools have significantly less access to career and technical education courses, participation in online virtual learning, and participation in sports, music, theater, academic competitions, community service, business internships, and other activities. [WestEd Report, pp. 100-01].

North Carolina’s high-poverty schools have fewer fully licensed teachers, fewer teachers with advanced degrees, and fewer teachers with National Board of Professional Teaching Standards certification. High-poverty schools have more lateral-entry teachers and more early-career teachers (teachers without certification and with fewer than three years of experience, respectively), who have been shown, on average, to be less effective in improving student achievement than teachers with more preparation and experience. These schools also have much higher rates of teacher and principal turnover than other schools, and the constant influx of new teachers contributes to the challenges of improving these schools. In addition, the principals in high-poverty schools tend to be less-experienced school leaders, and the principal turnover rate is higher than that of other schools. [WestEd Report, p. 130].

Policies related to charter schools and opportunity scholarships contribute to the effects of cumulative disadvantage in high-poverty schools because these policies attract more-advantaged students and fewer students with disabilities to charter schools than those left behind. [WestEd Report, p. 254 (North Carolina Department of Public Instruction, 2018)]. Students enrolling in charters take with them the average cost per student in the district where the charter is located, but the loss of a student to a charter does not diminish districts’ and schools’ fixed costs, such as costs related to buildings and transportation. In effect, charter schools can reduce the amount of funds available to HPSs through a loss of per-pupil allocations and district expenses for their operations.

Early Childhood Learning and PreK

Judge Manning noted in his October 25, 2000 Order that “. . . the most common sense and practical approach to the problem of providing at-risk children with an equal opportunity to obtain a sound basic education is for them to begin their opportunity to receive that education earlier than age (5) five so that those children can reach the end of third grade able to read, do math, or achieve academic performance at or above grade level . . .” *Hoke Cty. Bd. Educ. v. State*, No. 95 CVS 1158 (Oct. 25, 2000). Too many children in North Carolina are not reaching the end of third grade able to read or do math at grade level and there are vast differences in outcomes between racial and socioeconomic groups. A robust early learning continuum from birth through third grade supports the academic, social-emotional, and physical development essential to the State’s obligation to provide a sound basic education.

Recent efforts by the State Defendants are encouraging. In 2017, the North Carolina General Assembly affirmed the importance of this early learning continuum by establishing a B-3 Interagency Council that “. . . shall have as its charge establishing a vision and accountability for a birth through grade three system of early education . . .” [Session Law 2017-57, N.C. Gen. Statute § 116C-64.25]. In August 2018, Governor Cooper, through Executive Order 49, directed the Department of Health and Human Services and the Early Childhood Advisory Council to develop an Early Childhood Action Plan. The plan, released in February 2019, provides goals, measures, and strategies to improve outcomes for children from birth through third grade.⁹ In March 2019, the State Board endorsed the Early Childhood Action Plan.

The Early Childhood Action Plan includes many components, including goals that by 2025, all North Carolina young children from birth to age eight will be:

1. Healthy: Children are healthy at birth and thrive in environments that support their optimal health and well-being.
2. Safe and Nurtured: Children grow confident, resilient, and independent in safe, stable, and nurturing families, schools, and communities.
3. Learning and Ready to Succeed: Children experience the conditions they need to build strong brain architecture and skills that support their success in school and life.

NC Early Childhood Action Plan, p.10.

Moreover, a high-quality early foundation for learning is critical for later success in school and beyond and can significantly improve life outcomes for children from low-income families. [WestEd Report, p. 87]. Early childhood programs, including Head Start, Smart Start, NC Pre-K, childcare programs and subsidies for low-income families, and services for preschool children who have disabilities, support families in preparing young at-risk children to be ready to begin formal schooling successfully when they enter kindergarten. [WestEd Report, p. 15].

All the record evidence supports the conclusion that high-quality preschool can improve child health in three ways:

⁹ North Carolina Early Childhood Action Plan, available at <https://files.nc.gov/ncdhhs/ECAP-Report-FINAL-WEB-f.pdf>.

1. High-quality preschool can directly improve children's physical and mental health through the establishment of such positive habits as eating heart-healthy foods, having balanced diets, and exercising through active play.
2. High-quality preschool has positive effects on parents, including on their mental health, their parenting skills, and their health knowledge.
3. High-quality preschool can significantly improve children's socio-emotional skills and cognitive skills in the short term, particularly for low-income and dual-language children, which can lead to improved health as adults.

[WestEd Report, pp. 236-37 (summarizing studies and data)].

Not only does high-quality preschool improve child health, it results in long-term financial benefits. [WestEd Report, p. 237]. The research studies that follow children through adolescence demonstrate that preschool participation can positively impact grade retention and special education placement, which not only benefit children, but also can produce cost savings for schools. [*Id.* at 237]. In addition, skill development at an early age is critical. [*Id.*, citing Heckman, Pinto, & Savelyev, 2013]. Children who enter school without the skills learned in early education settings get tracked into lower-quality classes and skills and may receive fewer learning resources, contributing to their falling further behind. [*Id.*, citing Belfield, 2019].

Further, preschool participation generates cost savings for society as a whole due to increased graduation rates and educational attainment. [WestEd Report, p. 237 (Meloy, Gardner, & Darling-Hammond, 2019)]. Economic studies conducted over the past 12 years find that the economic benefits of investing in early childhood education are at least double the economic costs. [*Id.*, citing Barnett & Masse, 2007; Karoly, 2016]. Results from these studies have shown specifically that providing early childhood education for disadvantaged students has even higher economic returns than doing so for the general population. [WestEd Report, p. 237].

High-quality pre-kindergarten programs have a sustainable positive impact on learning and can close the learning gaps among young children from economically advantaged and disadvantaged backgrounds.

The NC Early Action Plan echoes elements of Judge Manning's October 2000 Order and seeks to address many of the challenges WestEd identified in its research regarding early learning and PreK. By adopting the Early Childhood Action Plan, the State and the State Board of Education have acknowledged and admitted the centrality of services for children from birth through age eight for the provision of the *Leandro* mandate and the opportunity for a sound basic education as children progress through the state's public education system.

Indeed, the State Defendants have explicitly recognized that:

The first years of a child's life are a critical period. During this time, children undergo tremendous brain growth that impacts multiple areas of cognitive, physical, social, emotional, and behavioral development. This brain growth and development is significantly impacted by the interplay between children's relationships with the people and environments around them. Early positive relationships with caring adults allow children to feel safe to explore and interact

with their surrounding world and can have a lasting impact – positive or negative – on later outcomes in school and life. Early experiences in a child’s life can impact brain structure and development down to the cellular level. As a child’s brain architecture is being built in those early years, positive experience support healthy growth and development, while Adverse Childhood Experiences (ACES), such as experiences of abuse and neglect, can have a detrimental long-term impact.

NC Early Action Plan, p. 4 (citations omitted). Further, the State Defendants recognize the value of early childhood interventions to improve outcomes. See *id.* (noting that investments in early childhood programs and interventions “produce long-lasting impacts,” result in a \$2 to \$4 return for every \$1 invested, and improve academic scores).

However, access to early childhood education remains out of reach for many low-income families in North Carolina. There is a shortage of available Pre-K slots across North Carolina, and only about half of eligible children are served. [WestEd Report, p. 89].

Two statewide early childhood education programs, NC Pre-K and Smart Start, provide high-quality programs that have been shown to have a strong positive impact on participating children’s readiness for and future success in school. [WestEd Report, p. 87].

NC Pre-K is the state’s pre-kindergarten program that serves 4-year-olds, primarily from low-income families. This state-supported part-day program currently enrolls just over 29,500 children during the traditional school year in a mixed-delivery system of public schools, private centers, and Head Start centers. The NC Pre-K program has consistently had high standards, a strong record of quality, and extensive evidence of effectiveness. It has been found to have produced both short- and long-term benefits through grade 8. [WestEd Report, p. 88].

There is a shortage, however, of available Pre-K slots across North Carolina, and only about half of eligible children are served. Approximately 25 out of North Carolina’s 100 counties are reaching the target participation rate of 75% or more of eligible children in their county. The limited participation is most severe for children from low-income families and for students of color. This pattern in lack of participation holds in both urban and rural areas; however, rural counties have the most inconsistency regarding percentage of eligible children served by NC Pre-K compared with urban or suburban counties. [WestEd Report, p. 89].

Access to the high-quality early childhood education programs in the state varies dramatically, with lower-wealth counties lacking an adequate supply of high-quality early childhood programs. Based on estimates of the total number of children eligible for NC Pre-K, the unmet need is almost 33,000 children per year across North Carolina. [WestEd Report, p. 89].

There are funding barriers to the expansion of high-quality early childhood education that need to be addressed. [WestEd Report, p. 89-90]. The overriding, systemic barrier to expanding NC Pre-K is that revenues and other resources available to NC Pre-K providers are too often inadequate to cover the costs of expansion. [WestEd Report, pp. 89-90].

Lower-resourced counties need greater support to expand early childhood services, beyond just funding. Despite state attempts to expand financial support for NC Pre-K in the 2017–2019 budget, 44 out of 100 counties declined the NC Pre-K expansion funding. Specifically, 17 counties declined expansion funds in both 2017 and 2018 that are also not meeting the target of 75% of

eligible children enrolled in the county. [WestEd Report, pp. 89-90]. A number of barriers slowed or prevented expansion of early childhood services in lower wealth counties, including: (i) obtaining the necessary number of qualified teachers to fill teaching slots, (ii) having access to eligible/high-quality private programs to meet the need, (iii) having the ability to meet local funding match requirements, and (iv) providing transportation to enable families and program staff to get to centers. [WestEd Report, p. 89-90]

The State only covers about 60% of the cost for an NC Pre-K slot, leaving individual counties to cover the remaining 40%. The State's current NC Pre-K contribution is \$5,200 per child. The North Carolina Pre-Kindergarten Cost Study conducted by North Carolina State University found that the average cost per child for those already in the program is approximately \$9,100. [WestEd Report, p. 89].

Smart Start is a network of 75 nonprofit agencies that offer a "one-stop shop" of coordination for early education services for families with children from birth to age 5 – including parenting classes, child care program consulting, and case management or referral services for families – as well as ensuring early childhood programs are high-quality, child-focused, and family friendly. Research studies have found that children who participated in Smart Start-supported programs entered elementary school with better math and language skills, as well as fewer with behavioral problems compared with their peers. Both Smart Start and NC Pre-K programs have been found to significantly reduce the likelihood of special education placement in third grade. [WestEd Report, p. 88].

As of 2017–18, the Smart Start program supports 1,974 centers serving approximately 79,292 children and their families. The program was designed to meet 25% of the defined need for children aged 0-5. In 2018–19, Smart Start local partnerships spent \$147 million to meet approximately just 5% of the defined need in early childhood learning. Smart Start is a significant funding source for NC Pre-K. Income-eligible families receive a child care subsidy, an average payment of about \$6,200 a year. [WestEd Report, p. 88].

In 2011, the state legislature imposed a 20% budget cut on Smart Start, bringing the annual funding levels to less than \$150 million, which is the lowest amount of funding for the program since the 1998 fiscal year. [WestEd Report, p. 89].

In addition, the volume and quality of the early childhood educator pipeline in North Carolina is insufficient. As of 2015, 64% of lead child care teachers in North Carolina did not have an associate's or bachelor's degree in early childhood education. In fact, 38% of lead child care teachers did not have an associate's or bachelor's degree at all. [WestEd Report, p. 90].

Most early childhood education services in North Carolina have limited education requirements for teachers; however, NC Pre-K has been shown to have the most stringent policies related to teacher qualification. [WestEd Report, p. 90]. Turnover in the early childhood workforce is quite high. [WestEd Report, p. 91].

Elementary school environments are often not equipped to support the developmental transition of young children into K–12 environments, including through appropriate and proportional staffing of school support staff such as nurses, social workers, and counselors. Better alignment is needed between the early childhood programs and the schools that children from these programs will attend. [WestEd Report, p. 91].

Alignment and Preparation for Post-Secondary Opportunities

Systemic efforts at all levels of the education system are necessary to create the conditions for all of North Carolina's students to achieve a sound basic education, which includes preparation for some level of post-secondary success. Likewise, the State's goal and obligation to provide all students with a sound basic education that prepares them for future success necessitates a systemic approach to education improvement.

The recent call to action issued by the MYFUTURENC COMMISSION (2019) further highlights the ways that the State's talent supply is not keeping pace with current changes in the job market. For example, the State has experienced significant declines in blue collar work and an increased need for employees to fill skilled-service jobs. However, the State is not producing sufficient talent with the technical skills and education to fill these skilled roles. Further, educational opportunities are not equitably distributed across the State, as far fewer students from more economically-disadvantaged backgrounds are earning postsecondary credentials than are their more economically-advantaged peers. [WestEd Report, p. 12 (myFutureNC Commission, 2019)]. The commission's ambitious goal, to enable two million 25- through 44-year-olds to obtain a high-quality postsecondary credential or degree by 2030, will not be possible without systemic efforts at all levels of the public education system. Likewise, the State's goal and obligation to provide all students with a sound basic education that prepares them for future success also necessitates a systemic approach to education improvement. [WestEd Report, p. 12].

The State established 125 Early College High Schools and other Cooperative Innovative High Schools that provide small schools on college campuses that enable students to complete high school and earn college credits, with no tuition or other costs. [WestEd Report, p. 16].

The Career and College Promise legislation enables high school students throughout North Carolina to attend college courses and obtain both high school and college credits, with the state providing funding for college tuition. [WestEd Report, p. 16].

This program is widely used: In 2016–17, 61% of high school students earned college credit prior to their high school graduation, with 86% earning a grade of C or higher. [WestEd Report, p. 101 (Coltrane & Eads, 2018)]. However, barriers exist that prevent some students participating in and benefiting from the program. Many economically-disadvantaged students cannot afford the cost of college textbooks, lab fees, and other college fees, and they also struggle to find transportation to and from the college. In addition, high school schedules are often not aligned with schedules at the local community college. Misaligned schedules present barriers for students who must work after school and for those who depend on school busing for transportation and on food lunch programs for meals. [WestEd Report, p. 101].

Career and technical education (CTE) programs provide many high school students with professional skills and credentials that lead to opportunities in the workplace. [WestEd Report, p. 16]. Unfortunately, many students across North Carolina, especially those at-risk, are not prepared for postsecondary success. [WestEd Report, pp. 21-30].

It is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

A. The findings and conclusions set forth herein are hereby entered by this Court and incorporated into the record of this case;

B. The time has come for 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.

C. To keep the Court fully informed as to the remedial progress, the Parties are hereby ordered to submit a status report to the Court (a joint report if all Parties agree, and individual reports if the Parties do not) no later than 60 days from the date of this Order setting out the following:

1. Specific actions that the State Defendants must implement in 2020 to begin to address the issues identified by WestEd and described herein and the seven components set forth above;

2. A date by which the State Defendants, in consultation with each other and the Plaintiffs, will submit to the Court additional, mid-range actions that should be implemented, including specific actions that must be taken, a timeframe for implementation, and an estimate of resources in addition to current funding, if any, necessary to complete those actions.
3. A date by which the State Defendants, in consultation with each other and the Plaintiffs, will submit to the Court a comprehensive remedial plan ("the Plan") to provide all public school children the opportunity for a sound basic education, including specific long-term actions that must be taken, a timeframe for implementation, an estimate of resources in addition to current funding, if any, necessary to complete those actions, and a proposal for monitoring implementation and assessing the outcomes of the plan.


D. The State Defendants shall identify the State actors and institutions responsible for implementing specific actions and components of the proposed Plan.

E. The Parties may consult with WestEd and each other in the development of the short and longer-term remedial measures, as may be needed.

F. This Order may not be modified except by further Order of this Court.

G. The Court retains jurisdiction over this matter and the Parties.

This the 21st day of January, 2020


The Honorable W. David Lee
North Carolina Superior Court Judge

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 T. 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 B. TIPTON, individually and as Guardian
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,

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.

COMPREHENSIVE REMEDIAL PLAN

In *Leandro v. State of North Carolina*, 346 N.C. 336, 488 S.E.2d 249 (1997), the Supreme Court affirmed the fundamental right of every child to have the opportunity to receive a sound basic education. Despite significant State efforts to improve educational opportunities since that decision, and the subsequent decision in *Hoke County Board of Education v. State of North Carolina*, 358 N.C. 605, 599 S.E.2d 365 (2004), this constitutional right has been and continues to be denied to many North Carolina children.

On January 21, 2020, with the benefit of the findings, research, and recommendations of WestEd's report, *Sound Basic Education for All: An Action Plan for North Carolina*, and the Governor's Commission on Access to Sound Basic Education, this Court entered a *Consent Order* negotiated by the State Board of Education; the Office of the Governor and North Carolina Department of Justice (representing the State); the Plaintiff school districts; and the Plaintiff-Intervenors (*January 2020 Consent Order*). In the *January 2020 Consent Order*, the Court reiterated prior findings in this case and emphasized that North Carolina's PreK-12 education system leaves too many students behind, especially students of color and economically disadvantaged students. As a result, thousands of students are not being prepared for full participation in the global, interconnected economy and the society in which they will live, work, and engage as citizens. Therefore, the Court ordered the State Defendants, in consultation with each other and the plaintiff-parties, to develop and present to the Court a *Comprehensive Remedial Plan* (Plan).

The specific objective of the Plan was to satisfy the State's and State Board of Education's obligations to assure every child the opportunity to obtain a sound basic education. The Plan was to include actions to be implemented by 2028 such that those actions would provide the opportunity for a sound basic education to all children in or before 2030. The Court ordered the State Defendants to include within the Plan the specific long-term actions that must be taken, a timeframe for implementation, an estimate of resources in addition to current funding, if any, necessary to complete those actions, and a proposal for monitoring implementation and assessing the outcomes of the Plan. While the Parties were consulting and developing the Plan, the

COVID-19 pandemic struck. The pandemic dramatically altered the landscape for our students, schools, state, and nation. In response, the General Assembly passed, and the Governor signed a series of bills intended to help address the impact of the COVID-19 crisis on the State's residents. Those bills included the investment of federal Coronavirus Relief Funds from the CARES Act to support K-12 students during the crisis and to help K-12 public schools prepare to meet students' needs during the 2020-21 academic year. These funds were not intended to remedy the historical and unmet needs of children who are being denied the opportunity for a sound basic education but were intended to help mitigate the unavoidable loss of educational opportunities caused by the pandemic.

On June 15, 2020, the Parties submitted a *Joint Report to the Court on Sound Basic Education For All: Fiscal Year 2021 Action Plan For North Carolina (Joint Report)*. In the *Joint Report*, the Parties identified immediate action steps the State would take in Fiscal Year 2021 (2020-21) to begin to adequately address the constitutional violations in providing the opportunity for a sound basic education to all children in North Carolina. These steps were, in part, an effort to "front load" the Comprehensive Remedial Plan and initiate certain systemic changes recommended by WestEd and the Governor's Commission and adopted by this Court. The Court incorporated the substantive components of the *Joint Report* in a *Consent Order* filed on September 11, 2020 (*September 2020 Consent Order*). Due to the unprecedented and unanticipated impacts of the COVID-19 pandemic, not all of these actions were implemented by the State in Fiscal Year 2021. Consequently, the State Defendants have committed to incorporating and implementing any unmet actions in the *Comprehensive Remedial Plan*.

The State Defendants now submit the broader *Comprehensive Remedial Plan* mandated in the Court's *January 2020 Consent Order* and *September 2020 Consent Order*. The Parties agree that the actions outlined in this Plan are the necessary and appropriate actions needed to address the constitutional violations in providing the opportunity for a sound basic education to all children in North Carolina. The State commits to meeting these actions under the timeframes set forth herein.

The Plan draws upon, among other things, WestEd's research and the Governor's Commission's recommendations. It addresses not only the key issues highlighted in the *Leandro* rulings but also identifies programs and resources to assist schools and school districts in mitigating the disproportionate impact the pandemic and resulting school closures have had on at-risk students and to improve their opportunities to obtain a sound basic education.

The Comprehensive Remedial Plan identifies both broad programs and discrete, individual action steps to be taken to achieve the overarching constitutional obligation to provide, -all children the opportunity to obtain a sound basic education in a public school. Each action is aligned to at least one of the seven key areas outlined in the Court's *January 2020 Consent Order*. Those components are:

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 Plan details the actions the State and State Board of Education are committed to taking and the corresponding goals that they intend to achieve by 2028, with the full educational benefits of these measures realized by 2030.

All Parties agree that the actions outlined in the Plan are necessary and appropriate actions that must be implemented to address the continuing constitutional violations and to provide the opportunity for a sound basic education to all children in North Carolina.

Consistent with the Court's mandate, the State Defendants have regularly consulted with the Plaintiff-parties in the development of the Comprehensive Remedial Plan.

2021 - 2028 ACTIONS

In his January 21, 2020 Consent Order, Judge David Lee identified seven required components to “address critical needs in public education and to ensure that the State is providing the opportunity for a sound, basic education to each North Carolina child, and further hold itself accountable for doing so.” Those seven key areas are

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 eight-year Comprehensive Remedial Plan is organized around those seven key areas outlined by Judge Lee. The Plan includes a series of actions, aligned to the seven key areas, and the discrete, individual action steps to be taken to achieve each overarching action. Each action also has a corresponding goal that the State and NC State Board of Education (NC SBE) intend to achieve by 2028, with the full educational benefits of these measures realized by 2030. The Parties agree that the actions outlined in this Plan are the necessary and appropriate actions needed to adequately address the constitutional requirement to provide the opportunity for a sound basic education to all children in North Carolina.

Consistent with the Court’s Order, included in the Comprehensive Remedial Plan is an Appendix that details the implementation timeline for each action step, as well as the estimated additional State investment necessary for each of the actions described in the Plan. For all action steps identified, the State and the NC SBE are committed to prioritizing the allocation of resources and personnel to achieve these goals.

While this Comprehensive Remedial Plan was under development, the COVID-19 pandemic struck and dramatically altered the landscape for our students, schools, state, and nation. With many schools closed across North Carolina for much of 2020, the pandemic has further exacerbated many of the inequities and challenges that are the focus of the *Leandro* case, particularly for the at-risk students who were the focus of the original *Leandro* rulings. While all children have experienced significant disruption or trauma, the pandemic’s public health, economic, and educational costs are disproportionately borne by Black, Latino, Native, and low-income North Carolinians, and the *Leandro* remedy implementation must prioritize providing resources for those students.

To address the impact of COVID-19 on schools and students, Congress has passed a series of bills to provide additional resources directly to school districts.

- In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provided funding to school districts through the Elementary and Secondary Schools Emergency Relief Fund (ESSER). These funds were intended to help school districts respond to the impact of COVID, including addressing the academic needs of students during the pandemic. North Carolina received \$390 million in ESSER funds, 90% of which were distributed to school districts and charter schools around the state based on the number of students from low-income families served. Districts and charter schools have until September 2022 to spend these funds.
- In December 2020, Congress passed the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), which provided additional funding through the Elementary and Secondary Schools Emergency Relief II Fund (ESSER II) to school districts. North Carolina received \$1.6 billion in ESSER II funding, 90% of which will be distributed to school districts and charter schools around the state also based on the number of students from low-income families served. Districts and charter schools have until September 2023 to spend the funding.
- In March 2021, Congress passed the American Rescue Plan, which includes more than \$120 billion for public schools across the country to help safely re-open schools and to mitigate the academic and social-emotional effects of the pandemic on students. North Carolina will receive an estimated \$3.6 billion for K-12 education, 90% of which will be distributed to school districts and charter schools around the state based on the number of students from low-income families served. Funds may be used for a variety of purposes, including addressing the unique needs of low-income children or students, children with disabilities, English language learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, and implementing full-service community schools. Districts and charter schools are required to use at least 20% of the funds to address learning loss. Districts and charter schools have until September 2024 to spend the funding. The American Rescue Plan also provides North Carolina with an estimated \$1.3 billion in supplemental funding for Child Care and Head Start.

To account for this increase in federal funding and current school district capacity to manage increased federal funding in the short-term, the implementation of the Comprehensive Remedial Plan, specifically the additional state investments in supplemental funding to districts, have been estimated to provide a larger scale up in the later years of the eight-year plan. Actions in the early years of the Plan are intended to lay the foundation for actions and investments in the later years of the plan and to support school districts in managing and maximizing new federal funding that will be critical in these next few years. The NC SBE and the Department of Public Instruction are developing plans to help build capacity in school districts to effectively maximize these funds. This work will also help to build capacity for school districts to maximize the additional state investments over the eight years of the Plan.

However, these federal funds are not intended to address, nor do they address, the significant and recurring needs that school districts face in providing a sound basic education to all students. The actions and investments identified in this Plan are intended to meet those significant and recurring needs over the long-term.

I. A Well Prepared, High Quality, and Supported Teacher in Every Classroom

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

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ACTIONS	2030 GOALS
Increase the pipeline of diverse, well-prepared teachers who enter through high-retention pathways and meet the needs of the State's public schools.	NC's public and private educator preparation programs (EPPs) will prepare 5,000 teachers per year.
Increase the pipeline of diverse, well-prepared teachers by expanding the North Carolina Teaching Fellows program.	The NC Teaching Fellows program will select 1,500 Fellows per year.
Support high quality teacher residency programs in high need rural and urban districts through a State matching grant program that leverages ESSA Title II funding.	Each high need rural and urban school district will have access to a high quality residency program that provides support for faculty advising, teacher tuition and stipends, and ongoing induction support.
Provide support for high quality teacher recruitment and development programs.	Each high need school district will have access to high quality teacher recruitment and development programs, including Grow-Your-Own and 2+2 programs to attract and prepare high school students, teacher assistants, and career professionals.
Provide support for Grow-Your-Own and 2+2 programs that help recruit and prepare teachers in high need communities.	
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.	North Carolina's teacher workforce will better match the diversity of the State's student population.
Provide high quality comprehensive mentoring and induction support for novice teachers in their first three years of teaching to increase both their effectiveness and their retention.	All teachers with fewer than three years of teaching experience will be provided evidence-based, comprehensive induction services.
Implement differentiated staffing models that include advanced teaching roles and additional compensation to retain and extend the reach of high performing teachers.	All school districts will implement differentiated staffing models that include advanced teaching roles and additional compensation.
Develop a system to ensure that all North Carolina teachers have the opportunities they need for continued professional learning to improve and update their knowledge and practice.	All teachers will have access and time to participate in high quality programs that meet their individual professional growth needs.
Increase teacher compensation and enable low wealth districts to offer salaries and other compensation to make them competitive with more advantaged districts.	Salaries will be competitive with other states and with other career options that require similar levels of preparation, certification, and experience.
Low wealth districts and high-poverty schools will provide incentives for the recruitment and retention of qualified teachers.	

A. Increase the pipeline of diverse, well-prepared teachers who enter through high-retention pathways and meet the needs of the State's public schools.

North Carolina had a very robust system for developing and supporting its teacher workforce through reforms and investments in the 1980s and 1990s, including incentives for strong candidates to prepare for, enter, and stay in teaching; rigorous standards for educator preparation; mentoring and induction for beginning teachers; rich professional development offerings; and teacher compensation approaching the national average.

These investments paid off, as there was a period in the 1990s when North Carolina virtually eliminated teacher shortages and had the greatest gains in student achievement of any state, along with the greatest narrowing of the achievement gap. However, most elements of this teacher workforce development and support system have since been reduced or eliminated (WestEd, 2019, p. 53).

North Carolina-trained teachers have the highest levels of effectiveness and retention of any major pathway in the State. Cutbacks in incentives for teaching and in capacity to prepare and retain teachers have produced shortages, which are often filled by lateral-entry teachers, who have the lowest levels of effectiveness and retention. To meet the goal of preparing 5,000 teachers per year, the State will strengthen capacity within North Carolina's educator preparation programs, both public and private, and increase the number of graduates.

- i. **Goal:** NC's public and private educator preparation programs will prepare 5,000 teachers per year.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Expand the staff of the Professional Educator Preparation and Standards Commission to increase their capacity to coordinate efforts to recruit, prepare, retain, and support the State's teaching workforce on behalf of the NC State Board of Education and the NC Department of Public Instruction. This action step requires a recurring appropriation through 2028 to achieve the stated goal.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 2. Develop a plan for implementing a licensure and compensation reform model designed to offer early, inclusive, clear pathways into the profession, reward excellence and advancement, and encourage retention. The plan should include a focus on restoring respect for the teaching profession, building a more diverse, quality teaching force, increasing instructional capabilities, enticing more young professionals, career switchers, and out-of-staters to teaching, and investing in teachers, students and NC's economy. This action step requires a non-recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Community College System
 3. Undertake an analysis of the resources and structures necessary to allow educator preparation programs in the State's institutions of higher education to increase their recruitment, graduation, and retention of teachers and instructional support personnel to meet the State's goal. This action step requires a non-recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities
 4. Provide personnel and programmatic support for TeachNC, an initiative that seeks to provide accurate and compelling information about the teaching profession to both potential candidates and the general public. TeachNC targets students who are considering their

career options and mid-career professionals who may be interested in a career change. TeachNC features a multimedia communications campaign and serves as a one-stop resource for potential teacher candidates. This action step requires a recurring appropriation to achieve the stated goal beginning in fiscal year 2022.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

5. Provide support for the expansion of student recruitment programs, including high school-based career academy programs, the North Carolina Teacher Cadet Program, and Teaching as a Profession, that encourage students to engage in the teaching profession and enable them to take college courses in education and areas relevant to their interests in education. This action step requires a recurring appropriation through 2028 to achieve the stated goal.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Foundation for Public School Children

iii. **Action Steps to be Initiated in Fiscal Year 2023:**

1. In accordance with the resource analysis described above, provide the targeted funding and structures necessary to increase the number of teachers and instructional support personnel graduating from NC educator preparation programs by 10 percent annually. Cost estimates for this action step will be determined on the basis of the analysis described above.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities
2. In accordance with the resource analysis described above, provide the targeted funding and structures necessary to increase the number of teachers and instructional support personnel of color graduating from NC educator preparation programs by 5 percent annually. Cost estimates for this action step will be determined on the basis of the analysis described above.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities
3. Study and develop a plan to implement and fund a statewide system or entity to coordinate, enhance, and evaluate efforts to recruit, place, and retain teacher candidates and beginning teachers between institutions of higher education and school districts. This action step requires a non-recurring appropriation.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Community College System, NC Independent Colleges and Universities

iv. **Action Steps to be Initiated in Fiscal Year 2024:**

1. Based on plan developed from above study, implement and fund a statewide system or entity to coordinate, enhance, and evaluate efforts to recruit, place, and retain teacher candidates and beginning teachers among institutions of higher education and school districts. Cost estimates for this action step will be determined based on the study described above.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Community College System, NC Independent Colleges and Universities

B. Increase the pipeline of diverse, well-prepared teachers by expanding the North Carolina Teaching Fellows program.

In 1986, to ensure that highly talented candidates could be recruited and could afford to enter teaching, North Carolina launched a fellowship program to recruit high school students into teacher preparation. By 2011, the highly selective North Carolina Teaching Fellows Program had recruited

nearly 11,000 candidates into teaching. The fellowship paid all college costs, including an enhanced and fully funded teacher education program, in return for several years of teaching in the State.

The program expanded the teaching pool by bringing a disproportionate number of male, minority, and STEM teachers into the profession. One study found that after seven years, Fellows' retention rates in teaching exceeded 75 percent, with many other alumni holding positions as school administrators, central office leaders, or in higher education. Another study found that North Carolina Teaching Fellows were among the most effective teachers in the State, even more effective than other graduates of University of North Carolina educator preparation programs.

In 2018, the State reinstated a limited version of the program, providing \$6 million to serve up to 160 Fellows annually (WestEd, 2019, p. 56).

i. **Goal:** The Teaching Fellows program will select 1,500 Fellows per year.

ii. **Action Steps Initiated in Fiscal Year 2021:**

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.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities

iii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Increase funding and pursue policies to recruit and support up to 1,500 Teaching Fellows annually to:
 - Incrementally scale the number of Fellows selected annually so that the program is selecting 1,500 Teaching Fellows by fiscal year 2028.
 - Increase the number of eligible teacher preparation programs to appropriately accommodate the number of Fellows served in the program and to include high quality programs that serve additional regions of the State and to include minority-serving universities.
 - Authorize the Teaching Fellows Commission to expand eligible certification areas beyond STEM and special education to address significant vacancies in the State.
 - 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.
 - Implement targeted recruitment strategies that inform and attract candidates of color to apply to be Teaching Fellows.

These action steps require incremental recurring increases in funding through fiscal year 2028.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities

C. Support high quality teacher residency programs in high need rural and urban districts through a State matching grant program that leverages ESSA Title II funding.

“High-quality residency programs provide teacher preparation candidates with a full-year of postgraduate clinical training in a university–school district partnership program that provides financial support tied to earning a credential at the end of the year and a commitment to remain teaching in the district for three to five years” (WestEd, 2019, p. 64).

Research suggests that well-designed and well-implemented teacher residency models can create long-term benefits for districts, for schools, and ultimately and most importantly, for the students they serve. Key benefits include:

- Recruitment: Research suggests that residencies bring greater gender and racial diversity into the teaching workforce.
 - Retention: National studies of teacher retention indicate that around 20-30 percent of new teachers leave the profession within the first five years, and that attrition is even higher (often reaching 50 percent or more) in high-poverty schools and in high-need subject areas, like the ones in which residents teach.
 - Student Outcomes: Because most residency programs are still in their infancy, only a few studies have examined program impact on student achievement. Early studies, however, indicate that students of teachers who participated in a residency program outperform students of non-residency prepared teachers on select State assessments (Guha, Hyler, and Darling-Hammond, 2016, p. ii).
- i. **Goal:** Each high need rural and urban school district will have access to a high-quality residency program that provides support for faculty advising, teacher tuition and stipends, and ongoing induction support.
 - ii. **Action Steps to be Initiated in Fiscal Year 2023:**
 - 1. Provide support for high quality teacher preparation residency programs in high need rural and urban districts through a matching grant program. Teacher preparation residency programs will provide support for faculty advising, teacher tuition and stipends, and ongoing induction support. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities

D. Provide support for high quality teacher recruitment and development programs.

“Grow-Your-Own educator preparation programs recruit and train local community members, career changers, paraprofessionals, and others currently working in schools. Drawing on their connection to the community, local graduates and community members offer a solution to teacher shortages while often increasing the diversity of the teacher workforce.”

2+2 programs help candidates begin in a local community college, with an articulated path to completion of a teaching credential in a university educator preparation program with a clinical practicum in their local schools (WestEd, 2019, p. 65).

- i. **Goal:** Each high need school district will have access to high quality teacher recruitment and development programs, including Grow-Your-Own and 2+2 programs to attract and prepare high school students, teacher assistants, and career professionals.
- ii. **Action Steps to be Initiated in Fiscal Year 2025:**
 - 1. Increase access to high quality teacher recruitment and development programs, such as TAs to Teachers, Troops to Teachers, and Pathway to Practice. Cost estimates for this action step will be determined on the basis of analysis and pilot implementation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities

E. Provide support for Grow-Your-Own and 2+2 programs that help recruit and prepare teachers in high need communities.

Several Grow-Your-Own preparation programs are underway in North Carolina and showing positive outcomes in engaging and preparing individuals to become teachers in the communities in which they live.

Partnership Teach, an initiative of the East Carolina University College of Education, offers an evidence-based, affordable, online degree completion model. Students begin by taking specific courses at any NC community college and then transfer to East Carolina to complete one of four teaching degrees. Students graduate with a four-year degree in elementary education, middle grades education, or special education. To date, Partnership Teach has allowed more than 850 teachers to complete their education and internship in public school classrooms in or near their home communities (<https://education.ecu.edu/partnership>).

- i. **Goal:** Each high need school district will have access to high quality teacher recruitment and development programs, including Grow-Your-Own and 2+2 programs to attract and prepare high school students, teacher assistants, and career professionals.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Expand Partnership TEACH hub sites, staffing, fellowship support, mentoring, and the recruitment capacity of Partnership TEACH. Provide support for similarly successful, research-based Grow-Your-Own and 2+2 programs in all regions of the State. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Independent Colleges and Universities

F. 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.

“Teachers of color now comprise about 30 percent of teacher preparation enrollments, which is an increase, many of these teachers – particularly African American and Native American teachers – are entering through alternative routes, which have much higher attrition rates. One reason for this is the steep decline – more than 60 percent between 2011 and 2016 – in teacher education enrollments in minority-serving institutions, including historically Black colleges and universities” (WestEd, 2019, p. 59).

Research has confirmed the positive impact of having a same-race teacher on the long-term education achievement and attainment of students of color, particularly for African American students. North Carolina’s current teacher workforce, however, has only 21 percent teachers of color, while more than half of the State’s students are students of color. Based on data from the 2018-19 school year, 47 percent of the public school student population in North Carolina was white, 25 percent was black, 18 percent was Hispanic/Latino, 3 percent was Asian, 4 percent was multiracial, and 1 percent was American Indian (DRIVE Task Force, 2021).

A diverse educator pool is essential to improving student learning, assessment outcomes, attrition rates, and quality of life, particularly in schools and school districts with majority-minority student populations.

- i. **Goal:** North Carolina’s teacher workforce will better match the diversity of the State's student population.
- ii. **Action Steps Initiated in Fiscal Year 2021:**

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. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

iii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Implement the plan of actions recommended by Governor Cooper's DRIVE Task Force. Cost estimates for this action step will be determined on the basis of the Task Force recommendations.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, University of North Carolina, NC Community College System
2. Establish the Office of Equity Affairs at NCDPI to direct the recruitment and retention of a diverse educator workforce. This action step requires a recurring appropriation to achieve the stated goal beginning in this fiscal year.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
3. The NC State Board of Education will monitor, review, coordinate, and implement programs and efforts to increase teacher diversity. There are no costs associated with this action step.
 - a. **Responsible Party:** NC State Board of Education

G. Provide high-quality comprehensive mentoring and induction support for novice teachers in their first three years of teaching to increase both their effectiveness and their retention.

Teachers who are better prepared and better mentored stay in teaching at much higher rates and are more successful, especially in low wealth and high-need environments. In addition to the efforts that address teacher recruitment and preparation, it is essential that the State expand its efforts to coach and support novice teachers.

The North Carolina New Teacher Support Program (NC NTSP) is a comprehensive induction program providing research-based curriculum and multiple services to increase teacher effectiveness, enhance skills, and reduce attrition among beginning teachers. The NC NTSP provides each teacher: (1) intensive Institute "boot camps"; (2) intensive, individualized, content-specific classroom coaching; and (3) aligned professional development sessions.

NC NTSP coaching model considers the contextual factors of the community, school, teacher, classroom environment, and students, using edTPA constructs to determine the sophistication of evidences produced by the novice teacher and describe support provided by an assigned Instructional Coach. Coaches provide coaching support to help the teacher improve along the effectiveness continuum. Using constructs associated with the edTPA and Coaching Evidence Progressions, coaches collect and compare evidences emerging from teaching and learning environments, provide targeted feedback to teachers, and identify next coaching steps. Coaches track teacher progress over time through an online data system to capture coaching activities, sophistication of evidences produced in learning environments aligned with edTPA constructs, length of visit, instructional approach, and next steps.

NC NTSP is a program of the University of North Carolina System and administratively coordinated by East Carolina University. NC NTSP services are administered through the State's public universities in collaboration with public schools and school districts. Teachers are supported by experienced Instructional Coaches who understand their local community, the needs of beginning teachers, and quality instructional practice.

- i. **Goal:** All teachers with fewer than three years of teaching experience will be provided evidence-based, comprehensive induction services.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. In partnership with school districts, provide comprehensive induction services through the NC New Teacher Support Program to beginning teachers in low-performing, high-poverty schools. The State will provide funding for the full cost of the program for beginning teachers. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, University of North Carolina, NC New Teacher Support Program, NC school districts

H. Implement differentiated staffing models that include advanced teaching roles and additional compensation to retain and extend the reach of high performing teachers.

Recent research suggests that effective advanced roles can increase instructional capacity within schools, thereby giving substantially more students access to effective teachers. In addition, principals benefit from a distributed leadership structure wherein they provide regular support to a team of teacher-leaders instead of an entire teaching staff.

Research indicates that advanced teacher-leader roles, wherein great teachers provide their building colleagues consistent instructional support and foster a collaborative culture of improvement, can also be an effective means of retaining beginning teachers. In addition, these leadership roles create new opportunities for teachers to remain in the classroom, which can improve retention among more experienced educators.

However, often only advanced teacher-leader positions provide guaranteed higher pay. Instructional coaches are paid according to the State teacher salary schedule. WestEd noted that many teachers found the idea of higher compensation particularly appealing and were deterred from pursuing leadership opportunities because they are not associated with greater pay. In fact, this lack of compensation for teacher-leader roles was mentioned much more often by participants from *Leandro* plaintiff districts than non-*Leandro* districts. Approximately 69 percent of respondents from *Leandro* districts mentioned “no extra compensation for additional responsibilities” as a concern (WestEd 2019, p. 61),

Through 2019, North Carolina had provided two rounds of funding, to a total of 10 districts, for the Teacher Compensation and Advanced Roles pilot, which gives districts funding to pay teachers more for advanced teaching roles. Most teachers, however, continue to work in schools that do not have advanced teaching roles like those in the pilot districts.

- i. **Goal:** All school districts will implement differentiated staffing models that include advanced teaching roles and additional compensation.
- ii. **Action Steps Initiated in Fiscal Year 2021:**
 - 1. Create a permanent advanced teaching roles program that:
 - Allows all interested districts to apply for one-time startup funds. There are no costs associated with this action step for FY 2021.
 - Provides grants through current funding in FY 2021 to additional districts to implement an advanced teaching roles initiative. There are no costs associated with this action step for FY 2021.

- Provides class size waivers and other flexibility, as necessary, to successfully implement career pathways through an advanced teaching roles initiative. There are no costs associated with this action step.
- Enables school districts to study the effectiveness of salary supplements and other aligned compensation models that support the implementation of advanced teaching roles. There are no costs associated with this action step.
- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

iii. Action Steps to be Initiated in Fiscal Year 2022:

1. Provide grants to additional districts to implement an advanced teaching roles initiative. This action step requires incremental recurring increases in funding through fiscal year 2028.
- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

I. Develop a system to ensure that all North Carolina teachers have the opportunities they need for continued professional learning to improve and update their knowledge and practices.

The State cannot achieve the goal of a well-prepared, qualified, and effective teacher in every classroom without ensuring that teachers have high-quality, ongoing professional learning opportunities. “The once-extensive infrastructure and funding for professional learning in North Carolina has been greatly reduced, and many teachers report that what is being offered often fails to meet the standards of high-quality professional learning, which is sustained over time, features active learning and collaboration for teachers, is content-focused and job-embedded, and has opportunities for developing new practices supported by coaching and reflection” (WestEd, 2019, p. 60).

Due to cuts in funding and capacity at the State-level, there is limited availability of high-quality professional learning opportunities for teachers. Many principals and superintendents report that there is a lack of support and funding to provide high-quality professional learning opportunities for teachers. Superintendents also noted that professional development is critical to recruiting, developing, and retaining teachers. However, the State eliminated dedicated funding for professional development and mentoring (WestEd, 2019, p. 60).

- i. **Goal:** All teachers will have access and time to participate in high quality professional learning that meets their individual professional growth needs.

ii. Action Steps Initiated in Fiscal Year 2021:

1. Implement Learning Forward’s Standards for Professional Learning to serve as guidance for the design and assessment of professional learning opportunities and to inform continuous improvement. There are no costs associated with this action step.
- a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC school districts

iii. Action Steps to be Initiated in Fiscal Year 2022:

1. Increase capacity for schools and districts to provide personalized, job-embedded, collaborative professional learning opportunities and to build the capacity and infrastructure necessary to implement, support, improve, and evaluate these activities. This action steps requires incremental recurring increases in funding through fiscal year 2028.
- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC school districts, NC Institutions of Higher Education

J. Increase teacher compensation and enable low wealth districts to offer salaries and other compensation to make them competitive with more advantaged districts.

Providing teachers with compensation commensurate with other professionals with similar education is not simply a matter of fairness – it is also important to improving student achievement because effective teachers are the most important school-based determinant of student educational performance. To ensure a high-quality teaching workforce, schools must recruit and retain well-prepared, experienced teachers and recruit high-quality students into the profession. Pay is one critical component of retention and recruitment.

In NC and across the US, relative teacher pay – teacher pay compared to the pay for other career opportunities for potential and current teachers – has been eroding for over a half a century. In addition, local salary supplements in NC make salaries unequal across districts and exacerbate inequities in teacher recruitment and retention for low wealth districts. The public school teacher wage penalty (i.e., the difference in compensation between teachers and other college-educated workers with similar experience and training) in the United States grew from 18.7 percent to 25.3 percent from 2017 to 2019 (Allegretto and Mishel, 2020, p. 7).

To address teacher shortages, it is necessary to focus on both recruiting and retaining high-quality teachers. Providing appropriate compensation is a necessary step to address shortages. Teacher pay must be competitive with other occupations that attract talented college and university graduates. Teachers are more likely to quit when they work in districts with lower wages and when their salaries are low relative to alternative wage opportunities, especially in high-demand fields like math and science.

- i. **Goal:** Salaries will be competitive with other states and with other career options that require similar levels of preparation, certification, and experience.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. 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 findings will be used to establish a benchmark for educator salary raises over the next seven years of the Plan implementation. This action step requires a non-recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor
 2. In accordance with the study described above, increase salaries for teachers and instructional support staff by 5 percent in FY 2022 and incrementally after that based on study findings to improve competitiveness with other industries. This action steps requires incremental recurring increases in funding through fiscal year 2028. Cost estimates for later fiscal years for this action step will be determined on the basis of the study described above.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor

K. Low wealth districts and high-poverty schools will provide incentives for the recruitment and retention of qualified teachers.

Local salary supplements make salaries unequal across districts and exacerbate inequalities in teacher recruitment and retention for low-wealth districts. Many factors make teaching attractive and affordable in different contexts, so it is useful to consider compensation, benefits, bonuses, and other options broadly and to examine the success of initiatives (WestEd, 2019, p. 69).

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- i. **Goal:** Salaries will be competitive with other states and with other career options that require similar levels of preparation, certification, and experience.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Provide funds for the cost of National Board certification for up to 1,000 teachers annually with priority to educators in high poverty and low performing schools. This action step requires a recurring appropriation to achieve the stated goal beginning in fiscal year 2022.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - 2. Establish a district-level grant program focused on the implementation of multi-year recruitment bonuses and other compensation options for certified teachers who commit to teach in a low wealth or high needs district or school for multiple years. Establish research-based parameters, evaluation requirements, and reporting requirements for studying the effectiveness of the programs. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

II. A Well Prepared, High Quality, and Supported Principal in Every School

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Update the State's school administrator preparation and principal licensure requirements to align program approval standards with effectiveness practices.	The State's school administrator preparation standards will be aligned with the National Education Leadership Preparation (NELP) standards from the National Policy Board for Educational Administration.
Continue to expand access to high-quality principal preparation programs to all North Carolina school districts.	Every school district will have a partnership with at least one school administrator preparation program that meets the NELP standards and provides full-time, year-long internships.
	The Transforming Principal Preparation Program (TP3) and Principal Fellows Program will prepare 300 new principals each year.
	School administrator preparation programs will recruit and prepare candidates that better match the diversity of NC's student population.
Expand the professional learning opportunities for current principals and assistant principals.	A statewide program will provide professional learning opportunities and ongoing support for assistant principals and principals.
	Funding will be available to expand professional learning opportunities for district and school administrators through relationships with existing or new programs.
Revise the principal and assistant principal salary structures and improve working conditions to make positions in high need schools and districts more attractive to well-qualified educators.	The statewide school administrator salary structure will provide appropriate compensation and incentives to enable high need schools and districts can recruit and retain well-qualified school administrators.
	School administrators will have greater autonomy to make resource decisions to address the needs of their schools.

A. Update the State's school administrator preparation and principal licensure requirements to align program approval standards with effectiveness practices.

Research has led to a strong consensus that effective principal preparation programs need to incorporate eleven important elements (Wallace Foundation, 2016). The first element is to have programs that are aligned with strong standards. NELP standards from the National Policy Board for Educational Administration identify what novice leaders and preparation program graduates should know and be able to do after completing a high-quality education leadership preparation program. These standards are aligned with recent national leadership practice standards and research on school

leadership. While North Carolina has taken steps to align with the recommended standards, completing this alignment is an important step in preparing and supporting future school leaders in the State (WestEd, 2019, p. 72).

In 2015, the NC General Assembly initiated the Transforming Principal Preparation Program (TP3), a competitive state-funded grant program to support additional innovative and effective principal preparation programs. TP3 incorporates the elements of high-quality principal preparation programs, including intentional recruitment efforts, a high bar for admissions, rigorous and relevant coursework, a full-time paid residency, executive coaching, and a focus on authentic partnership with and preparation for service in high need schools and districts. Expanding access to TP3 programs will allow the State to meet its need for 300 new well-prepared principals annually.

- i. **Goal:** The State's school administrator preparation standards will be aligned with the NELP standards from the National Policy Board for Educational Administration.
- ii. **Action Steps Initiated in Fiscal Year 2021:**
 1. Update the State's school administrator preparation standards and principal licensure requirements to align with the NELP standards from the National Policy Board for Educational Administration and pilot the revised standards during the 2020-2021 school year. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
 2. Complete expansion of the TP3 to three additional postsecondary institutions while maintaining high standards for participating programs and the paid internship requirement. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Institutions of Higher Education, NC Transforming Principal Preparation Program /Principal Fellows Commission

B. Continue to expand access to high quality principal preparation programs to all North Carolina school districts.

Designed to allow for multiple models and customized learning experiences, TP3-funded programs must incorporate the elements of high-quality principal preparation programs. By investing state funds to subsidize candidates' tuition and residency, North Carolina is enabling institutions to be highly selective with new candidates and to provide the candidates with the deep, practice-based preparation that research suggests they need.

The NC Principal Fellows program was launched in 1993 to attract outstanding aspiring principals. The program provides competitive, merit-based scholarship loans to individuals seeking an MSA degree to prepare for a school administrator position in North Carolina public schools. Principal Fellows can attend any of 11 MSA programs, all within the UNC system. In their first year, Principal Fellows receive \$30,000 to assist them with tuition, books, and living expenses while they study full time. In their second year, Principal Fellows receive an amount equal to the salary of a first-year assistant principal as well as an education stipend while they undertake a full-time internship in a school where they work under the supervision of a veteran principal. Fellows' yearlong internships provide meaningful and authentic learning opportunities that research indicates are critical in principal development. After completing their preparation program, Principal Fellows are required to maintain employment in a school or district leadership role in North Carolina for four years to repay their scholarship loan. Currently, the State invests \$3.2 million a year in the North Carolina Principal Fellows program (WestEd, 2019, p. 78).

The programs have joined forces to provide an effective approach to building a pipeline of qualified, well-prepared, diverse principals. To meet the State's need for approximately 300 new principals each year, the partnership will need to expand.

i. Goals:

1. Every school district will have a partnership with at least one school administrator preparation program that meets the National Education Leadership Preparation (NELP) standards and provides full-time, year-long internships.
2. The Transforming Principal Preparation Program (TP3) and Principal Fellows Program will prepare 300 new principals each year.
3. School administrator preparation programs will recruit and prepare candidates that better match the diversity of NC's student population.

ii. Action Steps to be Initiated in Fiscal Year 2022:

1. Every North Carolina school district will have a partnership with at least one school administrator preparation program that meets the NELP standards and provides full-time, year-long internships. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Institutions of Higher Education

iii. Action Steps to be Initiated in Fiscal Year 2022:

1. The North Carolina Transforming Principal Preparation Program (TP3) and Principal Fellows Program will prepare 300 new principals annually. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Transforming Principal Preparation Program /Principal Fellows Commission
2. The North Carolina Principal Fellows Program and North Carolina school administrator preparation programs will recruit and prepare candidates that better match the diversity of the State's student population. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC Transforming Principal Preparation Program /Principal Fellows Commission

C. Expand professional learning opportunities for current principals and assistant principals.

"For principals to grow and remain in their profession, they need ongoing support and professional learning opportunities. Even the most effective administrator preparation programs cannot prepare principals with all the necessary knowledge typically obtained over time at different schools throughout their careers. Ensuring that principals have access to job-embedded, ongoing, and customized professional development, coaching, and support can increase their competence and improve retention" (WestEd, 2019, p. 79).

Principals in North Carolina receive high quality support from organizations such as the North Carolina Principal and Assistant Principal Association (NCPAPA), Friday Institute at North Carolina State University, North Carolina State University's Educational Leadership Academy, and their Regional Education Service Alliances (RESAs). Demand for many of these programs routinely exceeds capacity. Superintendents reported that many programs, such as those offered by NCPAPA, are well designed and valuable for their principals and assistant principals. However, there are insufficient opportunities for professional development available for school leaders.

Mentoring and induction programs for novice principals are another effective tool for developing and retaining leaders. Although some districts provide induction for all novice principals and North Carolina State University's Educational Leadership Academy supports its graduates for years after graduation, these are not consistent statewide practices, and state funding to support leadership mentoring is not available. Interviewees and focus group participants noted that during the Race to

the Top grant, the NC Department of Public Instruction (NCDPI) provided coaches to support principals in the turnaround of low-performing schools, but this type of valuable support is no longer available.

Other research conducted as part of WestEd's work demonstrates that North Carolina has a relatively inexperienced principal workforce, especially in high-poverty schools, as well as a principal workforce that does not feel well prepared to recruit and retain teachers or to lead school change efforts. Ensuring principals have favorable working conditions, including the professional development, coaching, and support they need to grow, and the staff resources they need is essential (WestEd, 2019, p. 80).

i. Goals:

1. A statewide program will provide professional learning opportunities and ongoing support for assistant principals and principals.
2. Funding will be available to expand professional learning opportunities for district and school administrators through relationships with existing or new programs.

ii. Action Steps to be Initiated in Fiscal Year 2022:

1. Develop a plan for the creation of a School Leadership Academy to provide initial and ongoing support to the State's district and school leaders that includes:
 - Equity training for all district and school leaders,
 - Training and ongoing support for school board members focused on the needs of successful schools and turnaround schools,
 - Mentorship and individualized coaching for novice principals and for experienced principals in high needs schools on dismantling impediments to student success in their schools,
 - Peer support networks, such as facilitated partnership networks and rapid response hotlines that provide "just in time" assistance; and
 - Aligned, ongoing, research driven professional learning.

There are no costs associated with this action step.

- a. **Responsible Parties:** NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Institutions of Higher Education
2. Increase capacity for districts to expand professional learning opportunities for district and school administrators through relationships with existing or new programs. This action steps requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

iii. Action Steps to be Initiated in Fiscal Year 2023:

1. In accordance with the plan above, provide resources and support for the implementation of the School Leadership Academy. Cost estimates for this action step will be determined on the basis of the plan developed above.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Institutions of Higher Education

D. Revise the principal and assistant principal salary structures and improve working conditions to make positions in high need schools and districts more attractive to well-qualified educators.

Changes made to North Carolina's principal compensation system in 2017 were intended to raise compensation for principals and reward those whose schools meet and exceed growth targets. These changes provided an average raise of about 9 percent overall. However, a consequence of the new

policy is that principals' salaries now vary on the basis of their school's size and performance from year to year. The compensation system creates a disincentive for effective principals to work in underperforming schools, which often take more than one year to improve and meet or exceed targets for growth (WestEd, 2019, p. 81).

Compensation and benefits can be used to attract and retain effective principals in hard-to-staff and low-performing schools, yet there are currently no bonuses or incentives for principals to lead these schools. Principals are also no longer eligible for advanced and doctoral degree salary supplements. In addition, principals (and other educators) hired after January 2021, will not receive health benefits in retirement. These changes in policy make leading a small and low-performing school less attractive to aspiring principals.

Results from the survey of North Carolina principals conducted by WestEd indicated that 24 percent of responding principals identified compensation as the major factor that would cause them to leave their principal roles in the next three years (WestEd, 2019, p. 82).

i. Goals:

1. The statewide school administrator salary structure will provide appropriate compensation and incentives to enable high need schools and districts to recruit and retain well-qualified school administrators.
2. School administrators will have greater autonomy to make resource decisions to address the needs of their schools.

ii. Action Steps to be Initiated in Fiscal Year 2022:

1. Incrementally increase principal and assistant principal pay consistent with teacher salary increases. Cost estimates for later fiscal years for this action step will be determined on the basis of the wage comparability study described above.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
2. Develop a plan for a state grant program to implement and evaluate the effectiveness of incentive programs to encourage well-qualified school leaders to work in high need schools, such as meaningful supplements for principals who take positions in chronically low-performing schools, protection against principals having a salary reduction if they work in high need or low-performing schools, and rewards for school leaders for their school's progress on indicators beyond student achievement on standardized assessments. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
3. Provide district leaders and principals with more autonomy to allocate resources, including autonomy to make decisions on funding and personnel assignments to address their school's needs. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC State Board of Education, NC Department of Public Instruction

iii. Action Steps to be Initiated in Fiscal Year 2023:

1. As detailed in the plan described above, implement and evaluate the effectiveness of incentive programs to encourage well-qualified school leaders to work in high need schools, such as meaningful supplements for principals who take positions in chronically low-performing schools, protection against principals having a salary reduction if they work in high need or low-performing schools, and rewards for school leaders for their school's progress on indicators beyond student achievement on standardized assessments. Cost estimates for this action step are to be determined on the basis of the plan described above.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

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

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Increase Local Education Agency (LEA) budgetary flexibility by lifting restrictions on a number of critical allotments through the ABC transfer system.	District leaders have flexibility to make resource allocation decisions based on local needs.
Revise the State's school funding formula so that current and additional funding is distributed to students with the greatest need.	School districts are equitably funded, based on differential costs of serving specific student populations and have funding necessary to meet the educational needs of historically underserved student populations.
Increase the investment in overall spending for public education incrementally over the next eight years to provide a sound basic education for all students.	<p>Average per pupil expenditures will be in line with the national average per pupil expenditure.</p> <p>Grounded in the <i>Leandro</i> ruling:</p> <ul style="list-style-type: none">• Every school in North Carolina has 90 percent of its students score at proficient levels for both English Language Arts (ELA) and Mathematics.• Students not achieving ELA and Mathematics proficiency achieve grade-level growth.• Every student achieves average annual growth for one year of instruction.
Scale up flexible funding for Student Instructional Support Personnel.	All public schools have adequate funding to meet national guidelines for specialized instructional support personnel (SISP) at recommended ratios, including school psychologists, nurses, counselors, social workers, instructional coaches and mentors, to meet the academic, physical, and mental health needs of students.
Increase educator compensation to make it competitive with educator compensation in other states in the region and with other career options that require similar levels of preparation, certification, and levels of experience.	All schools in North Carolina will be staffed with high-quality teachers, assistant principals, and principals.
Modify the school finance system to ensure future stability in funding for public education, including predictable, anticipated funding levels that acknowledge external cost factors.	Create a finance system that is stable and predictable to facilitate long-term strategic planning at the district and school levels.

A. Increase Local Education Agency (LEA) budgetary flexibility by lifting restrictions on a number of critical allotments through the ABC transfer system.

Funding flexibility is important in enabling schools to invest funds in proven, effective strategies and programs to serve their specific student populations and to uncovering new promising practices. When funds are restricted to a particular use and cannot be transferred, it hinders district leaders' ability to make decisions about how to allocate resources to make the greatest impact on student outcomes given their local circumstances. Too many restrictions on funding may also result in inefficient spending by limiting the extent to which districts are able or compelled to make strategic trade-offs.

North Carolina historically provided local school districts the ability to make decisions about how to allocate funding based on their unique context. In 1989, North Carolina's General Assembly passed the School Improvement and Accountability Act, which the State Board of Education explained "was designed to give local school systems more flexibility in making decisions in exchange for greater accountability" (North Carolina State Board of Education). In 1996, the General Assembly continued to focus on flexibility in local decision-making, approving a law to enable the State Board of Education to implement ABC Transfers, which "assign more responsibility at the school building level and allow schools flexibility to use funds as they are most needed at the school" by enabling districts to transfer funds from one allotment to another (North Carolina State Board of Education & Department of Public Instruction, 2020).

Local flexibility to transfer funds among allotments has been reduced in recent years, including restrictions on Teacher Assistants, Exceptional Children, Academically or Intellectually Gifted, and Textbook allotments. In 2010-11, allotments with substantial flexibility comprised approximately 75 percent of district's state funds. By 2018-19, allotments with substantial flexibility represented only about 20 percent of K-12 state funding.

While flexibility is vital to ensure districts are able to maximize the efficiency of their resources, it is important for flexibility to be coupled with strong accountability to ensure that resources are benefiting student subgroups such as children with disabilities, English learners, students from families with low incomes, and other at-risk-students as defined by the *Leandro* decisions.

- i. **Goal:** District leaders have flexibility to make resource allocation decisions based on local needs.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Allow transfers 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
- Position/MOE Allotments
- Non-Instructional Support
- Small County Supplemental Funding
- Textbooks
- Transportation

There are no costs associated with this action step.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

B. Revise the State's school funding formula so that current and additional funding is distributed to students with the greatest need.

WestEd found that school districts lack the funding necessary to meet the educational needs of historically underserved student populations. Consistent with prior research, their analysis found that additional funding is required to produce the same outcomes as the population of students with greater needs (e.g., English learners, economically-disadvantaged students, exceptional children) increases. As the percentage of such students increases, so does the school's per student cost. North Carolina has seen an 88 percent increase in the number of economically-disadvantaged students served by its public schools. In addition, the number of students who are English learners more than doubled over 15 years. State funding for education has not kept pace with these increased challenges. While the State has seen continued increases in high school graduation rates, these have not led to increased success rates in postsecondary education. Most important, large gaps in all achievement measures continue among racial, ethnic, and economic subgroups of students (WestEd, 2019, pg. 20-21)

Children with Disabilities: Students identified as disabled have substantially worse academic outcomes than their peers. In the 2018-19 school year, 59 percent of all students scored at Level 3 or above on End-of-Grade and End-of-Course Tests, compared to just 20 percent of students with disabilities. Currently, the State provides LEAs with supplemental funding via the children with disabilities allotment. The allotment currently provides \$4,550 per student identified as having a disability, up to a maximum of 12.75 percent of the LEA's average daily membership (ADM). The funding cap limits funding in 70 of the State's 115 school districts. A 1994 General Assembly study determined that adequately serving the State's population of disabled students would require supplemental funding equal to 2.3 times the cost of an average student, however current funding is the equivalent of just 1.9 times the cost of an average student. While LEAs have some limited flexibility to transfer a share of their allotment (the increase over prior year's allotment) to other purposes, in practice, all LEAs use all of their designated funding allotment on disabled students and may also spend local funds to meet the needs these students.

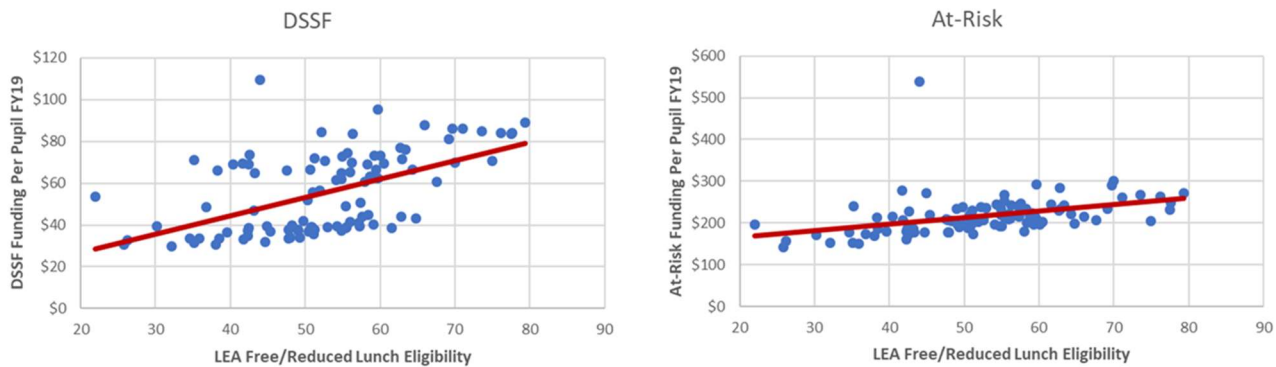
Limited English Proficiency (LEP): Students identified as English learners (ELs) have substantially worse academic outcomes than their peers. In the 2018-19 school year, 59 percent of all students scored at Level 3 or above on End-of-Grade and End-of-Course Tests, compared to just 27 percent of students who are ELs. Currently, the State provides LEAs with supplemental funding via the LEP allotment. The allotment provides LEAs with supplemental funding based on each LEA and charter school's number and concentration of ELs, up to a maximum of 10.6 percent of the LEA's ADM.

Disadvantaged Student Supplemental Funding (DSSF): The WestEd report explicitly documents the extent to which disadvantaged students have been systemically denied access to a sound basic education. The DSSF allotment was created in 2004 as a result of the *Leandro* case to provide districts with additional supports for at-risk students. DSSF funding is provided to all LEAs based on a complicated estimate of each LEAs share of "disadvantaged" students (single-parent families, children below poverty level, at least one parent with less than a high school degree) and the LEA's estimated wealth level (local revenue capacity). DSSF funds must be used to: provide instructional positions or instructional support positions and/or professional development; provide intensive in-school and/or after school remediation; purchase diagnostic software and progress-monitoring tools; and provide funds for teacher bonuses and supplements.

Low Wealth: The low wealth allotment is designed to equalize the level of spending across counties. Certain counties—due to high property values and resident wealth—have greater capacity to raise local revenue for their public schools. The low wealth allotment currently provides about \$245 million of additional state funds to districts in counties with below-average capacity to generate local revenue. The WestEd report particularly notes the importance of using low wealth funding to allow qualifying districts the ability to offer teacher salary supplements that are competitive with those from other districts and to help remedy the migration of teachers from lower-paying to higher-paying districts.

At-Risk Student Services/Alternative Schools (At-Risk): The at-risk allotment provides funding to identify students likely to drop out and to provide special alternative instructional programs for these at-risk students. It also provides funding for summer school instruction and transportation, remediation, alcohol and drug prevention, early intervention, safe schools, and preschool screening. The \$293 million of at-risk funding is distributed to all districts; approximately 50 percent on a per-student basis and 50 percent distributed on the basis of the number of children in poverty per the Title I Low Income poverty data. Each LEA receives a minimum of the dollar equivalent of two teachers and two instructional support personnel.

There is significant overlap in the purposes and allowable uses of the at-risk and DSSF allotments. However, the distribution of funds within the DSSF allotment is more progressive, providing a higher share of funds to higher-need districts (note: charts below remove the 16 DSSF pilot LEAs that receive additional DSSF funding outside of the allotment formula).



- i. **Goal:** School districts are equitably funded, based on differential costs of serving specific student populations and have funding necessary to meet the educational needs of historically underserved student populations.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Remove funding cap on the children with disabilities allotment in FY 2022 and incrementally increase supplemental funding in subsequent years to provide funding for students with disabilities equivalent to 2.3 times the cost of an average student. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 2. Combine the DSSF and at-risk allotments and incrementally increase funding such that the combined allotment provides an equivalent supplemental weight of 0.4 on behalf of all economically-disadvantaged students. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

3. Incrementally increase low wealth funding to provide eligible counties supplemental funding equal to 110 percent of the statewide local revenue per student. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 4. Eliminate the limited English proficiency funding cap in FY 2022, incrementally increase funding in subsequent years to provide per-student support equivalent to a weight of 0.5 and simplify formula by eliminating "concentration" factor and base allotments. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iii. **Action Steps to be Initiated in Fiscal Year 2024:**
1. Revise the formula for the children with disabilities allotment to differentiate per-student funding based on level of required student support. Modifications should consider the recommendations of NCDPI's Exceptional Children Division created with the input of multiple stakeholders in 2017. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iv. **Action Steps to be Initiated in Fiscal Year 2027:**
1. Fund a study to determine how to phase-in a weighted student funding formula that retains position allotments. This action step requires a nonrecurring appropriation in fiscal year 2027.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

C. Increase the investment in overall spending for public education incrementally over the next eight years to provide a sound basic education.

State funding for education in North Carolina has declined in real terms over the last decade. As of fiscal year 2018, North Carolina's total per-pupil spending was 6th lowest in the nation. When adjusted for inflation, per-pupil spending in North Carolina has declined about 6 percent since 2010. The allotments below would help boost base-level funding to support all students (WestEd, 2019, p. 21).

- i. **Goal:** Provide a level of funding sufficient to allow:
 1. Every school in North Carolina to ensure that 90 percent of its students score at proficient levels for both ELA and Mathematics.
 2. Students not achieving ELA and Mathematics proficiency to achieve grade-level growth.
 3. Every student to achieve average annual growth for one year of instruction.
- ii. **Action Steps to be Initiated in Fiscal Year 2021:**
 1. Complete the final two years of funding of the enhancement teacher allotment. Funding for this action step is provided by a statutory allotment in G.S. 115C-301(c2).
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Incrementally increase funding to provide districts with adequate funding for professional development for all personnel and to implement mentoring programs for beginning educators. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

2. Simplify teacher assistant formula by returning to a simple dollars per K-3 student calculation and incrementally increase funding until funding will provide approximately one teacher assistant for every 27 K-3 students. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iv. **Action Steps to be Initiated in Fiscal Year 2024:**
 1. Incrementally increase funding for non-instructional support to reverse budget cuts that have hampered districts' abilities to provide all students with a sound basic education. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 2. Incrementally increase funding for classroom supplies until combined funding for supplies and textbooks equals \$150 per student. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 3. Incrementally increase funding for textbooks until combined funding for supplies and textbooks equals \$150 per student. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 4. Incrementally increase allotted assistant principal months of employment to provide one month of employment for every 80 students. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 5. Incrementally increase funding for central office staff to restore budget reductions and ensure sufficient funding for central offices to implement the reforms necessary to provide all students with a sound basic education. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 6. Issue a \$2 billion bond to support school capital needs. This action step requires appropriations for debt service and cost estimates will be determined at a later date.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

D. Scale up flexible funding for specialized instructional support personnel (SISP) to meet the academic, physical, and mental health needs of students and to ensure that schools are safe and supportive learning environments.

SISP are critical for meeting the academic and nonacademic needs of students. A NCDPI review of 25 years of research identified over 100 studies showing that school health programs positively affect student health and academic achievement.

- i. **Goal:** All public schools have adequate funding to meet national guidelines for SISP at recommended ratios, including school psychologists, nurses, counselors, social workers, instructional coaches and mentors, to meet the academic, physical, and mental health needs of students.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Incrementally provide funding for specialized instructional support staff to meet the following national guidelines:
 - *Nurses*: 1 per school > 100 ADM
 - *Librarians*: 1 per school > 200 ADM
 - *Counselors*: 1:250 students
 - *School Psychologists*: 1:700 students
 - *Social Workers*: 1:400 studentsThis action step requires incremental recurring increases in funding through fiscal year 2028.
- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

E. Increase educator compensation to make it competitive with educator compensation in other states in the region and with other career options that require similar levels of preparation, certification, and levels of experience.

Salaries for North Carolina's educators remain below what professionals with similar educational backgrounds earn in other professions, particularly for teachers. Educator compensation goals should focus on competitiveness – the extent to which pay compares to other professions in North Carolina requiring a college degree.

- i. **Goal:** All schools in North Carolina will be staffed with high-quality teachers, assistant principals, and principals.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. 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 findings will be used to establish a benchmark for educator salary raises over the next seven years of *Leandro* implementation. This action step requires a nonrecurring appropriation in fiscal year 2022.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor
 2. Increase salaries for teachers and instructional support staff by 5 percent in FY 2022 and incrementally after that based on study findings to improve competitiveness with other industries. Cost estimates for later fiscal years for this action step will be determined on the basis of the study described above.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 3. Incrementally increase principal and assistant principal pay consistent with teacher salary increases. Cost estimates for this action step will be determined on the basis of a study, analysis, or pilot implementation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

F. Modify the school finance system to ensure future stability in funding for public education, including predictable, anticipated funding levels that acknowledge external cost factors.

It is important for budgets to be relatively stable and predictable to permit public school units to make critical staffing and resource decisions prior to the beginning of the school year and to facilitate long-term strategic planning. North Carolina's current school finance system fails to guarantee increased funding for enrollment and inflation and includes a large number of required budget adjustments that occur after the schools' fiscal years have begun. This instability makes it difficult to

make strategic investments or long-term system adjustments and requires chief financial officers to spend a disproportionate amount of time ensuring that their budgets are in compliance with state regulations.

- i. **Goal:** Create a finance system that is stable and predictable to facilitate long-term strategic planning at the district and school levels.
- ii. **Action Steps to be Initiated in Fiscal Year 2024:**
 - 1. Establish a mechanism for continually updating state funding amounts to account for inflation and enrollment growth. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - 2. Simplify position allotments by combining enhancement teacher positions into the classroom teacher allotment. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - 3. Revise charter school funding so that funding is directly appropriated to each charter school rather than by reducing allotments to traditional public schools. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - 4. Combine all dollar allotments that are distributed on a per-ADM basis into a single allotment. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

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

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Establish a more instructionally-focused and student-centered assessment system.	The statewide assessment system will include more formative and interim assessments, such as the NC Check-Ins, that are aligned with the State summative assessment and provide streamlined, actionable student-level information.
Clarify alignment between the assessment system and the State’s theory of action.	The State’s assessment system will support personalized learning experiences for all students, including curricular and instructional resources to support personalized learning environments and interim assessments that provide educators with meaningful data to adjust instruction within the school year.
Improve coherence among curriculum, instruction, and assessment.	The State will provide statewide and regional support to all local school boards in selecting and implementing curriculum materials that are tightly aligned with State-adopted content standards.
Amend the current accountability system to include measures of progress toward providing all students with access to a sound basic education.	The State’s accountability system will include measures of progress toward meeting the <i>Leandro</i> tenets, including indicators that provide information on students’ opportunity to access a sound basic education, in addition to student performance on State standardized assessments.
Use the data provided in the North Carolina Dashboard and School Report Cards to identify appropriate evidence-based interventions and supports.	Data from the accountability system and other school and district data indicators will be used to guide planning, budget, and instructional decisions at the school- and district-level and to assess school progress and improvement efforts to identify opportunity gaps and opportunities for school integration.

A. Establish a more instructionally-focused and student-centered assessment system.

Based on a recommendation from the State Board’s Task Force on Summative Assessment in 2014, the NCDPI developed the NC Check-Ins, which are optional interim assessments developed by the State that are freely available to all school districts across North Carolina. The NC Check-Ins are an example of a through-grade assessment model, which utilizes multiple interim assessments throughout the school year in lieu of a single summative assessment at the end of the year. Though all schools and districts have a summative assessment at the end of the year in specific grades and courses, the use of NC Check-Ins has been well received by educators as useful tool to inform instruction (WestEd, 2019, p. 110).

- i. **Goal:** The statewide assessment system will include more formative and interim assessments, such as the NC Check-Ins, that are aligned with the State summative assessment and provide streamlined, actionable student level information.
- ii. **Action Steps Initiated in Fiscal Year 2021:**
 - 1. Expand the use of NC Check-Ins in grades 3-8 to additional school districts and schools. Provide professional learning opportunities and resources to support the use of NC Check-Ins as formative, student-centered instructional tools. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
 - 2. Better align the Kindergarten Entry Assessment (KEA) with birth through third grade and rename the KEA the Early Learning Inventory (ELI). Aligned action steps are included in the Early Education action plan. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

B. Clarify alignment between the assessment system and the State's theory of action.

North Carolina's statewide assessment system complies with federal requirements under ESSA and meets the U.S. Department of Education's peer review requirements; however, several improvements are being made to ensure that the state assessment system best reflects student learning and supports personalized learning for all students.

An independent alignment study concluded that the state assessments are generally well aligned to the North Carolina academic standards. College- and career-readiness standards and expectations, like those defined in the NC Standard Course of Study (NCSCOS), require students to demonstrate complex reasoning and problem-solving skills and to communicate effectively. To adequately assess the knowledge and skills defined in the NCSCOS, it is important for assessments to include opportunities for students to demonstrate their abilities to reason, solve complex problems, and communicate effectively. Currently, the State summative assessments rely heavily on multiple-choice items (WestEd, 2019, p. 108).

For this reason, North Carolina will pilot the inclusion of additional item types (i.e., constructed-response, extended-response, and/ or performance-based assessment items) on State assessments. Items that require students to demonstrate application of their knowledge and skills can provide information on students' understanding that can be applied to personalize teaching and learning and allow progress toward a sound basic education for all students in North Carolina. Because assessments are inextricably linked to curriculum and instruction, the NCDPI will also provide additional curricular and instructional support materials to complement the inclusion of performance-based items on the assessments.

- i. **Goal:** The State's assessment system will support personalized learning experiences for all students, including curricular and instructional resources to support personalized learning environments and interim assessments that provide educators with meaningful data to adjust instruction within the school year.
- ii. **Action Steps Initiated in Fiscal Year 2023:**
 - 1. Launch the Innovative Assessment Demonstration pilot approved by the US Department of Education beginning in 16 districts and charters to improve and personalize formative assessment and to evaluate the feasibility of utilizing through-grade results to provide summative assessment results. The pilot will include: (1) three through-grade assessments and an adaptive end of the year assessment in grades 3-8; (2) an examination of the potential

use of the three through-grade assessments as a cumulative year-end score; (3) a consideration of the integration of additional performance-based assessment items; and (4) the development of resources and professional learning opportunities on the use of appropriate, aligned formative assessment to support instruction. This action step is achievable within existing funds.

- a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

C. Improve coherence among curriculum, instruction, and assessment.

Improving educational outcomes for all students requires a collaborative effort at all levels of the system to strengthen the connection between curriculum, instruction, and assessment. It is unreasonable to expect assessment results to improve without significant investment in aligned educational resources, including high-quality curricular and instructional materials. Through District and Regional Support, NCDPI will provide high quality curricular and instructional materials and the ongoing support necessary to effectively utilize these items at the district and school level.

- i. **Goal:** The State will provide statewide and regional support to all local school boards in selecting and implementing curriculum materials that are tightly aligned with State-adopted content standards.
- ii. **Action Steps to be Initiated in Fiscal Year 2023:**
 - 1. Evaluate the curricular materials selected by school districts and report on the degree of alignment with State-adopted content standards. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

D. Amend the current accountability system to include measures of progress toward providing all students with access to a sound basic education.

A high-quality accountability system that provides useful and timely data on student growth and proficiency is an integral component for ensuring a sound basic education for all students. Results from high-quality assessments, coupled with a thoughtfully designed accountability system, can provide valuable information about the academic progress of all students, and inform stakeholders about the effectiveness of policies and practices. A high-quality accountability system must also serve multiple purposes, reflect the needs of multiple stakeholder groups, and provide crucial and accurate information to support progress toward a sound basic education for all students.

- i. **Goal:** The State's accountability system will include measures of progress toward meeting the *Leandro* tenets, including indicators that provide information on students' opportunity to access a sound basic education, in addition to student performance on State standardized assessments.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 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. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
- iii. **Action Steps to be Initiated in Fiscal Year 2023:**

1. Revise the NC General Statutes and the State's Every Student Succeeds Act (ESSA) plan to adjust the weighting between student proficiency and student growth in the State's School Performance Grades. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
2. Include in the State's accountability system additional measures of progress toward meeting the *Leandro* tenets, including indicators that provide information on students' opportunity to access a sound basic education, in addition to student performance on State standardized assessments. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
3. Implement a system for evaluating instructional quality, rigor, and equity at the school-level to provide feedback and support to schools and districts. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

E. Use the data provided in the North Carolina Dashboard and School Report Cards to identify appropriate evidence-based interventions and supports.

- i. **Goal:** Data from the accountability system and other school and district data indicators will be used to guide planning, budget, and instructional decisions at the school- and district-level and to assess school progress and improvement efforts to identify opportunity gaps and opportunities for school integration.
- ii. **Action Steps Initiated in Fiscal Year 2022:**
 1. 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 on all students, staff, students identified for exceptional children services, students participating in advanced learning opportunities, and other pertinent information. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
 2. Provide training and support on the use of data from the NC Dashboard, the accountability system, and school and district data to guide planning, budget, instructional decisions, and improvement efforts at the school- and district-level. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
 3. Amend the NC Dashboard to provide data on State, district, and school performance and growth on a comprehensive set of measures that indicate progress toward meeting the *Leandro* requirements and is inclusive of the reporting requirements under ESSA. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

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

This section of the Action Plan addresses

An assistance and turnaround function that provides necessary support to low-performing schools and districts.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Develop the State’s capacity to fully support the improvement of its lowest-performing schools and districts.	The NC State Board of Education and NC Department of Public Instruction will fully implement a regional support structure to support the improvement of low-performing and high-poverty schools by providing support in all needed content areas and instructional and leadership coaching.
Provide statewide and/or regional support to help schools and districts select high quality standards-aligned, culturally-responsive core curriculum resources and to prepare teachers to use those resources effectively.	The NC State Board of Education and NC Department of Public Instruction will update and strengthen the State-level process for reviewing and adopting core curriculum resources that are high quality, standards-aligned, and culturally-responsive. The core curriculum resources recommended by this State-level process will include digital and blended resources, as well as commercial and open-source resources. The NC Department of Public Instruction will also provide statewide and/or regional support to help all schools select core curriculum resources that are high quality, standards-aligned, and culturally-responsive and will assist in preparing educators to use these resources effectively by providing comprehensive professional learning opportunities and access to appropriate resources.
Provide resources, opportunities, and supports for low-performing and high-poverty schools to address out of school barriers to learning using a community schools or other evidence-based approach.	All low-performing and high-poverty schools interested in implementing a community schools’ approach will be provided a community schools coordinator and other resources to assess local needs and assets and to integrate social, academic, and health supports into the school.
Extend the supports already available to schools to help them further implement a Multi-Tiered System of Support (MTSS) framework, a school improvement plan, NC Check-Ins, or other evidence-based approaches.	All school districts will successfully implement a MTSS framework, NC Check-Ins, or similar evidence-based approaches.

A. Develop the State's capacity to fully support the improvement of its lowest performing schools and districts.

Prior *Leandro* rulings have been consistent about the need for state supports for school improvement and provided very explicit specifications for the state system of supports for school improvement. The NCDPI's District and School Transformation (DST) model of state support was developed and expanded from 2012 through 2015 with Race to the Top funding. Evaluations have shown significant improvements in student performance in North Carolina schools provided with intensive assistance for multiple years through the DST model, with increased effects when supports were also provided to the district central office. The model included leadership development and coaching for principals; intensive on-site professional development for teachers; support for the district and schools; community engagement; and attention to the whole child. These supports are all essential for the turnaround of low-performing schools.

With a decline in funding to the NCDPI, decreases in its staffing, and reduction in the school improvement roles for which it takes responsibility, low-performing schools and districts are receiving significantly less support than they did up to 2015, and they do not currently have the resources or the expertise necessary to replace what the NCDPI used to provide. Since Race to the Top ended, the transformational support from the NCDPI has been scaled back, and the coaching and professional development for leaders has ended (WestEd, 2019, p. 130).

The NCDPI has established a new District and Regional Support model that develops and aligns systems, processes, and procedures to provide a unified system of support to North Carolina public schools that result in every child having equitable access to a meaningful, sound basic education through:

- A regional structure coordinating academic supports statewide;
 - Opportunities for educator recognition, advancement, and growth;
 - Diagnostic services that identify areas of improvements for schools and districts;
 - Strategic reform strategies that lead to innovation and student success; and
 - Effective partnerships to intervene on critical areas of need.
- i. **Goal:** The NC State Board of Education and NC Department of Public Instruction will fully implement a regional support structure to support the improvement of low-performing and high-poverty schools by providing support in all needed content areas and instructional and leadership coaching.
 - ii. **Action Steps Initiated in Fiscal Year 2021:**
 - 1. 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. Funds have currently been secured through the federal CARES Act to achieve the action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - 2. 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. Funds from the federal CARES Act have currently been allocated to achieve this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 - iii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Implement the NC State Board of Education's District and Regional Support model (i.e. the plan described above) to provide direct, comprehensive, and progressive turnaround assistance to the State's chronically low-performing schools and low-performing districts

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by aligning systems, processes, and procedures in a unified system of support that results in every child having equitable access to a meaningful, sound basic education through:

- a regional structure coordinating academic supports statewide;
- opportunities for educator recognition, advancement, and growth;
- diagnostic services that identify areas of improvements for schools and districts;
- strategic reform strategies that lead to innovation and student success; and
- effective partnerships to intervene on critical areas of need.

This action step requires a recurring appropriation to achieve the stated goal beginning in fiscal year 2022.

- a. Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

B. Provide statewide and/or regional support to help schools and districts select high quality standards-aligned, culturally-responsive core curriculum resources and to prepare teachers to use those resources effectively.

As a part of its research, WestEd identified schools that largely serve economically disadvantaged and other at-risk students that were demonstrating above-average success in meeting the needs and fostering the academic growth of their students. Through an iterative research, interview, and visit process, the WestEd team developed a framework outlining the success factors that enabled these schools to provide their students with a sound basic education. These success factors include:

- A sufficient staff of teachers and others who support students' learning, with all instructional staff well prepared in evidence-based instructional approaches, in content knowledge in the areas they teach, and in strategies for successfully working with students with diverse backgrounds and learning differences.
- Effective, evidence-based systems and practices for personalizing learning that account for variability in the pace, pathway, preferences, and needs of each student.
- Curriculum resources and digital tools to support students' learning of the NCSCOS and more advanced topics.
- Opportunities within and beyond the school walls for students to pursue their own interests and strengths and engage in experiential learning in which they apply their knowledge, collaborate, create, engage in authentic problem solving, and become self-directed lifelong learners.

- i. Goal:** The NC State Board of Education and NC Department of Public Instruction will update and strengthen the state-level process for reviewing and adopting core curriculum resources that are high quality, standards-aligned, and culturally-responsive. The core curriculum resources recommended by this state-level process will include digital and blended resources, as well as commercial and open-source resources. The NC Department of Public Instruction will also provide statewide and/or regional support to help all schools select core curriculum resources that are high quality, standards-aligned, and culturally-responsive and will assist in preparing educators to use these resources effectively by providing comprehensive professional learning opportunities and access to appropriate resources.

ii. Action Steps to be Initiated in Fiscal Year 2022:

1. Review, update, and strengthen the state-level process for reviewing and adopting core curriculum resources that are high quality, standards-aligned, and culturally-responsive. Provide statewide and/or regional support, resources, and professional learning opportunities to assist schools and districts in selecting and successfully employing high quality, standards-aligned, culturally-responsive, evidence-based resources and practices to

assist educators in applying innovative practices that promote continuous improvement. There are no costs associated with this action step for Fiscal Year 2022. Cost estimates for this action step in future fiscal years will be determined on the basis of the review described above.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

C. Provide resources, opportunities, and supports for low-performing and high-poverty schools to address out of school barriers to learning using a community schools or other evidence-based approach.

Students from low-income backgrounds face many challenges to being successful in school. Schools that serve higher concentrations of students from low-income backgrounds – or high-poverty schools - must address these many challenges to ensure that students are receiving a sound, basic education. These challenges include:

- limited access to early childhood education;
- adverse out-of-school conditions, such as food insecurity and hunger, limited or no access to health care, high rates of childhood trauma, and unstable and unpredictable housing;
- family responsibilities, such as caring for younger siblings or older relatives, and contributing to the family income.

High-poverty schools also often have significant differences from schools serving higher concentrations of more advantaged students, such as fewer fully licensed teachers and teacher with advanced degrees, higher rates of teacher turnover, less-experienced school leaders, and fewer opportunities for advanced learning, like gifted programs and Advanced Placement courses. (WestEd, 2019, p. 130).

As WestEd noted, “without substantial supports provided by the State and by qualified school improvement experts, schools serving the highest numbers of economically disadvantaged children will continue to fall short in ensuring every child’s right to a sound basic education” (WestEd, 2019, p. 130).

Community school models and other evidence-based approaches can be used to improve low-performing schools. North Carolina is well positioned to build on the considerable local interest in whole-child approaches and integrate social supports into high-poverty schools by providing state funding, technical assistance, and a support infrastructure to systematically address out-of-school barriers to learning.

- i. **Goal:** All low-performing and high-poverty schools interested in implementing a community schools’ approach will be provided a community schools coordinator and other resources to assess local needs and assets and to integrate social, academic, and health supports into the school.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Provide resources and support to high-poverty schools that adopt a community schools or other evidence-based model to address out of school barriers to learning, including providing funding for one full-time school-based coordinator to assess local needs and assets and to integrate social, academic, and health supports in coordination with school support personnel and access to technical assistance and professional support to effectively plan and implement the selected model. Implementation will begin on a pilot basis in FY 2022 and FY 2023, expand to elementary schools in FY 2024, middle schools in FY 2025, and to high

schools in FY 2027. This action step requires incremental recurring increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

2. Develop a plan to maximize the use of the federal Community Eligibility Provision (CEP) funding and provide additional state funding to ensure all schools and districts that meet eligibility requirements for CEP can offer free meals to all students. This action step is achievable within existing funds.

a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

iii. **Action Steps to be Initiated in Fiscal Year 2023:**

1. Provide funding to cover the reduced-price lunch co-pays for all students who qualify for reduced-price meals so that those students would receive free lunches through the National School Lunch Program. This action step requires recurring funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

iv. **Action Steps to be Initiated in Fiscal Year 2024:**

1. Implement plan to maximize the use of the federal Community Eligibility Provision (CEP) funding and provide additional state funding to ensure all schools and districts that meet eligibility requirements for CEP can offer free meals to all students. Cost estimates for this action step are to be determined based on the plan developed above.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

D. Extend the supports already available to schools to help them further implement a Multi-Tiered System of Support (MTSS) framework, a school improvement plan, and NC Check-In approaches.

“Several approaches recommended and supported by the NCDPI are evidence-based practices that are highly valued by educators. These include the MTSS for school improvement, which is already being used in every district; the Schoolwide Positive Behavioral Intervention System for providing social, emotional, and behavior supports, which is being successfully implemented in some schools; and the NC Check-In formative assessments aligned to curriculum standards (WestEd, 2019, p. 132).” Expansion of the use of these interventions is important to assisting schools and districts in their improvement and student support efforts.

- i. **Goal:** All school districts will successfully implement a MTSS framework, NC Check-Ins, or similar evidence-based approaches.

ii. **Action Step to be Initiated in Fiscal Year 2022:**

1. Extend the supports already available to schools to help them further implement an MTSS framework, a school improvement plan, NC Check-Ins, or other evidence-based approaches. This action step is achievable within existing funds.

a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction

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

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Expand the NC Pre-K program to make high-quality, full year services available to all eligible four-year-old children and enroll at least 75 percent of eligible four-year-old children in each county.	At least 75 percent of eligible four-year-old children in each county are enrolled in a NC Pre-K program that operates for 10 or 12 months.
	State funding provides the full cost per child to ensure the availability of NC Pre-K classrooms throughout the State.
	NC Pre-K enrollees have access to before- and after- school care, if needed, and children who are enrolled in a 10-month program have access to a summer care and learning program, if needed.
	NC Pre-K lead teachers hold an appropriate teaching license as specified by state policy and are paid according to the public school teacher salary schedule.
	NC Pre-K enrollees are provided transportation to the program.
Increase high-quality early learning opportunities for children from birth.	The State has developed and evaluated a program model for high-quality early learning for eligible children birth through age three.
	The State operates a child care subsidy program that serves all eligible families needing child care and that supports the child care sector in providing high-quality early learning, including higher compensation for the early childhood educator workforce.
Expand and improve access to individualized early intervention services and support to families with eligible children birth to age three and include at-risk children in North Carolina's definition of eligibility for the Part C Individuals with Disabilities Education Act (NC Infant Toddler Program).	The NC Infant Toddler Program (Early Intervention) is adequately staffed and scaled up to serve children birth to age three who meet expanded eligibility criteria.
Incrementally scale up the Smart Start program to increase quality, access, and support for all children birth to age five and families, especially those in under resourced communities.	Smart Start is fully funded (defined as meeting 25 percent of the statewide need for children birth to age five) to improve statewide early childhood system infrastructure and support a

ACTIONS	2030 GOALS
	cohesive continuum of services for children and families responsive to local needs.
Increase the volume and quality of the early childhood educator pipeline.	Early childhood educators statewide are provided salary supplements that recognize educational attainment.
	The State has implemented strategies that demonstrate success in attracting and retaining a qualified early childhood educator workforce.
Ensure quality transitions and alignment from early childhood programs to K-3 classrooms and strengthen elementary schools' readiness to support children to achieve early grade success.	All children transitioning from pre-kindergarten to public kindergarten classrooms have a child-centered transition plan developed collaboratively with their families, early childhood teachers and kindergarten teachers.
	Elementary schools have resources and support to provide high-quality early learning that is aligned for children birth through third grade, to engage effectively with families of young children and to collaborate with the early learning programs in the community attended by incoming students.

Judge Manning noted in his October 25, 2000 Order that "... the most common sense and practical approach to the problem of providing at-risk children with an equal opportunity to obtain a sound basic education is for them to begin their opportunity to receive that education earlier than age (5) five so that those children can reach the end of third grade able to read, do math, or achieve academic performance at or above grade level ..." *Hoke Cty. Bd. Educ. v. State*, No. 95 CVS 1158 (Oct. 25, 2000). However, today too many children in North Carolina are not reaching the end of third grade able to read or do math at grade level and there are vast differences in outcomes between racial and socioeconomic groups.

A robust early learning continuum from birth through third grade supports the academic, social-emotional, and physical development essential to the State's obligation to provide a sound basic education. This section of the Action Plan identifies the key areas of State action and investment required to build a robust system of high-quality early learning for children, focused on children who are most in need of access to these opportunities, and to help ensure that young children remain on a positive trajectory of learning and development into the early grades in school.

Complementing this section of the Action Plan is the North Carolina Early Childhood Action Plan that was released in February 2019, and later endorsed by the NC State Board of Education, to provide a comprehensive set of goals, measures, and strategies to improve outcomes for children birth through third grade. The Early Childhood Action Plan vision is that all North Carolina children will get a healthy start and develop to their full potential in safe and nurturing families, schools, and communities. The Early Childhood Action Plan sets goals that by 2025, all North Carolina young children from birth to age eight will be:

- Healthy: Children are healthy at birth and thrive in environments that support their optimal health and well-being.
- Safe and Nurtured: Children grow confident, resilient, and independent in safe, stable, and nurturing families, schools, and communities.

- Learning and Ready to Succeed: Children experience the conditions they need to build strong brain architecture and skills that support their success in school and life.

The action steps are as follows:

A. Expand the NC Pre-K program to make high-quality, full year services available to all eligible four-year-old children and enroll at least 75 percent of eligible four-year-old children in each county.

High-quality pre-kindergarten programs have a sustainable positive impact on learning and can close the learning gaps among young children from economically advantaged and disadvantaged backgrounds. As documented in the WestEd report, the NC Pre-K program has consistently had high standards, a strong record of quality, and extensive evidence of effectiveness. Rigorous research has demonstrated that the NC Pre-K program has produced both short- and long-term benefits through grade 8. For example, multiple years of evaluation results show that NC Pre-K student gains exceeded expected developmental benchmarks in language and literacy, math, general knowledge, and behavior skills, especially for dual language learners and low-income students. Other research found that not only does NC Pre-K raise children's math and reading test scores, but it also reduces their rates of special education placement and grade repetition through elementary school. Further, these positive effects were shown to have either held steady or significantly increased through at least fifth grade. (West Ed, 2019, p. 88)

However, access remains out-of-reach for too many children of low-income families, with a persistent shortage of available NC Pre-K slots and barriers that exist to expanding the program while ensuring its level of quality. The fundamental barrier to NC Pre-K expansion is inadequate resources to cover costs, including rising operating costs and costs to recruit and retain qualified teachers, expand facilities, and provide transportation.

i. Goals:

1. At least 75 percent of eligible four-year-old children in each county are enrolled in a NC Pre-K program that operates for 10 months or 12 months.
2. State funding provides the full cost per child to ensure the availability of NC Pre-K classrooms throughout the State.
3. NC Pre-K enrollees have access to before- and after-school care, if needed, and children who are enrolled in a 10-month program have access to a summer care and learning program, if needed.
4. NC Pre-K lead teachers hold an appropriate teaching license as specified by state policy and are paid according to the public school teacher salary schedule.
5. NC Pre-K enrollees are provided transportation to the program.

ii. Action Steps to be Initiated in Fiscal Year 2022:

1. Expand the NC Pre-K Program by:
 - Incrementally increasing State funding per NC Pre-K slot with the goal of paying 100 percent of the actual cost by FY 2028;
 - Increasing the number of children able to be served with the goal of reaching at least 75 percent of eligible children by FY 2028;
 - Increasing the rate for the county administrator to provide oversight, monitoring, enrollment, and support to 10 percent by FY 2023; and
 - Extending the NC Pre-K program year from 10 months to 12 months by FY 2028, which will be phased in based on county capacity to implement and may begin with a pilot program.

Counties that can exceed the 75 percent enrollment goal once the statewide goal is met should be funded to meet the demand, prioritizing low-wealth districts for additional funds. This action step requires incremental recurring increases in funding through FY 2028.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - 2. Continue an ongoing evaluation of the impacts and effectiveness of the NC Pre-K program and continue to use evaluation findings to inform program implementation. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - iii. **Action Steps to be Initiated in Fiscal Year 2023:**
 - 1. Implement policy to require strategies to ensure equity of access to NC Pre-K for communities of color and communities whose first language is not English. There are no costs associated with this action step.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - 2. Conduct a feasibility study of a classroom-based funding model for NC Pre-K to examine new methods for effective and efficient program funding, including consideration of full-day and full-year services. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - 3. Conduct an assessment of local transportation needs, potential solutions and funding requirements. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - iv. **Action Steps to be Initiated in Fiscal Year 2024:**
 - 1. Increase state-level NC Pre-K staffing to manage the planned expansion, provide policy development and program oversight, ensure program quality, and manage new required studies. This action step requires a recurring appropriation to achieve the stated goal beginning in this fiscal year.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - v. **Action Steps to be Initiated in Fiscal Year 2025:**
 - 1. Provide transportation for all NC Pre-K enrollees by fiscal year 2028. This action step requires incremental increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction
 - vi. **Action Steps to be Initiated in Fiscal Year 2027:**
 - 1. Implement policy to require that all NC Pre-K lead teachers hold an appropriate NC teaching license as specified by NC Pre-K policy and are paid according to the public school salary schedule by fiscal year 2028. This action step does not require funding.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction

B. Increase high-quality early learning opportunities for children from birth.

The first years of a child's life are a critical period. During this time, children undergo tremendous brain growth that impacts multiple areas of cognitive, physical, social, emotional, and behavioral development. This brain growth and development is significantly impacted by the interplay between children's relationships with the people and environments around them and these earliest experiences have a lifelong impact - shaping the brain's architecture and creating the foundation for healthy development and future learning.

High-quality early learning environments support children in meeting critical developmental milestones. With the extensive evidence of effectiveness of NC Pre-K for at-risk four-year-olds, the State now has the opportunity to develop a comparable high-quality model for serving the most vulnerable children from birth through age three. Furthermore, the State's child care sector provides critical early learning opportunities for young children statewide and families depend on this child care to be able to work and protect their family financial security, which strengthens the economy. Child care is often unaffordable and the child care subsidy system helps low-income families access care, but waiting lists for subsidy are persistent. Child care subsidy also supports the ability of programs to provide high-quality early learning.

i. **Goal:**

1. The State has developed and evaluated a program model for high-quality early learning for eligible children birth through age three.
2. The State operates a child care subsidy program that serves all eligible families needing child care and that supports the child care sector in providing high-quality early learning, including higher compensation for the early childhood educator workforce.

ii. **Action Steps Initiated in Fiscal Year 2021:**

1. Implement a feasibility and cost study for a state model for high-quality early learning programs for eligible children birth through age three (comparable to the state model for high-quality NC Pre-K but appropriately designed for younger ages). This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services
2. Implement a study to develop alternative approaches to NC's current market rate model used to determine child care subsidy rates to support high-quality early learning. The goals are to address the true costs of high-quality child care and better compensation for the early childhood educator workforce and to support equal access to high-quality child care for families receiving subsidies across the State. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services

iii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Implement a pilot of the *Family Connects* universal home visiting model for approximately 9,000 families with newborns, which provides nurse home visits to address infant and maternal health and to link families to community services. Align and connect the expansion of universal home visiting and early learning opportunities. This action step is achievable with existing funds.
 - a. **Responsible Parties:** NC Department of Health and Human Services, NC Partnership for Children/Smart Start

iv. **Action Steps to be Initiated in Fiscal Year 2023:**

1. Implement improvements to the child care subsidy rate system based on the preceding study and increase state funding for subsidy to support high-quality child care, particularly by increasing compensation for the workforce, and to ensure that eligible families can receive assistance (eliminating waiting lists). Cost estimates will be informed by the preceding study and federal funding increases, if realized, may assist in improving and expanding the availability of child care subsidy. This action step requires an incremental recurring appropriation to be determined by the study.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

v. **Action Steps to be Initiated in Fiscal Year 2024:**

1. Conduct a pilot of the state model for high-quality early learning programs for eligible children birth through age three (for 1,000 children per year for two years) and then expand to additional locations. The pilot and the expansion will target high-poverty school districts. More precise cost estimates for this action step will be determined by the preceding

feasibility and cost study. This action step requires incremental recurring increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

2. Conduct rigorous evaluation of the pilot and expansion of the state model for high-quality early learning programs for eligible children birth through age three to determine program efficacy and inform program implementation. The initial contract will establish evaluation design and data collection needs. The final contract will analyze data to determine impact. This action step requires a recurring appropriation to achieve the stated goal beginning in this fiscal year.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

3. Expand the *Family Connects* universal home visiting model to local agencies statewide that choose to implement the program for their community (e.g. health departments or local Smart Start partnerships). This action step requires incremental increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Partnership for Children/Smart Start

C. Expand and improve access to individualized early intervention services and supports to families with eligible children birth to age three and include at risk children in North Carolina's definition of eligibility for the Part C Individuals with Disabilities Education Act (NC Infant Toddler Program).

Part C of the Individuals with Disabilities Education Act legislation stipulates that states operate a comprehensive statewide program of services and supports for families with children birth through age two with developmental delays or special needs that may affect their development or impede their education. Currently, the NC Infant Toddler Program provides these early intervention services for eligible children, including family coaching on ways to support the developmental needs of their children and more intensive individualized supports for children. Investments are needed to establish a strong infrastructure, including additional staff statewide, to provide services that support children to achieve their potential and to expand eligibility to serve more children. Expanding eligibility will reach children who are "at risk" of developmental delays with these quality services. Early intervention helps prevent more severe developmental delays for children and more costly interventions later in school.

- i. **Goal:** The NC Infant Toddler Program (Early Intervention) is adequately staffed and scaled up to serve children birth to age three who meet expanded eligibility criteria.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Increase state and local staffing to address system fiscal, human, and organizational gaps to provide services to families with infants and toddlers with developmental delays and established medical conditions currently eligible for the NC Infant Toddler Program (Early Intervention). Expand funding for interpreter services, establish a centralized provider network system, provide professional development focused on early childhood mental health, and address salary inequities affecting retention and recruitment of necessary providers. This action step requires incremental recurring increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Interagency Coordinating Council
 2. Conduct a feasibility study to examine eligibility criteria and cost implications for expansion of the NC Infant Toddler Program. This action step requires a non-recurring appropriation in fiscal year 2022.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - 3. Conduct a system and infrastructure readiness assessment to determine areas of need and system challenges to be addressed prior to expansion, including appropriate definitions of need and necessary infrastructure. Solicit public input and feedback on the comprehensive plan. This action step requires a non-recurring appropriation in fiscal year 2022.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Interagency Coordinating Council
 - 4. Provide professional development for early intervention staff and providers, including training on topics such as culturally-responsive practices, early identification of autism, trauma-informed care, and early childhood mental health. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - iii. **Action Steps to be Initiated in Fiscal Year 2023:**
 - 1. Solicit stakeholder feedback from early childhood state and local agencies, families, community stakeholders and council members to engage partners in expanded enrollment efforts (i.e. child find efforts, referrals, transitions, interagency communications and collaboration, etc.) to leverage existing resources, minimize duplication, and to ensure a seamless experience for families moving through the early childhood system. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - 2. Work with the US Department of Education, Office of Special Education Programs, (and related federal staff/programs) to change eligibility criteria and NC policy to facilitate expanded eligibility for the NC Infant Toddler Program. There are no costs associated with this action step.
 - a. **Responsible Party:** NC Department of Health and Human Services
 - iv. **Action Steps to be Initiated in Fiscal Year 2025:**
 - 1. Scale up high quality early intervention services and supports for children birth to age three who meet expanded eligibility criteria, estimating an additional 10,000 children per year and including costs related to public awareness campaign work, increased child find efforts, partnerships with family support agencies, etc. This action step is contingent on the increased state and local staffing and professional development in the previous action steps. More precise cost estimates for this action step will be determined on the basis of the preceding study. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

D. Incrementally scale up the Smart Start program to increase quality, access, and support for all children birth to age five and families, especially those in under resourced communities.

Smart Start is a statewide network of nonprofit local partnerships, with oversight by the NC Partnership for Children, that provides local early childhood system infrastructure to improve the quality of early learning and implement evidence-based services to increase the health, well-being, and development of children birth to age five. As documented in the WestEd report, research studies have found that children who participated in Smart Start-supported programs entered elementary school with better math and language skills, as well as fewer with behavioral problems compared with their peers. Both Smart Start and NC Pre-K programs have been found to significantly reduce the likelihood of special education placement in third grade. (West Ed, 2019, p. 88)

At its inception, the goal for Smart Start funding was 25 percent of the gap in resources needed to ensure that children have access to high-quality child care and services for healthy development, but the State has never reached this level of investment.

- i. **Goal:** Smart Start is fully funded (defined as meeting 25 percent of the statewide need for children birth to age five) to improve statewide early childhood system infrastructure and support a cohesive continuum of services for children and families responsive to local needs
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Incrementally increase Smart Start funding annually to reach the goal. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Partnership for Children
 - 2. Study and revise Smart Start's county needs formula that determines the allocation of funding for each county. A revised needs formula will use current data to ensure that funding is directed to high need communities; that services reach the most vulnerable children and families; and that Smart Start funding is well coordinated with child care subsidy and prekindergarten funding to maximize impact. This action step is achievable within existing funds.
 - a. **Responsible Party:** NC Partnership for Children
 - 3. Study and make recommendations regarding readjustments that may be needed to the local partnership planning and funding requirements as State funding scales up, including: 1) the requirement to spend 30 percent of local funding on child care subsidy; 2) the requirement to provide the state TANF match; and 3) the requirement to match 19 percent of local funding with private fundraising. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC Department of Health and Human Services, NC Partnership for Children
 - 4. Continue an ongoing evaluation of the impacts and effectiveness of Smart Start and continue to use evaluation findings to inform program implementation. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC Partnership for Children and local partnerships

E. Increase the volume and quality of the early childhood educator pipeline.

The early childhood educator workforce is essential to supporting young children's healthy development and learning, family employment and the State's economic prosperity, but it remains persistently low paid and often lacking benefits. Turnover in the early childhood workforce is quite high. According to the WestEd report, the fact that early childhood teachers have low salaries, especially compared with kindergarten teachers, serves as a major deterrent for those considering entering the field, particularly for the more highly educated candidates. Further, because of the large pay discrepancy between early childhood and kindergarten teachers, many early childhood teachers shift to teaching kindergarten after receiving a bachelor's degree. The median wage of a kindergarten teacher is nearly 2.25 times more – or more than \$17 more per hour – than that of an early childhood teacher. (West Ed, 2019, p. 242)

- i. **Goal:**
 - 1. Early childhood educators statewide are provided salary supplements that recognize educational attainment.
 - 2. The State has implemented strategies that demonstrate success in attracting and retaining a qualified early childhood educator workforce.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Increase funding for and expand participation statewide in the Child Care WAGE\$ and Infant Toddler Educator AWARD\$ Programs that provide educational attainment-based

salary supplements for early childhood educators. This action step requires incremental recurring increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

2. Promote the *NC Model Salary Scale for Early Education Teachers* to help guide the early childhood field in establishing better compensation for the early childhood workforce that is tied to educational attainment. Compensation is an integral component of attracting and retaining the early learning workforce needed to prepare children for success. A salary scale tied to education can serve as a critical tool to professionalize and grow the early childhood teaching workforce. This action step is achievable within existing funds.

a. **Responsible Parties:** NC Department of Health and Human Services, NC Partnership for Children

3. Study, develop a State plan, and monitor progress toward the goal that teachers in licensed early learning programs have an associate degree or higher in early childhood education, are paid comparable to the NC Model Salary Scale, and have access to benefits such as health insurance. Increases in funding for early learning programs will support increased workforce compensation. This action step is achievable within existing funds.

a. **Responsible Party:** NC Department of Health and Human Services

4. Implement strategies to recruit new early childhood educators to the field and provide ongoing professional development, including coaching, technical assistance, degree attainment and licensure support. This action step requires incremental recurring increases in funding through fiscal year 2028.

a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services

iii. **Action Steps to be Initiated in Fiscal Year 2023:**

1. Develop a model, implementation plan and cost projections for an early childhood teacher preparation program (modeled on the NC Teaching Fellows Program) that provides full tuition to obtain an associate degree in early childhood education at a North Carolina community college and pathways to transfer to a university. This action step is achievable within existing funds.

a. **Responsible Party:** NC Community College System Office

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.**

According to the WestEd report, the transition from early childhood education environments to K-12 environments is challenging for children and families. Very few elementary school principals have training in early childhood development. Elementary school environments are often not equipped to support the developmental transition of young children into school, including through appropriate staffing of school support staff such as nurses, social workers and counselors. Better alignment is needed between the early childhood programs and the schools that children from these programs will attend. (WestEd, 2019, p. 91)

i. **Goals:**

1. All children transitioning from pre-kindergarten to public kindergarten classrooms have a child-centered transition plan developed collaboratively with their families, early childhood teachers and kindergarten teachers.
2. Elementary schools have resources and support to provide high-quality early learning that is aligned for children birth through third grade, to engage effectively with families of young children and to collaborate with the early learning programs in the community attended by incoming students.

ii. **Action Steps Initiated in Fiscal Year 2021:**

1. Implement a Pre-K to K Transitions pilot program for prekindergarten and kindergarten teachers to learn, plan, and work together, with professional development focused on developmentally appropriate practice, observation-based formative assessment, and family engagement. 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 allow families and prekindergarten teachers to systematically share information about children's strengths and needs with kindergarten teachers through an electronic information sharing platform aligned with the NC Early Learning Inventory. This action step is achievable within existing funds.
a. Responsible Parties: NC Department of Health and Human Services, NC Department of Public Instruction
2. Align the NC Early Learning Inventory (NC ELI) within the birth through third grade continuum. The NC ELI is an observation-based formative assessment. The NC ELI indicators of learning and development should align with a subset of the indicators in the NC early learning standards and the NCSCOS. This action step is achievable within existing funds. A companion action step is included in the Assessment and Accountability action plan.
a. Responsible Party: NC Department of Public Instruction

iii. **Action Steps to be Initiated in Fiscal Year 2022:**

1. Develop, pilot, and validate an implementation fidelity measure for the NC Early Learning Inventory (NC ELI). Evaluate the effectiveness of the NC ELI and use findings to inform implementation and make improvements. This action step is achievable within existing funds.
a. Responsible Party: NC Department of Public Instruction
2. Provide ongoing support to local trainers and coaches for professional development in implementing the NC Early Learning Inventory as intended. This action step is achievable within existing funds.
a. Responsible Party: NC Department of Public Instruction
3. Incrementally increase funding until funding will provide approximately one teacher assistant for every 27 K-3 students. An aligned action step is included in the Finance and Resources action plan and requires incremental recurring increases in funding through fiscal year 2028.
a. Responsible Parties: NC General Assembly, NC Office of the Governor
4. Incrementally increase funding for whole-child supports through positional funding that increases the number of SISP to begin to meet national guidelines, initially prioritizing high-poverty schools. An aligned action step is included in the Finance and Resources action plan and requires incremental recurring increases in funding through fiscal year 2028.
a. Responsible Parties: NC General Assembly, NC Office of the Governor

iv. **Action Steps to be Initiated in Fiscal Year 2023:**

1. Replace the kindergarten diagnostic with an extended version of the NC Early Learning Inventory to include additional dimensions (language, literacy, math, SEL) with full year implementation and checkpoint periods. This action step is achievable within existing funds.
a. Responsible Party: NC Department of Public Instruction
2. Review the NC Early Learning Inventory and Read to Achieve legislation and policies to establish an aligned formative and summative assessment continuum. This action step is achievable within existing funds.
a. Responsible Party: NC Department of Public Instruction
3. Establish an Early Childhood Education Expert Advisory Team (preschool through third grade) to review current data and identify target districts/schools for multi-tiered support aligned to gaps. Develop evaluation criteria to prioritize multi-tiered support. Develop an implementation process to be used statewide for identified target districts/schools. Costs for this action step will be determined and may require an appropriation.

- a. **Responsible Party:** NC General Assembly, NC Office of the Governor, NC Department of Public Instruction
 - 4. Develop and implement targeted professional development plans for each identified district/school aligned to data gaps, including topics such as: child development, developmentally appropriate practice, instructional best practices for early learning, observation-based formative assessment, positive relationships, culture improvement, aligned processes, social and emotional learning, data-driven decisions, and family and community engagement. Evaluate the professional development, review data for continuous process improvements and expand effective practices. This action step requires incremental recurring increases in funding through fiscal year 2028 that is included in Finance and Resources action plan for professional learning.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Public Instruction
 - 5. Require that prekindergarten and kindergarten classrooms have full-time teacher assistants and are maintained in the assigned classroom throughout the day and across learning environments. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction
- v. **Action Steps to be Initiated in Fiscal Year 2024:**
- 1. Incrementally scale up the Pre-K to K Transitions program to all districts, including the use of the electronic information sharing platform. NC DHHS and NCDPI must continue to partner in contracting for a suitable electronic platform to support the Pre-K to K Transition program and the NC Early Learning Inventory. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction
 - 2. Establish policy and oversight for Pre-K to K Transitions so that pre-kindergarten programs and public elementary schools implement a comprehensive, child-centered transition plan for each child developed collaboratively with their families, early childhood teachers, and kindergarten teachers. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC Department of Health and Human Services, NC Department of Public Instruction
 - 3. Provide ongoing support statewide to local trainers and coaches for joint professional development to promote effective Pre-K to K Transitions and alignment of early learning experiences (including topics such as child development, developmentally appropriate practice, observation-based formative assessment, and family engagement) for prekindergarten and kindergarten teachers, instructional facilitators and coaches, teacher assistants, and administrators (online modules, virtual and face to face). Collaborate with the community college and university systems to develop training hubs to support joint professional development. Costs for this action step will be determined following the pilot and may require an incremental recurring appropriation.
 - a. **Responsible Party:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction
 - 4. Provide ongoing support and technical assistance for establishing local collaborative family engagement plans for birth through third grade. This action step requires a recurring appropriation beginning in this fiscal year.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction

G. Facilitate reliable access to high-quality data supporting early childhood education.

Comprehensive and reliable early childhood data infrastructure is an important component of a robust system of high-quality early learning for young children. Improving North Carolina's early childhood data infrastructure will improve data collection and quality, facilitate the ability to measure progress, improve research and evaluation, and assist policymakers and program managers in implementing effective programs and strategies. WestEd concluded that more comprehensive data systems are needed to address the variation in access to early childhood education across and within counties. (WestEd, 2019, p. 243)

- i. **Goal:** Real-time, quality data will be readily available and used to inform policy and program decision making in early childhood education
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Develop and implement a real-time workforce data system that supports building the pipeline of early childhood educators. This action step requires a recurring appropriation to achieve the stated goal.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - 2. Expand and improve the NC Early Childhood Integrated Data System and the NC Early Childhood Action Plan data dashboards to track child outcomes and provide access to state data for state and local users and researchers. Connect data to the NC Longitudinal Data System (NCLDS). This action step is achievable within existing funds through fiscal year 2023 and then requires a recurring appropriation through 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
 - 3. Provide technical assistance to build local capacity to use quality early childhood data across child health, child welfare, and early childhood education for local planning. This action is achievable within existing funds through fiscal year 2023 and then requires a recurring appropriation through 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services
- iii. **Action Steps to be Initiated in Fiscal Year 2024:**
 - 1. Develop and implement a real-time data collection and sharing process to identify children eligible for early childhood programs, including NC Pre-K and Early Intervention, that allows for disaggregation along multiple variables, such as race, ethnicity, and geography, and helps identify the children most vulnerable to build a more equitable early learning system. This action step requires a recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Department of Health and Human Services, NC Department of Public Instruction, NC Department of Information Technology

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

This section of the Action Plan addresses

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.

Hoke Cty. Bd. Educ. v. State, No. 95 CVS 1158 (Sept. 11, 2020)

ACTIONS	2030 GOALS
Strengthen alignment between career pathways and workforce demands.	K-12, community college, and workforce development career pathways will be aligned and responsive to workforce needs across the State.
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.	All students, especially students in high-poverty schools and low wealth districts, will have equitable access to postsecondary and career-readiness opportunities, including dual enrollment coursework and high quality, rigorous pathways leading to a career-ready credential.
Strengthen college and career advising for high school students.	All high school students will have college and/or career advisors that provide guidance that allow them to plan for, pursue, and attain their postsecondary education and career goals.

A. Strengthen alignment between career pathways and workforce demands.

Through the work of the myFutureNC Commission, North Carolina is focused on achieving a dramatic increase in postsecondary attainment by 2030. Reaching this goal will require closer alignment across and within education sectors, as well as better alignment between those sectors and the business community. P-12, postsecondary, and business sectors must collaborate to provide guided pathways that are industry-aligned and that develop the knowledge, employability skills, and competencies students need to succeed in high-wage, high-demand jobs. Successful coordination will require development of accessible, clear, and streamlined processes for linking businesses with educators.

Only about one-quarter of the respondents to a 2018 EducationNC survey believed that their educational opportunities were very well aligned with jobs available in their communities, and about the same proportion believed that their educational opportunities provided avenues for gaining needed work skills for available jobs (myFutureNC, 2020). To position more North Carolinians for better educational and employment opportunities, the State can develop a wider array of aligned, accessible career and postsecondary pathways and expand work-based learning models that help educators, students, and businesses work together – from internships to co-ops to on-the-job training programs to apprenticeships.

- i. **Goal:** K-12, community college, and workforce development career pathways will be aligned and responsive to workforce needs across the State.
- ii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Develop an updated and consistent definition of Career and College Readiness. This action step is achievable within existing funds.

- a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Department of Commerce, NC Community College System, University of North Carolina
 2. Develop model career pathways that align high school Career Technical Education courses with workforce demands and clearly articulate what students need to know and be able to do. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Department of Commerce, NC Community College System, University of North Carolina
 3. Provide funding for an independent alignment study of all NC dual enrollment courses that satisfy basic graduation requirements to ensure that all courses meet the constitutional standard of providing students a sound basic education. This action step requires a non-recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Community College System, University of North Carolina
 4. Ensure students graduate prepared for college-level coursework at the NC Community Colleges by providing:
 - Funding for NROC subscription;
 - Professional development for high school educators; and
 - A staff member at NCDPI to support the Career and College Ready Graduate program in collaboration with the NC Community College System.This action step requires a recurring appropriation to achieve the stated goal beginning in this fiscal year.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Community College System
- iii. **Action Steps to be Initiated in Fiscal Year 2023:**
 1. In accordance with the alignment study described above, develop NC State Board of Education policy and guidance to implement a course review and approval process for all dual enrollment courses. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC State Board of Education, NC Department of Public Instruction, NC Community College System, University of North Carolina

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.

North Carolina's employers do not have access to enough homegrown talent with the skills needed to help the State remain competitive. Employers' responses to the North Carolina Department of Commerce's 2018 Employer Needs Survey indicate that half are not able to hire the workers they need. They cite a lack of employability skills (65 percent), technical skills (49 percent), and overall education (43 percent) (Labor and Economic Analysis Division, 2018).

To address these requirements, every North Carolina student should receive rigorous academic and career preparation from well-prepared teachers and school leaders. In addition, schools must provide each student with opportunities to engage in college-level coursework and to explore multiple career pathways. Finally, while students need to be ready for each level of education, every institution – from pre-kindergarten to postsecondary – also needs to be student-ready. In order to ensure that every student is prepared to meet the demands of our growing economy, each individual must have access to a student-centered education that optimizes her or his academic and career preparation.

The task does not end with academic preparation and acquisition of technical skills alone. Across all education sectors, North Carolina should also help students improve social-emotional skills, like self-regulation and communication, as well as transferable skills, like problem-solving and critical thinking, alongside the more specific skills each employer needs.

- i. **Goal:** All students, especially students in high-poverty schools and low wealth districts, will have equitable access to postsecondary and career-readiness opportunities, including dual enrollment coursework and high quality, rigorous pathways leading to a career-ready credential.
- ii. **Action Steps Initiated in Fiscal Year 2021:**
 1. Provide recurring funding for Cooperative Innovative High Schools approved to open from 2018-2021. This action step requires a recurring appropriation to achieve the stated goal beginning in this fiscal year.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iii. **Action Steps to be Initiated in Fiscal Year 2022:**
 1. Revise the funding approach for the North Carolina Virtual Public School to remove barriers that prevent students in low-wealth districts from participating. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 2. Expand funds for credentials and certifications for Career and Technical Education students. This action step requires incremental recurring increases in funding through fiscal year 2028.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
 3. Adopt the necessary policies to allow school calendar flexibility to ensure that local schools can align with community college and university schedules. There are no costs associated with this action step.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction
- iv. **Action Steps to be Initiated in Fiscal Year 2023:**
 1. Provide funds for the NC Department of Public Instruction, in collaboration with the Office of State Budget Management, to examine barriers and supports impacting all students' ability to complete high school courses leading to college credit, an associate degree, or a career-ready credential, including an examination of access, equity, resources, fees, and personnel. This action step requires a non-recurring appropriation.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Community College System, University of North Carolina
 2. Provide recurring funding for up to three additional Cooperative Innovative High Schools annually if approved by the NC State Board of Education. The NC State Board of Education may limit approval to school districts without a Cooperative Innovative High School. Cost estimates for this action step will be determined on the basis of the number of schools approved.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Community College System, University of North Carolina
- v. **Action Steps to be Initiated in Fiscal Year 2024:**
 1. In accordance with the study above, expand funds to remove barriers to economically disadvantaged students' participation in the Career and College Promise program, dual enrollment, and advanced coursework, including by providing course fees, textbooks, and transportation costs. Cost estimates for this action step will be determined on the basis of the study.

- a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction, NC Community College System, University of North Carolina

C. Strengthen college and career advising for high school students.

About one-quarter of EducationNC survey respondents rated “better guidance about successfully moving between education levels” as the most helpful way to increase educational attainment among students in their community. Postsecondary students who took part in myFutureNC’s listening tour said that, of all their transitions along the continuum, they struggled most with the transition from high school to postsecondary (myFutureNC, 2020). The challenge begins in high school, when students first wrestle with the admissions and course transfer processes. Once enrolled, they identified navigating what for many of them was an entirely new school structure – from course scheduling to classroom expectations to planning a course of study to constantly managing financial aid– as a sometimes overwhelming challenge.

Parents face similar challenges when their students make the switch from high school to postsecondary. These challenges can be particularly acute for parents of first-generation college students. As one listening tour student participant put it, every student and family needs at least one go-to personal connection “who knows more about the student than a test score” (myFutureNC, 2020).

In order to choose the best path to personal attainment, each student should understand all the options available and should receive the guidance necessary to weigh various paths against each other. This broader perspective about postsecondary options from a trained advisor is the first step toward raising the aspirations of potential new and returning students who otherwise may not realize that a wider array of viable postsecondary options exists than they may have first suspected.

- i. **Goal:** All high school students will have college and/or career advisors that provide guidance that allow them to plan for, pursue, and attain their postsecondary education and career goals.
- ii. **Action Steps Initiated in Fiscal Year 2021:**
 - 1. Provide support to the NC Community College System (NCCCS) Career Coaches program, which places career coaches employed by local community colleges with partnering high schools, prioritizing at risk students. Funding previously appropriated via SL 2019-235 expands the NCCCS Career Coaches program and places Career Coaches employed by local community colleges with partnering high schools. This action step is achievable within existing funds.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, NC Community College System
- iii. **Action Steps to be Initiated in Fiscal Year 2022:**
 - 1. Provide matching funds to the College Advising Corps to expand the placement of college advisers in low wealth districts in North Carolina public schools. This action step requires incremental recurring increases in funding through fiscal year 2023.
 - a. **Responsible Parties:** NC General Assembly, NC Office of the Governor, University of North Carolina, College Advising Corps
 - 2. Provide funds for a Career and Postsecondary Planning Director in NCDPI’s Division of Career and Technical Education to ensure a cohesive, collaborative approach to career planning in grades 5-12, and incrementally increase funds to provide one Career Development Coordinator for every 1,000 students in grades 6-8 and one Career Development Coordinator for every 500 students in grades 9-12 in the State beginning in FY 2023. Coordinators will provide adequate, appropriate, and aligned student-centered

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advising that focuses on academic decision making and support, social and emotional learning, and college and career preparation and awareness. Career Development Coordinators and other student services personnel will also work with students to provide Career Development Plans for every student in grades 9-12 in the State. This action step requires incremental recurring increases in funding through fiscal year 2028.

- a. Responsible Parties:** NC General Assembly, NC Office of the Governor, NC State Board of Education, NC Department of Public Instruction

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