

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 95 CVS 1158

HOKE COUNTY BOARD OF)
EDUCATION et al.,)

Plaintiff-Appellants,)

and)

CHARLOTTE-MECKLENBURG)
BOARD OF EDUCATION,)

Plaintiff-Intervenors-)
Petitioners,)

v.)

**CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION'S
RESPONSE TO THE STATE OF
NORTH CAROLINA'S ACCOUNTING
OF FUNDS OWED IN LIGHT OF THE
2022 BUDGET**

STATE OF NORTH CAROLINA and)
THE STATE BOARD OF)
EDUCATION,)

Defendant-Appellees,)

and)

CHARLOTTE-MECKLENBURG)
BOARD OF EDUCATION)

Realigned Defendants)
Petitioners.)

Pursuant to the court's March 13, 2023, Scheduling Order and Notice of Hearing, the Charlotte-Mecklenburg Board of Education ("CMS Board") hereby responds to the State of North Carolina's accounting dated December 19, 2022.

1. The North Carolina Supreme Court's November 4, 2022 decision in this case, *Hoke County Bd. of Educ. v. State*, 382 N.C. 386, 879 S.E.2d 193 (2022) ("*Leandro IV*"), *inter alia*, remanded the case "to the trial court for the narrow purpose of recalculating the amount of funds to be transferred in light of the State's 2022 Budget." *Id.* at 391, 879 S.E.2d at 198-99.

2. With respect to that recalculation, the parties previously agreed and submitted to the court a proposed schedule of submissions on that issue, whereby the State would submit by December 19, 2022, its accounting showing any recalculations in light of the State's 2022 Budget, and whereby the other parties would respond by January 20, 2023.

3. Consistent with that schedule, the State of North Carolina submitted its accounting on December 19, 2022, which was accompanied by an affidavit from the Chief Deputy Director of State Budget for the North Carolina Office of State Budget and Management and accompanying exhibits setting forth, *inter alia*, the remaining amounts of funding required to implement the action items in the Comprehensive Remedial Plan years 2 and 3 (the "State's submission").

4. Based on that accounting, the State calculated the following amounts owed to the following State agencies in order to fund implementation of the Comprehensive Remedial Plan years 2 and 3:

- Department of Health and Human Services ("DHHS"): \$133,900,00;
- Department of Public Instruction ("DPI"): \$509,701,707; and
- University of North Carolina System: \$34,200,000.

5. On January 20, 2023, the Plaintiffs and the Plaintiff-Intervenors jointly submitted a response to the accounting, indicating that they had reviewed the State's submission and

related materials and did not dispute the accuracy of the State's accounting. No other parties submitted responses at that time.

6. At the status conference held on March 10, 2023, the Legislative Intervenors requested additional time to respond to the State's accounting. In its March 13, 2023, Scheduling Order and Notice of Hearing, the court permitted any parties to submit additional "briefing and/or affidavit evidence" addressing the Supreme Court's instruction for the "trial court to recalculate the appropriate distributions in light of the State's 2022 Budget." *Leandro IV*, 382 N.C. at 476, 879 S.E.2d at 249.

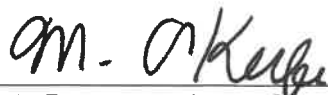
7. The CMS Board, having reviewed the State's submission, hereby joins the other Plaintiff Parties in informing the Court that it does not dispute the facts as set out in the affidavit or the accuracy of the State's recalculation of the remaining amount of funds needed to fully fund years 2 and 3 of the Comprehensive Remedial Plan.

8. Therefore, the CMS Board respectfully requests the Court enter an order that the following recalculated amounts are owed to the following State agencies:

- Department of Health and Human Services ("DHHS"): \$133,900,00;
- Department of Public Instruction ("DPI"): \$509,701,707; and
- University of North Carolina System: \$34,200,000.

Respectfully submitted, this the 15th day of March 2023.

THARRINGTON SMITH, L.L.P.


Neal A. Ramee, N.C. Bar No. 31745
David B. Noland, N.C. State Bar No. 53229
150 Fayetteville Street, Suite 1800
Post Office Box 1151

on behalf of N. Ramee

Raleigh, NC 27602-1151

Telephone: (919) 821-4711

Facsimile: (919) 546-0489

nramee@tharringtonsmith.com

dnoland@tharringtonsmith.com

*Attorneys for Charlotte-Mecklenburg Board
of Education*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Charlotte-Mecklenburg Board of Education's Response to the State of North Carolina's Accounting of Funds Owed In Light of the 2022 Budget** was served on all parties by filing a copy with the North Carolina E-Courts electronic filing service and by U.S. Mail to the attorneys listed below:

JOSHUA H. STEIN ATTORNEY
GENERAL
Amar Majmundar
Senior Deputy Attorney General
N.C. DEPARTMENT OF JUSTICE
P.O. Box 629
Raleigh, NC 27602
Attorney for State of North Carolina

Melanie Black Dubis
Scott E. Bayzle
Catherine G. Clodfelter
PARKER POE ADAMS
& BERNSTEIN LLP
P. O. Box 389
Raleigh, NC 27602-0389
Attorneys for Plaintiffs

Matthew Tulchin
Tiffany Lucas
N.C. DEPARTMENT OF JUSTICE
114 W. Edenton Street
Raleigh, North Carolina 27603
Attorneys for State Board of Education

David Hinojosa
LAWYERS COMMITTEE FOR CIVIL
RIGHTS UNDER LAW
1500 K Street NW, Suite 900
Washington, DC 20005
Attorney for Penn-Intervenors

Thomas J. Ziko
STATE BOARD OF EDUCATION
6302 Mail Service Center
Raleigh, NC 27699-6302
Attorney for State Board of Education

Christopher A. Brook
PATTERSON HARAVY LLP
100 Europa Drive, Suite 4200
Chapel Hill, NC 27517
Attorney for Penn-Intervenors

Robert N. Hunter, Jr.
HIGGINS BENJAMIN, PLLC
301 North Elm Street, Suite 800
Greensboro, NC 27401
Attorney for Petitioner Combs

Michael Robotti
BALLARD SPAHR LLP
1675 Broadway, 19th Floor
New Yor, NY 10019
Attorney for Penn-Intervenors

H. Lawrence Armstrong, Jr.
ARMSTRONG LAW, PLLC
119 Whitfield Street
Enfield, NC 27823
Attorney for Plaintiffs

Matthew F. Tilley
Russ Ferguson
Michael A. Ingersoll
WOMBLE BOND DICKENSON, LLP
One Wells Fargo Center, Suite 3500
301 S. College Street
Charlotte, NC 28202-6037
Attorneys for Legislative Intervenors

This the 15th day of March, 2023.

THARRINGTON SMITH, L.L.P.

 on behalf of
N. Ramee

Neal A. Ramee, N.C. Bar No. 31745

David B. Noland, N.C. State Bar No. 53229

150 Fayetteville Street, Suite 1800

Post Office Box 1151

Raleigh, NC 27602-1151

Telephone: (919) 821-4711

Facsimile: (919) 546-0489

nramee@tharringtonsmith.com

dnoland@tharringtonsmith.com

*Attorneys for Charlotte-Mecklenburg Board
of Education*