

NORTH CAROLINA SUPREME COURT

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,

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,

Realigned Defendant.

From Wake County

BRIEF OF *AMICUS CURIAE*

MICHAEL F. EASLEY, GOVERNOR OF NORTH CAROLINA, 2001-2009

Index

TABLE OF AUTHORITIES.....	ii
STATEMENT OF INTEREST	2
ARGUMENT.....	4
I. The Legislature and My Administration Properly Responded to <i>Leandro I</i> with the More at Four Pre-Kindergarten Program.....	4
II. After <i>Leandro II</i> , We Expanded More at Four and Created Additional Programs to Provide Constitutional Educational Opportunity.....	8
1. Assault on Poverty through Schools	9
2. More at Four Expansion and Success	10
3. High School Remedies	12
CONCLUSION.....	15
CERTIFICATE OF SERVICE.....	18
APPENDIX.....	21

Table of Authorities

CASES	PAGE(S)
<i>Hoke County Bd. of Educ. v. North Carolina</i> , 358 N.C. 605, 599 S.E.2d 365 (2004)	8, 11, 14, 15
<i>Leandro v. State of North Carolina</i> , 346 N.C. 336, 488 S.E.2d 249 (1997)	2, 3, 4, 15
 REPORTS	
Improving Student Achievement: What State NAEP Test Scores Tell Us.....	4
National Education Association, NEA Research: Rankings of the States 2012 & Estimates of School Statistics 2013	7
North Carolina Department of Commerce, State of the N.C. Workforce	6
Public Schools of N.C., Evaluation of More at Four State Pre-Kindergarten: The First Ten Years, Department of Public Instruction	11
 SPEECHES	
North Carolina State of the State Address (Feb. 19, 2001)	5
North Carolina State of the State Address (Mar. 3, 2003).....	6, 7
North Carolina State of the State Address (Feb. 21, 2005)	9, 10, 11, 13
North Carolina State of the State Address (Feb. 19, 2007) ...	14
 STATUTES	
N.C. Gen. Stat. § 18C-101 et seq. (2005)	11

STATEMENT OF INTEREST

The Attorney General's position that there was no State commitment to pre-kindergarten programs as a means of complying with the *Leandro* decisions is incorrect and at odds with the facts and history. *Leandro v. State*, 346 N.C. 336, 488 S.E.2d 249 (1997) ("*Leandro I*"); *Hoke County School Board v. State*, 358 N.C.605, 599 S.E.2d 365 (2004) ("*Leandro II*"). The Administration's commitment to *Leandro I and II* is evidenced by the State of the State Addresses announcing each remedy to be implemented, Executive Orders enabling the remedies and the legislation enacting those remedies to meet our commitment to the constitutional mandate of *Leandro I and II*. Further, at my request the State Superintendent of Public Instruction and State Board of Education Chair committed the State to specific responses in a formal letter to the trial court, dated October 25, 2004, promising the remedies being pursued as a response to *Leandro II*.¹ That formal communication set out a plan that was followed and was considered by our Administration to have the impact of a judicial decree. Even a cursory review of the history of the Administration and Legislative action of 2001 through 2009 negates the Attorney General's suggestion that a commitment did not exist to provide a remedy to *Leandro I and II*. This resolute commitment by the State, impacting matters so grave as the education of tens of thousands of children

¹ This letter is attached as Appendix 1.

cannot be cast aside as mere educational aspirations especially with no alternative remedy in place.

INTRODUCTION

Leandro I recognized the Constitutional right to “an opportunity for sound basic education” for North Carolina children. Our Administration concluded that action was required to comply with *Leandro* and to improve educational opportunity in the State. Although the Court gave broad latitude to us to form remedies, we assumed that failure to act, even before *Leandro II*, would result in mandates or sanctions from the Court. *Leandro I* thus created the backdrop for a continuous, bipartisan, data-driven remedy that both the Legislative and Executive branches came to embrace.

That long-term, bipartisan remedy did not come without cost. Unpopular revenues had to be raised while the state was deep in recession. Some Legislators from both parties lost their seats in an effort to protect and improve education and keep their commitment to the Constitution and the Court. They recognized that a budget shortfall could not become an education shortfall, and that young minds were perishable commodities that could not be placed on a shelf waiting for better economic times.

More at Four was a cornerstone of the *Leandro* remedies created by my Administration and the Legislature.² Led by More at Four, as well as class size reduction in grades K-3, increased teacher pay, the Learn & Earn program, and EARN grants, education programs successfully reduced the achievement gap, increased graduation rates, and better prepared the North Carolina workforce, in accord with both *Leandro* decisions. Still much remains to be done.

But the momentum in the response to *Leandro* and the remedies to which my Administration and legislatures of more than a decade committed came to a screeching halt in 2011. That Legislature presided over the hasty undoing of decades of education progress as well as the specific remedies enacted and designed to respond to the Supreme Court in the *Leandro* case. Failing to provide a remedy for the unconstitutional system of education directly violates the Court's orders. Further, dismantling the State's remedy without a new and better response assures a regression in the gains made toward a constitutional system of education.

ARGUMENT

I. The Legislature and my Administration Properly Responded to *Leandro I* with the More at Four Pre-Kindergarten Program.

The 2001 State of the State address announced two new education initiatives: More at Four and class size reduction in grades K-3. At the time, North

² Copies of Executive Orders implementing pre-kindergarten programs in response to *Leandro I* and *II*, which are maintained by the State Archives, are included in Appendix 2.

Carolina was in a deep budget shortfall and a state of Fiscal Emergency that lasted until 2003. Nonetheless, propelled by *Leandro I*, I asked for and received a tax increase to pay for these necessary educational programs. Despite difficult economic times, we made aggressive commitments to education, and kept them.

More at Four and the class size reduction program were based on studies that provided a road map for educational improvement, and on the support of teachers, education groups, and the North Carolina Business Committee for Education (“NCBCE”).³ Both the Tennessee STAR Program and the Rand Corporation advanced powerful evidence that high quality pre-kindergarten programs for “at risk” children combined with class sizes of 18 or less in grades K through 3rd grade would reduce the achievement gap among socioeconomic groups, regions and race.⁴ The NCBCE, which met regularly to review proposals and promote curricula necessary for a 21st Century workforce, provided an important business perspective on these educational needs for the economy. Accordingly, the 2001 State of the State address introduced More at Four:

Tonight, I’m proposing a two-part initiative designed to give children the boost they need during their early learning years.

First, the creation of a voluntary statewide pre-kindergarten program to prepare at-risk four-year olds for school. We know it works. Each year, our state lets thousands of at-risk four-year olds go

³ The membership of the NCBCE is listed as Appendix 2.

⁴ Grissmer, Flanagan, Kawata & Williamson, *Improving Student Achievement: What State NAEP Test Scores Tell Us*, Santa Monica, CA: RAND Corporation, (2000) available at: http://www.rand.org/pubs/monograph_reports/MR924.

without the help they need. There's no excuse. Those children deserve the chance to succeed. Pre-k programs are already making progress in 40 other states... Our children deserve the same opportunity.

Next, we must take steps to ensure that the progress made in pre-k won't be lost in grade school. We must reduce class size to 18 or below in grades K-3.⁵

To accomplish this despite the State's dismal budgetary position, we sought a temporary tax increase to protect education.⁶ The Legislature approved all three proposals: More at Four, the class size reduction, and the tax increase to pay for them. Further, the Legislature implemented class size reduction in kindergarten for 2001 and committed to do 1st, 2nd and 3rd grades each succeeding year so that a child beginning school that year would have the benefit of the 18-member classes straight through 3rd grade. Thus, we made a four-year commitment to dramatically improve educational opportunity for all children across the State.

That commitment was kept despite even leaner times after September 11, 2001. Between 2001 and 2004, the State had to make unplanned expenditures on new security measures, and also faced a deep recession. At the same time, North Carolina lost hundreds of thousands of textile and furniture jobs.⁷ The membership

⁵ North Carolina State of the State Address (Feb. 19, 2001), *available at*: <http://www.pewstates.org/projects/stateline/headlines/north-carolina-state-of-the-state-address-2001-85899394218>.

⁶ *See id.*

⁷ The net loss of jobs in North Carolina between 2001 through 2003 exceeded 158,000. Bureau of Labor Statistics SAE Data, *N.C. State and Area Employment, Hours, and Earnings* (from 2000-2003), Databases, Tables & Calculators, July 18, 2013, *available at*: <http://www.bls.gov/sac/data.htm>.

of the Legislature turned over, and the State had a dual-party Speakership in the House in 2003 and 2004. Despite these economic, financial, and political challenges, we protected the classroom from budget cuts by the state.

In fact, the 2003 State of the State address called for new education revenue, continued expansion of More at Four, and further class size reduction:

Two years ago, we were one of only two Southern states that had no pre-k program. Today, we have More at Four, which will serve 10,000 four-year-olds in 91 counties this year.

We had kindergarten classes packed with 30 students. Today, kindergarten and first grade classes have been reduced to 18, and we are starting on second and third grade this year...We will make sure at-risk four-year-olds attend pre-k through More at Four.

Now I heard you loud and clear last year that you do not want a lottery in the budget. But now you hear me – and a strong majority of our people – loud and clear. We want to keep North Carolina education money in North Carolina

The people want a separate Education Lottery Fund, just like the Highway Fund.⁸

Thereafter, in spite of a weak economy and a divided Legislature, a bipartisan coalition extended the temporary revenue increase of 2001 to 2005, kept its commitment to lower class size in grades 2 and 3 to 18 students, raised teacher pay, and fully funded all enrollment increases for pre-kindergarten through the state universities and community colleges.⁹ More at Four in particular expanded

⁸ North Carolina State of the State Address (Mar. 3, 2003), *available at*: <http://www.pewstates.org/projects/stateline/headlines/north-carolina-state-of-thestate-address-2003-85899394302>.

⁹ Appendix 1. Teacher pay also increased 40 percent between 2000 and 2009. N.C. Public School Personnel State Salary Manual, *Fiscal Year N.C. School Salary Schedules*, N.C.

its enrollment to 10,800 students, the highest level possible while building a quality program.

More at Four aimed to give all students in every corner of every county of the state access to a constitutional and superior education. To meet this commitment, More at Four planned to eventually enroll 40,000 students at an estimated annual cost of \$160,000,000.¹⁰ Educating “at risk” four year olds had a dual purpose. First, it would ensure that all children had an opportunity to reach their full potential regardless of economic condition. Second, it would prevent entire classes from being delayed by those not ready to keep pace. More at Four thus would help all children move through elementary school, assisting the at-risk students and protecting the others so that the entire class could thrive. Those students not “at risk” have a constitutional right to “a sound basic education” as well and More at Four assured that their classmates would not be an impediment to their pace of learning.

II. After *Leandro II*, We Expanded More at Four and Created Additional Programs to Provide Constitutional Educational Opportunity.

In 2004, *Hoke County Bd. of Educ. v. North Carolina*, 358 N.C. 605 (2004) (*Leandro II*) mandated that the State formulate specific remedies to provide “an opportunity for a sound basic education.” To implement *Leandro II*, the State

Department of Public Instruction (July 18, 2013), *available at*: www.ncpublicschools.org/fbs/manuals.htm.

¹⁰ Appendix 1.

continued to expand More at Four and apprised the Court of its plans, progress, and success.¹¹ We also created more programs, focusing on addressing poverty and improving high school education, all of which are contained in the commitment Letter to the Court in 2004. *See Appendix 1.*

1. Assault on Poverty through Schools

Because the poorest children were not making gains as fast as others, the 2005 State of the State addressed poverty and submitted a plan consistent with the State commitment to the Court:

We cannot support a system of education that discriminates against even one child in North Carolina. My budget will fully fund the low-wealth formula over two years, an increase of over 50 percent, to see that all children receive the same opportunities as the rest of North Carolina, not because it is law, but because it is right and just and fair.

If we are to close the achievement gap, increase the graduation rate, and prepare every student for the global economy, we must address the whole child.

We need social service and school staff working together in our schools to connect students and their families to the help they need. The services are already available in every county. We just have to connect them with the schools.¹²

The plan passed the Legislature, and these programs were funded consistent with the letter to the trial court of 2004.¹³ First, Child and Family Services support

¹¹ *Id.*

¹² North Carolina State of the State Address (Feb. 21, 2005), *available at* <http://www.pewstates.org/projects/stateline/headlines/north-carolina-state-of-thestate-address-2005-85899394395>.

¹³ N.C. State Lottery Act, § 18C-101 *et seq.* (2005).

groups were assigned to the most at-risk elementary schools. This brought all existing social and counseling services directly to the child at his or her school, because those in poverty had little ability to access the services otherwise. Elementary and middle schools received more school nurses and counselors to attend to health issues that affected educational achievement. Additionally, our Administration created a \$12,000,000 Disadvantaged Student Supplemental Fund (“DSSF”) to target children who were at-risk due to poverty, a single parent, or parents with little or no education.¹⁴ These programs were all undertaken with an eye toward *Leandro* and with the goal of improving education in North Carolina, consistent with the Court’s constitutional mandate.

2. *More at Four Expansion and Success*

The Legislature continued its commitment to *Leandro* in 2005 when it passed the Education Lottery that my Administration had requested in 2003.¹⁵ The first 50% of funds were designated for More at Four, then for class size reduction. Any residual funds would go to school construction and college scholarships.¹⁶

The More at Four data, though still incomplete in 2007, showed a clear reduction in the achievement gap. All types of More at Four students made

¹⁴ Press Release, “Gov. Easley Directs Resources to Disadvantaged School Districts,” (July 29, 2004), *available at*:

<http://digital.ncdcr.gov/cdm/collection/p16062coll5/id/4557/rec/33670>.

¹⁵ N.C. State Lottery Act, § 18C-101 *et seq.* (2005).

¹⁶ N.C. Gen. Stat. § 18C-164 (2005).

significant gains. By 2008, those children who were not so impoverished as to receive free or reduced lunches closed their achievement gap by 81 percent in reading. The more impoverished students improved by 37 percent. Math numbers followed the same pattern.¹⁷ These numbers were reported to the *Leandro* Court as evidence of progress toward the commitment made by the State. In fact, More at Four was named one of the best pre-K programs in America.¹⁸

The State's commitment to this remedy continued as More at Four expanded. By 2009, it enrolled nearly 32,000 students, and was paid for by \$170,000,000 in lottery funds. Even when Executive Orders were necessary to support the program, the Legislature always followed suit and funded it during the next budget session. In 2011, on the tenth anniversary of More at Four, a Frank Porter Graham Institute study found that there had been a significant reduction in the achievement gap for those students who attended the program.¹⁹ More at Four

¹⁷ Public Schools of N.C., *Evaluation of More at Four State Pre-Kindergarten: The First Ten Years*, Dep't of Pub. Instruction, 35-38, (July 18, 2013), available at: <http://www.ccpfc.org/board-committees/11-0331-board-packet-material/11-0331-board-packet.pdf>. The economic status achievement gap for ex-More at Four children who did not receive a free or reduced lunch at third grade was reduced 81 percent by 2008 in both reading and math. For those on free or reduced lunches, the gap was reduced between 24 and 37 percent.

¹⁸ *More at Four Named One of The Nation's Top Pre-K Programs for the Sixth Consecutive Year*, North Carolina Department of Public Instruction News Releases, April 26, 2011, available at: <http://www.dpi.state.nc.us/newsroom/news/2010-11/20110426-01>. In fact, More at Four tied with an Alabama program as the best in the country. *N.C. tied with A.L. for the best program in the Country*, Greenville Advocate, April 17, 2012, available at: <http://www.greenvilleadvocate.com/2012/04/17/state%E2%80%99s-pre-k-program-receives-top-ranking/>.

¹⁹ See *supra*, note 15.

has been a long process with 12 years of data to support it, and noteworthy success in helping deliver “an opportunity for sound basic education” for all North Carolina children.

3. *High School Remedies*

By 2005, the Legislature had funded over \$1 billion in new money to create “opportunity for a sound basic education” for all children in the early grades of public schools. But the education system as a whole still produced only a 68% graduation rate.²⁰ So, we pushed forward with additional improvements aimed at high school specifically.

The 2005 State of the State address unveiled a plan to reduce the high school dropout rate as per the commitment a year earlier. The plan was also designed to make high school more meaningful in the work place so that the diploma had more value. First, I asked for an expansion of the pilot “Learn and Earn,” or L&E system, under which a five-year program would produce both a high school diploma and an associate’s degree:

²⁰ National Institute for Early Education Research (NIEER), *State Graduation Rate is Highest in N.C. History*, North Carolina Department of Public Instruction News Releases, August, 2, 2012, available at: <http://www.ncpublicschools.org/newsroom/news/2012-13/20120802-02>.

I want all 9th graders to hear this. By the time you reach 12th grade, no matter where you live, you will have the opportunity to receive a two- year college degree with just one extra year of school...

You funded these pilot programs last year. This innovative project is called Learn and Earn... We are taking this initiative statewide over four years. Everybody wins. Our workforce gets better skilled and more attractive. And students get a better education, and a better job.²¹

A total of 70 new L&E high schools opened around the state. They were a huge success, and the graduation rate for the L&E early colleges leveled off at 94 percent. And, although the L&E students are primarily drawn from families with no history of college, those who go on to pursue a bachelor's degree have a higher graduation rate than the rest of the college population. In recognition of this success, the Learn and Earn program won the prestigious Harvard Award for Innovation in 2008.²²

Similarly, in 2007 we unveiled a plan for EARN grants that would cover the second two years of college. EARN grants, combined with Pell grants, would be offered to students under 200 percent of the poverty line, such that if the student worked summers or 10 hours a week, he or she could graduate from a four-year

²¹ North Carolina State of the State Address (Feb. 21, 2005), *available at*: <http://www.pewstates.org/projects/stateline/headlines/north-carolina-state-of-the-state-address-2005-85899394395>.

²² Ann MacArthur, *Learn and Earn*, Harvard Kennedy School Ash Center for Democratic Governance and Innovation, 2008, *available at*: <http://www.innovations.harvard.edu/awards.html?id=121211>. Today, North Carolina boasts one-third of all early colleges in America. *N.C. Leads Nation in Number of Early College High Schools*, North Carolina Department of Public Instruction News Releases, May 3, 2010, *available at*: <http://www.ncpublicschools.org/newsroom/news/2009-10/20100503-01>.

college debt free. Like the L&E program, EARN grants were part of the *Leandro* II remedy commitment, and the Legislature enacted them.

My budget will provide students in low- and moderate-income families with a grant for a college education...

With every opportunity comes accountability. We will supply a grant, but you have to keep your grades up and be willing to work 10 hours a week. If you do, you can graduate from college in North Carolina debt free.²³

Finally, to address the lowest-performing high schools in the State, I used an Executive Order to create High School Turn Around teams.²⁴ At its next session, the Legislature adopted the program and fully funded it under *Leandro*.

In the end, aided by these programs, the high school graduation rate increased from 68 percent in 2006 to 80 percent by 2010.²⁵ Thousands of young adults in North Carolina benefited, and many who otherwise may have dropped out instead now hold a diploma, associate's degree, or a bachelor's degree.

²³ North Carolina State of the State Address (Feb. 19, 2007), *available at*: <http://www.pewstates.org/projects/stateline/headlines/north-carolina-state-of-the-state-address-2007-85899394484>.

²⁴ Press Release, Easley Wants Special Teams in Schools, Pursuant to Executive Order (2005), *available at*: <http://coastal.news14.com/content/search/564653/easley-wants-special-teams-in-schools/>.

²⁵ See *supra*, note 18.

These programs, to which the Administration and Legislature committed, especially More at Four, are overwhelmingly successful in addressing the *Leandro* mandates and pursuing the constitutional requirement of educational opportunity. If these remedies are to be discontinued or curtailed then fundamental fairness and constitutional principle require that they be replaced with a proven equally effective response to *Leandro*. Failing to provide More at Four to the “at risk” children as originally defined will cause regression to a discriminatory system of education—a larger achievement gap among the races, regions and socioeconomic groups in North Carolina.

Unwittingly building a system of education that discriminates against a segment of the population would be bad enough. Failing to correct that is intolerable. But reverting, by intent and design, to such a system of discrimination is unconscionable, unconstitutional, and represents an impudent dismissal of the judicial branch of government.

Respectfully submitted, this the 24th day of July, 2013

By: 

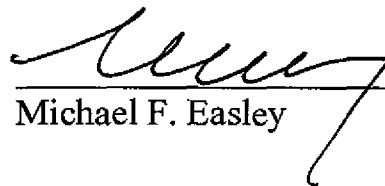
Michael F. Easley
N.C. State Bar No. 7098
Post Office Box 17334
Raleigh, N.C. 27619
mike.easley@easleylawgroup.com

[This page is blank for the purpose of pagination.]

CERTIFICATE OF COMPLIANCE WITH RULE 28(J)(2)(B)

The undersigned hereby certifies that the foregoing brief complies with Rule 28(j)(2)(B) of the Rules of Appellate Procedure in that, according to the word processing program used to produce this brief, the document does not exceed 3,750 words, exclusive of cover, index, table of authorities, certificate of compliance with word limits, certificate of service, and appendices.

This the 24th day of July, 2013.



Michael F. Easley

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was this day filed with the North Carolina Supreme Court, and that a copy was also duly served upon all parties to this appeal by depositing said copies in a depository of the United States Postal Service, first-class, postage prepaid, addressed as follows:

John F. Maddrey
Solicitor General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
Counsel for Defendant-Appellants

Ann L. Majestic, Esquire
Tharrington, Smith L.L.P.
209 Fayetteville Street Mall
P.O. Box 1151
Raleigh, NC 2760
*Counsel for Plaintiff-
Intervenors/Realigned Defendant*

Robert W. Spearman
Melanie Black Dubis
Scott E. Bayzle
Parker Poe Adams & Bernstein, L.L.P.
P.O. Box 389
Raleigh, NC 27602
Counsel for Plaintiff-Appellees

James G. Exum
Matthew N. Leerberg
Smith Moore Leatherwood LLP
300 North Greene St., Suite 1400
Greensboro, NC 27401
*Counsel for Defendant-Appellee State
Bd. of Education*

H. Lawrence Armstrong, Jr., Esquire
Armstrong Law, PLLC
119 Whitfield St.
P.O. Box 187
Enfield, NC 27823
Counsel for Plaintiff-Appellees

Mark Dorosin
Taiyyaba A. Qureshi
University of North Carolina
School of Law
Center for Civil Rights, CB 3382
Chapel Hill, NC 27599
Counsel for Plaintiff-Intervenors

Amicii Counsel:

Susan Pollitt
Post Office Box 2446
2626 Glenwood Avenue (27608)
Raleigh, North Carolina 27602
*Counsel for Disability Rights North
Carolina*

Thomas M. Stern
400 W. Main Street, # 501
Post Office Box 2206
Durham, North Carolina (27702)
*Counsel for North Carolina Association
of Educators*

Gregory C. Malhoit
123 Forest Road
Raleigh, North Carolina 27605
*Counsel for the Rural School and
Community Trust*

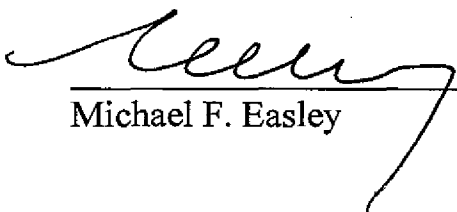
Christine Bischoff
Carlene McNulty
N.C. Justice Center
Post Office Box 28068
Raleigh North Carolina 27611
*Counsel for North Carolina Justice and
Community Development Center*

Allison B. Schafer, General Counsel
North Carolina School Boards
Association
P. O. Box 97877
Raleigh, NC 27624-7877
*Counsel for Amicus Curiae North
Carolina School Boards Association*

Robert F. Orr
Edwin M. Speas, Jr.
John W. O'Hale
Poyner Spruill LLP
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
*Counsel for Amici Curiae North
Carolina School Boards Association
and National School Boards Association*

Erwin Byrd
Lewis Pitts
Advocates for Children Services
Legal Aid of North Carolina, Inc.
Post Office Box 2101
Durham, North Carolina 27702
*Counsel for Advocates for Children's Services of Legal Aid of North
Carolina*

This the 24th day of July, 2013.



Michael F. Easley

APPENDIX

1



PUBLIC SCHOOLS OF NORTH CAROLINA

STATE BOARD OF EDUCATION :: Howard N. Lee, *Chairman*

WWW.NCPSCHOOLS.ORG

DEPARTMENT OF PUBLIC INSTRUCTION :: Patricia N. Willoughby, *State Superintendent*

October 25, 2004

The Honorable Howard Manning, Jr.
Superior Court Judge
Wake County Courthouse
Post Office Box 351
Raleigh, North Carolina 27602-0351

Dear Judge Manning:

The State of North Carolina is committed to ensuring that all children receive an education that prepares them for the future. Our priority is to make sure that every child, in every community, has access to a quality education with competent teachers, effective principals, and adequate resources.

To that end, it has been a priority of the state to ensure that children begin school ready to learn, that they enter a school that has class sizes low enough to provide individual attention, are taught by qualified teachers, and are expected to meet high standards of excellence. In the last few years, the state has made major gains in each of these areas. However, there is more that can be done to ensure that all students, and in particular, at-risk students, are afforded the educational resources and opportunities for a high quality education.

Over the last few weeks and months the State Board of Education and the Department of Public Instruction have been engaged in a series of discussions with education leaders and interested parties about the development of a long-range plan based on the progress of the Disadvantaged Student Supplemental Fund pilots in sixteen counties. With the Governor's charge and collaboration, we have developed the attached action plan. The components of this plan are grounded in research and proven practices.

Sincerely,

Howard N. Lee

Patricia N. Willoughby

HNL/PNW/gnd

OFFICE OF THE STATE SUPERINTENDENT
6301 Mail Service Center :: Raleigh, North Carolina 27699-6301 :: 919.807.3430 :: Fax 919.807.3445
An Equal Opportunity/Affirmative Action Employer



EXECUTIVE SUMMARY

The State of North Carolina is committed to ensuring that all children receive the opportunity to obtain an education that prepares them for further education beyond high school, skilled jobs and careers in a changing workforce, and the responsibilities of citizenship in a democratic society. Furthermore, the State is committed to ensuring that all children have (1) a competent teacher, (2) an effective principal, and (3) adequate resources to meet high academic standards.

The State has demonstrated a commitment to target resources to meet the needs of at-risk students. Among other programs, the Governor, the State Board of Education and the General Assembly have recently created and funded the following:

- The More at Four Pre-kindergarten Program for at-risk four-year-olds
- A K-3 class size reduction initiative
- The High Priority Schools Act
- The Local Education Agency Assistance Program to provide assistance to poorly performing districts
- The New Schools Project to reform high schools

Most recently, the Governor identified \$22 million for use by the State Board of Education to implement the Disadvantaged Students Supplemental Fund (DSSF). The DSSF Program provides targeted resources to assist at-risk students in 16 school districts marked by low student performance, low teacher experience, high poverty, high teacher turnover.

The State remains committed to these important efforts. Nevertheless, State education leaders understand that more remains to be done to improve the achievement of at-risk students and ensure that every student has the opportunity to obtain a high quality education. Towards that end, the State is committed to 1) expanding and enhancing existing initiatives and 2) developing select new initiatives targeted to meet the needs of at-risk students.

Consistent with that commitment, the State intends to construct, prior to the start of the 2005 Legislative session, a detailed plan. The State recognizes that legislative appropriations will be needed to implement elements of this plan. The plan includes the following components:

EXPAND EXISTING PROVEN PROGRAMS

- Ensure every at-risk four-year-old has access to a quality prekindergarten program. The State intends to continue to expand the More at Four program until at least 40,000 at-risk four-year-olds are assured access to quality pre-kindergarten programs. Expansion will be targeted first to students in school districts with the greatest needs.
- Evaluate, Refine and Expand the Disadvantaged Students Supplemental Fund to ensure schools and districts implement proven strategies. Based on an evaluation of the pilot DSSF Programs in the 16 initial pilots, the State will modify and expand this approach. Because it is clear that the current pilot is only the first step in reaching at-risk children, additional investments for the next school year and beyond are needed. The State will closely monitor and evaluate the pilot to measure the effectiveness of this approach and the specific options available to districts and make modifications as appropriate.

- o **Strengthen and Expand LEAAP into a new unit under the State Board to improve struggling school, districts.** Building on its pilot experience with the Local Education Agency Assistance Program, the State intends to create a full-time unit under the State Board of Education that works with a set of especially needy school districts. This unit will undertake thorough diagnostic analyses of the challenges facing districts and schools and provide intensive support on resource reallocation and policy decision-making with the objective of building local capacity in the districts.
- o **Continue the Teacher Working Conditions Survey and provide actionable data for problem schools and districts.** Improved teacher retention and effectiveness are essential to improving educational opportunities for all students. The Teacher Working Conditions Survey has been demonstrated to provide important actionable data to schools and districts to predict teacher turnover and student achievement. The State intends to use the Survey intensively in targeted schools and districts to help districts to attract and retain teachers and principals and increase their effectiveness.
- o **Expand the New Schools Project and Learn and Earn.** To improve the preparation of high school students to access further education and compete for skilled jobs, the State intends to expand its development of new schools, schools-within-schools, and Learn and Earn schools to provide access to students in every county. These innovative models will be the cornerstone of the State's approach to lower dropout rates, boost graduation rates, and increase college-going rates.

INVEST IN NEW COMMITMENTS

- o **Expand teacher supply for hard-to-staff schools.** The State believes that it is important to boost the supply of qualified teachers in the areas where they are needed most. Increasing partnerships between community colleges and public and private schools of education is an important tool for achieving that objective. Therefore, the State foresees expanding "2+2" partnerships between schools of education at four-year institutions and community colleges located in proximity to hard-to-staff schools throughout the State. The State is also committed to exploring additional avenues for increasing the supply of qualified teacher candidates for hard-to-staff schools.
- o **Provide high quality professional development for teachers and principals.** The State will develop a comprehensive portfolio of professional development offerings in core areas for principals and teachers to ensure access to high quality professional development in key content areas and skills to improve the achievement of at-risk students. Analyses of student performance data, Teacher Working Conditions data, and the State's work in low-performing schools and districts will be used to determine specific topics.
- o **Connect school, social service and delinquency prevention resources.** The State will bring together the agencies responsible for school, social service, and juvenile justice resources to develop strategies for high need schools and counties. Working together and with local governments, these State agencies can coordinate parent support, mental health services, health services, and delinquency prevention and other juvenile justice-related services to support children's health and school performance, and help parents to be actively involved in their children's education.

PLAN FOR IMMEDIATE ACTION

The State is committed to immediate action to develop these initiatives and implement them to improve the educational opportunities available to at-risk students. The State holds that the future growth and prosperity of North Carolina depends upon today's students receiving an education that prepares them for higher education, skilled jobs and careers, and a life of democratic participation.

To that end, the State intends to take a budget and policy package including these programs to the 2005 session of the General Assembly.

Over the course of the last few weeks and months, the Office of the Governor, the State Board of Education and the Department of Public Instruction have been engaged in a series of discussions about the development of a long-range plan to meet the needs of at-risk students. In the coming months before the 2005 Legislative session, the State will develop the detailed plans needed to carry out the commitments it has described. The Office of the Governor and State Board of Education will work with the General Assembly and with education leaders and other interested parties in crafting the details of these plans.

The following steps will take place in the coming weeks and months in anticipation of taking a detailed package to the General Assembly for the 2005 session:

October 26, 2004 – January 26, 2005

- November 5. The Office of the Governor, Department of Public Instruction (DPI) and State Board of Education (SBE) representatives will hold initial meeting with Amicus groups and teacher groups.
- November 19. The Office of the Governor, DPI and SBE representatives will reconvene a group of superintendents and other representatives, including individuals from plaintiff and plaintiff-intervenor districts.
- November 30. The Governor will convene the Education Cabinet to meet and take up relevant items from this plan. The Education Cabinet will determine those items needing action by education governing boards.
- December 1-2. The State Board of Education will evaluate and approve plans for the five remaining districts under the Disadvantaged Students Supplemental Fund at its monthly meeting in December.
- Representatives from the Governor's Office, DPI, SBE, the Legislature, the Education Cabinet, K-12 school leaders, and other key stakeholders will continue meetings to construct the details of the plan.
- The Office of the Governor, DPI, and SBE will work with legislative representatives on development of a legislative package for the 2005 session of the General Assembly, which opens on Wednesday, January 26, 2005.

Beyond the 2005 Legislative session, the State is committed to continuing the development and implementation of proven strategies for meeting the needs of at-risk students.

BACKGROUND

Over the past two decades, the State has put into place a series of policies that have helped North Carolina make especially significant progress in the academic achievement of its young people.

In the late 1980s, the state began a focus on testing and accountability with the introduction of statewide curriculum standards, testing and public accountability. In the 1990s, the State refined its accountability system and placed a major emphasis on teacher quality. In the mid-nineties, the State implemented the ABCS of Public Education and school level testing and accountability. The testing and accountability system helped to focus attention and resources on the needs of students and schools throughout the state, especially those students not performing at or above grade level on state assessments. In addition to providing information on the achievement of schools and students, the ABCs program also assigned assistance teams to low-performing schools and instituted Gateways in grades three, five and eight to stem social promotion. The ABCs Program has allowed the state to understand which students and which schools are most in need of additional assistance and support.

Also in the 1990s, the State made significant investments in its teaching workforce, including raising teacher pay to near the national average and in the top half of the nation—where it remains today. The Excellent Schools Act of 1997 raised teacher pay, increased teacher standards, created accountability measures for schools of education, and improved the support of new teachers in the profession.

Improvement on national assessments, including the National Assessment of Educational Progress in reading, writing and mathematics and the SAT, demonstrates that North Carolina's approach is yielding results. In addition, reports from the RAND Corporation and the National Education Goals Panel and, most recently, from the Education Trust in October 2004, found that the steps that the state had been taking were increasing achievement scores and reducing achievement gaps on national assessments in reading and math.

The 2000 RAND report, *Improving Student Achievement: What NAEP Test Scores Tell Us* laid out a clear path for moving forward to improve achievement, especially among its at-risk students. The RAND report found that the most cost-effective approach to improving reading and math achievement on the National Assessment of Educational Progress was to lower teacher-student ratios in the early grades, expand public Prekindergarten, and provide additional resources to teachers. The report found that "investing in better working conditions for teachers to make them more productive (lower pupil-teacher ratios, more discretionary resources, and improved readiness for school from Prekindergarten) could produce significant gains in achievement scores" (pp. xxvii-xxviii).

In accordance with that report and other significant education research, Governor Mike Easley, the State Board of Education and the Legislature have worked together to ground the state's school improvement efforts in a research-backed approach for raising achievement of all students, with a particular focus on improving achievement for at-risk students. The State has focused on pre-kindergarten programs, smaller classes in the early grades, and supporting the needs of teachers.

Beginning in 2001, the State began to put these research-backed policies into place:

- The More at Four Prekindergarten Program was implemented in 2001 and served 1,500 at-risk four-year-olds in 34 counties. In 2004, it is reaching 12,000 at-risk four-

year-olds in all 100 counties. Research has documented that bringing students to school ready to learn increases academic achievement and educational attainment over time.

- **K-3 Class Size Reduction** that reduced the teacher-student ratio to 1:18 in grades K-3 between 2001 and 2004, funding the reductions one grade level at a time over the past four years. Research shows that smaller classes in grades K-3 leads to increased student achievement, decreased behavioral problems, and increased high school graduation rates. Smaller classes are a particularly powerful strategy for raising the achievement of at-risk students. Class size reduction has also been shown to be an important tool in attracting and retaining teachers in the early grades.
- **The High Priority Schools Initiative** reduced class size to 15 in the 36 highest-poverty and lowest-performing elementary schools in grades K-3 and added five additional days for teacher professional development and five additional days schools days for students

The State also implemented a number of other important initiatives since 2001 to improve educational opportunities and achievement across the state:

- **The Local Educational Agency Assistance Program**, which provided school district-level assistance teams to work with low-performing districts. The teams work with the school district to review data, resource allocation, strategies, and challenges. The first effort began in Hoke County and has expanded to additional school districts.
- **The Teacher Working Conditions Initiative**, which launched in 2002 a statewide survey of teachers and administrators on working conditions in the schools. The survey was repeated in 2004. In 2004, the survey generated detailed reports on teacher working conditions for 90% of all schools and each of the 115 school districts. Research has been completed recently on this data which shows that the working conditions data is predictive of teacher turnover and student performance outcomes, making this data extremely valuable as a tool for improvement at schools.
- **The New Schools Project** to reform high school. Supported initially by an \$11 million grant from the Bill and Melinda Gates Foundation, the New Schools Project is focused on improving high schools in order to dramatically improve the dropout, high school graduation, and college-going rates in North Carolina. Based on research that shows that smaller schools lead to higher graduation rates and better preparation for college and jobs, the initiative is focused on creating smaller high schools with deeper connections to higher education and workplace skills. The project focuses on students whom traditional high schools are not serving well.

The Project has begun by investing in the creation of 8 health science-themed smaller schools and schools-within-schools, and 15 Learn and Earn high schools where students graduate from high school and earn both a high school diploma and an associate's degree or two years of university credit. Learn and Earn high schools are done in conjunction with local community colleges and four-year institutions. The next phase of the New Schools Project is the implementation of proven small school models in districts in northeastern North Carolina.

In addition to the \$11 million granted by the Gates Foundation, the state is investing \$2.2 million on a recurring basis to begin the Learn and Earn high schools.

These investments and approaches represent research-backed practices to improve teacher retention and effectiveness and boost student achievement. The State believes they represent an important set of building blocks for addressing the needs of at-risk students. Nevertheless, the State believes that more must be done for at-risk students in North Carolina.

ADDITIONAL FUNDING TARGETED TO MEET THE NEEDS OF AT-RISK STUDENTS

In July of this past year, the State began its most recent effort to address the needs of at-risk students with the creation of the Disadvantaged Students Supplemental Fund (DSSF) pilot program. The DSSF pilot is now working in select districts to allocate additional resources for proven strategies to boost the achievement of at-risk students. Governor Easley has identified and made available up to \$22 million for use by the State Board of Education to support 16 school districts. The pilot is operating as follows:

- Districts were identified based on levels of student achievement, student poverty, and teacher attrition. Based on a formula, specific funding levels were set for each district.
- The State Board assigned assistance teams to each district to help in the creation of their plans for using the DSSF resources.
- Plans from local districts are based on a "menu of proven strategies" developed by the State Board of Education. Districts have the flexibility to decide which options best meet their needs, but they must use the options provided by the State Board. The options include bonuses for recruiting and retaining teachers; additional personnel for such strategies as reducing class size, hiring reading coaches, and supporting new teachers; professional development for teachers and principals; supporting afterschool and other extended day programs; and implementing personal education plans.
- Funding for districts is contingent upon the approval of the State Board of Education.
- The Board will evaluate the results from the DSSF pilot, including the effectiveness of additional resources, the targeted options, and the DPI assistance on improving student achievement and teacher attrition.

MOVING FORWARD: BUILDING ON THE STATE'S COMMITMENT TO ADDRESS THE NEEDS OF AT-RISK STUDENTS

The aforementioned strategies for improving student achievement—especially the achievement for students below grade level—are yielding results. The State intends for these strategies to serve as the foundation of its continuing effort to construct a system of K-12 public education that provides superior education for all students and, more specifically, meets the needs of at-risk students.

In order to ensure that all students are receiving a high quality education and that they have access to caring, competent teachers in their classrooms, effective principals in their schools, and the instruction they need to meet high standards, the State is committed to taking the following steps to maintain and expand proven strategies for school improvement. Additionally, it is

recognized that the Legislature will need to appropriate additional resources to allow the State to expand a number of these proven strategies for increasing the achievement of at-risk students.

1. **Ensure that every at-risk four-year-old has access to a quality prekindergarten program.**

Recognizing that students who do not start school ready to learn remain at-risk of school failure and dropping out throughout their career, the State intends to expand the More at Four Prekindergarten Program for at-risk four-year-olds towards its goal of access for the estimated 40,000 at-risk four-year-olds in the state. Quality pre-kindergarten programs are the fundamental building block for the State's effort to meet the needs of at-risk students across the state. Without access to quality pre-kindergarten programs, at-risk students start school behind and remain at-risk of school failure throughout their school careers.

In expanding More at Four, the State will identify high-need areas with respect to educational performance, families in poverty, and other key indicators to determine priority sites for funding expansion.

2. **Evaluate, refine and expand the Disadvantaged Students Supplemental Fund pilot approach to ensure that districts and schools implement proven strategies for meeting the needs of at-risk students**

The Governor and State Board of Education have implemented the Disadvantaged Students Supplemental Fund in 16 school districts for the 2004-05 school year. The pilot requires that assistance teams, assembled by the Department of Public Instruction, work with eligible districts to determine plans for using additional resources based on a menu of proven strategies. The Governor, State Board and General Assembly will carefully analyze the success of the different strategies chosen by the 16 districts in order to determine which approaches best met the goals of attracting and retaining teachers, ensuring an effective principal, and providing individualized instruction that increases the achievement of students at-risk of school failure.

As part of this critical effort, the State Board of Education will evaluate the performance of students, the supply and retention of teachers, the appropriateness of the current menu of options provided, and the efficacy of DPI assistance. In addition, the State will examine the appropriate state and local fiscal responsibilities for additional investments, and the differences in working with urban versus rural school districts.

Based on evaluation findings, the State will modify the menu of options and expand this effort to additional schools and school districts. The current pilot is a first step and the State recognizes that additional investments are needed for the next school year and beyond.

3. **Strengthen and expand LEAAP into a new unit under the State Board to improve struggling school districts**

Building on its experience with the Local Education Agency Assistance Program, the State is committed to create a unit under the State Board of Education that works with a set of school districts most in need to analyze the challenges, provide intensive support on resource and policy decision-making, and build the capacity of these districts.

This new unit would work with districts that need immediate and intensive support to improve education for its students. The State will develop criteria to determine which districts are most in need of assistance from this unit.

The unit would provide the following types of assistance: 1) a detailed diagnostic analysis and audit of student performance trends, teacher working conditions, and resource allocation; 2) work with the district to develop a plan for resource reallocation and strategies for deploying additional funding; and 3) brokering relationships/assistance for the districts with higher education partners, the programs of the UNC Center for School Leadership Development, and other appropriate entities. This effort would provide intensive and targeted assistance and guidance on resource allocation and the use of strategies to guide improvement.

The State Board of Education would approve plans for the district's use of state funds based on the unit's work with the district. The unit would be comprised of new personnel assigned solely to this function.

4. Improve teacher retention and effectiveness by using the Teacher Working Conditions Survey to provide actionable data to schools and districts

With data that demonstrates a correlation between working conditions and teacher turnover rates and student achievement, the Teacher Working Conditions survey is an important tool for assisting school and district efforts to attract and retain caring, competent teachers and to develop effective principals. In addition to the statewide administration of the data, the State will look to require administration of the survey in targeted schools and districts. This will ensure a full set of data to use as an assessment tool to determine needed strategies in those locations.

The survey data has found that improving working conditions is critical particularly to attracting and retaining high quality teachers for at-risk students. Targeted use of additional resources for this purpose will be considered as a part of state assistance for at-risk students.

5. Expand the New Schools Project and Learn and Earn Schools to improve the preparation of high school students to access further education and compete for skilled jobs

The State is committed to an ambitious effort to improve high schools, especially for those students whom the traditional high school model does not serve well and who are at-risk of dropping out. The State intends to expand its development of new schools, schools-within-schools, and Learn and Earn schools to provide access to students in every county. The State Board of Education, working with the New Schools Project, will create a priority list of districts to receive funding and assistance under this project based largely on the needs of at-risk students. All new schools have goals and outcome measures that include improving student achievement, graduation rates and the college-going rates of their students.

The State believes that these efforts will target resources and assistance effectively to provide caring, competent teachers, effective principals, and the individualized instruction needed to help

students at-risk of school failure meet high standards and be well prepared for further education and a skilled workforce.

The State will develop an accountability mechanism to evaluate the impact of these investments to improve the achievement of at-risk students. The mechanism will, at a minimum, use student performance from the ABCs program and the teacher working conditions data. The accountability mechanism should also hold the State accountable for its assistance to districts and schools.

ADDITIONAL EFFORTS TO SUPPORT THE STATE'S COMMITMENT TO AT-RISK STUDENTS

In addition to its commitment to expand and maintain existing initiatives to meet the needs of at-risk students, the State also believes that there are additional efforts needed to support schools and districts to help all students achieve.

Expand teacher supply by increasing partnerships between community colleges and schools of education

The State understands that there is a critical need to boost both the supply and retention of teachers in hard-to-staff schools. The shortage of qualified teachers for hard-to-staff schools is a problem that afflicts every state in the nation. While North Carolina has been recognized for its leadership in this area nationally, the State realizes that more remains to be done.

Hard-to-staff schools in the state have a significant number of lateral entry and first-year teachers. While more needs to be done to induct, support and retain these individuals, the fact remains that there is a shortage in the supply of highly qualified teachers for hard-to-staff schools.

This, however, will not be accomplished by merely increasing the supply at schools of education. Existing patterns show that preparation in the state's schools of education generally leads to employment in the surrounding environs of those universities. Unfortunately, many of the schools and districts with the greatest need for qualified teachers are not in close proximity to school of education. In addition to providing targeted incentives to bring teachers to hard-to-staff schools, the State believes that it must look to boost the supply of qualified teachers in the areas where they are needed most.

To do so, the State sees an expansion of "2+2" partnerships between schools of education at four-year institutions and community colleges, which are located in critical regions throughout the state. Existing "2+2" programs have shown great promise in increasing the supply of qualified teachers prepared to teach and remain in areas where teachers are needed. In examining the prospects for expanding this approach, the State will identify regions of the state with high teacher attrition, low levels of teacher candidate supply, and underperforming schools as priorities for "2+2" program expansion.

The state is also committed to examining additional avenues for increasing the supply of teacher candidates from schools of education, resources and approaches to prepare qualified lateral entry candidates, and other strategies to increase the availability of qualified teachers in hard-to-staff schools.

The State recognizes that in working to increase the supply of qualified teachers for hard-to-staff schools it must also remain vigilant to improve the retention of qualified teachers in these schools.

Provide high quality professional development for teachers and principals

Any effort to ensure effective teachers and principals in classrooms and schools must include providing them with high quality professional development that supports their ability to help students reach high standards. The State has invested in a number of important and effective professional development efforts such as the Teacher Academy, the NC Center for the Advancement of Teaching, and the Principals Executive Program. The State has also vested the lion's share of responsibility for providing professional development in schools and school districts. Unfortunately, many teachers and principals report that they lack access to high quality professional development.

The State will explore the development of a comprehensive portfolio of professional development offerings in core areas for principals and teachers. This includes identifying the content areas and skills where teachers and principals need the greatest support, the development of these professional development models, and the deployment of them (including on-line instruction) to teachers and principals.

Connect School, Social Service and Juvenile Justice Resources

The State recognizes that schools and schools systems alone cannot meet the challenges of educating all students for the challenges of higher education, the workplace, and participating in the democratic life of their communities. It is critical that children and families receive the support they need to be healthy and actively involved in their children's education.

The State intends to bring together the State Board of Education and the Departments of Public Instruction, Health and Human Services, and Juvenile Justice and Delinquency Prevention to jointly develop strategies for connecting school, social service, and juvenile justice resources.

Efforts would aim to target schools and counties with high need of support across the state. Such efforts might provide for the coordination of parent involvement, mental health services, health services, and delinquency prevention and other juvenile justice-related services for youth and families in participating schools.

PLAN FOR IMMEDIATE ACTION

The State has already demonstrated its commitment to pre-kindergarten for at-risk four-year-olds, class size reduction, additional resources to support at-risk students in targeted school, district assistance, high school reform and improving teacher working conditions has been demonstrated. That commitment will continue.

In addition, the State is committed to expanding a number of these proven strategies, targeting them to meet the needs of at-risk students and finding solutions for other important educational problems, such as increasing the supply of teachers and connecting social services with schools and other areas.

To that end, the State intends to take a budget and policy package including these programs to the 2005 session of the General Assembly.

In the coming months before the 2005 Legislative session, the State will develop the detailed plans needed to carry out the commitments it has described. The Office of the Governor and State Board of Education will work with the General Assembly and with education leaders and other interested parties in crafting the details of these plans.

The State holds that the future growth and prosperity of North Carolina depends upon today's students receiving an education that prepares them for higher education, skilled jobs and careers, and a life of democratic participation.

2

EXECUTIVE ORDER NO. 24
ACCELERATING TEACHER RECRUITMENT AND HIRING FOR *MORE AT FOUR*
AND CLASS SIZE REDUCTION IN LIGHT OF JUDICIAL REQUIREMENTS,
BUDGET DEVELOPMENTS, AND IMPENDING SCHOOL OPENINGS

In September 2001, the General Assembly ratified and I, as Governor, signed a budget for the State of North Carolina that allocated funds to establish a pre-kindergarten program for at-risk children, known as *More at Four*, and to reduce class sizes.

Pre-kindergarten programs for at-risk children and class size reduction are necessary for improving educational opportunity and outcomes for children across North Carolina. In addition, these programs are fundamental to addressing the needs of at-risk students, eliminating the achievement gap, reducing the State's persistently high dropout rate, increasing college enrollments, and meeting other education challenges.

Moreover, improving public education is the key to a better-prepared workforce that is able to attract quality jobs, strengthen our economy, and improve the quality of life for all citizens.

The current proposed House Budget includes expanded funding for *More at Four* and class size reduction. While the General Assembly continues working to ratify a final budget I can sign, the school year for the majority of North Carolina's children will start imminently.

In addition, the school funding lawsuit, known as *Leandro*, has now reached a crisis point.

Nearly two years ago, in October 2000, the Superior Court Judge assigned by the Supreme Court of North Carolina to oversee *Leandro* ordered that pre-kindergarten educational programs for at-risk children must be expanded to serve all of the at-risk children in North Carolina that qualify for such programs.

Three months ago, in April 2002, the Court explicitly re-affirmed the October 2000 judgment with regards to pre-kindergarten programs. In addition, the April ruling found that at-risk children need smaller classes in early grades and that every classroom

provide differentiated, individualized instruction. Such individual attention, of course, requires smaller class sizes.

On July 19, 2002, the Court made clear that the prior judgments, including the mandates of *More at Four* and individualized instruction in early grades, remained in effect and were not being complied with.

NOW THEREFORE, in light of the factual circumstances set forth above, and under the legal authority vested in me as Governor by Article III of the Constitution of North Carolina, N.C.G.S. § 143-23, and decisions by the Supreme Court of North Carolina interpreting N.C.G.S. § 143-23, I hereby AUTHORIZE and INSTRUCT:

- (1) The Director of the *More at Four* Pre-Kindergarten Program, in conjunction with the Co-Chairs of the *More at Four* Task Force (the Superintendent of Public Instruction and the Secretary of the Department of Health and Human Services), to recruit the teachers necessary to expand the program; and,
- (2) The Superintendent of Public Instruction, working with and through local school system superintendents, to recruit and hire the additional teachers necessary to reduce class sizes in kindergarten and first grade beginning with the 2002-03 school year.

This Executive Order is effective July 24, 2002.

Done in the Capital City of Raleigh, North Carolina, this 24th day of July 2002.

MICHAEL F. EASLEY
GOVERNOR

ATTEST:

ELAINE F. MARSHALL
SECRETARY OF STATE

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 120
ACCELERATING TEACHER AND OTHER PERSONNEL RECRUITMENT
AND THE IMPLEMENTATION OF NEEDED ACADEMIC SUPPORT PROGRAMS
FOR AT-RISK CHILDREN IN LIGHT OF JUDICIAL MANDATES,
BUDGET DEVELOPMENTS, AND IMPENDING SCHOOL OPENINGS

WHEREAS, the 2007 General Assembly enacted House Bill 2044, which keeps state government operating through July 31, 2007, and which provides additional funding for enrollment increases and which was signed into law on June 29, 2007; and

WHEREAS, in the budget submitted to the General Assembly for the 2007-09 fiscal years, I recommended funding to meet the increased operation costs of our public schools while providing for the needs of disadvantaged students; and

WHEREAS, public schools across the state must plan now for their opening in a few weeks, and the state court monitoring of North Carolina's effort to ensure a sound, basic education for every student continues; and

WHEREAS, in the school funding lawsuit, known as *Leandro*, the Court stated that at a minimum every school must be provided the resources necessary to support an effective instructional program within that school so that the educational needs of all children, including at-risk children, can be met; and

WHEREAS, the Court has isolated particular problems of meeting the needs of at-risk students in North Carolina's high schools and outlined the need for the state to bring together the "combined expertise, educators, resources, and money to fix the 'high school problem' so that the children attending those schools will be provided with the opportunity to obtain a sound, basic education;" and

WHEREAS, the Court has scheduled a *Leandro* hearing for August 1 and 2, 2007, to inquire into the proficiency of middle schools and the best practices for ensuring proficiency; and

WHEREAS, pre-kindergarten programs for at-risk children and class size reduction are necessary for improving educational opportunities and outcomes for children across North Carolina; and

WHEREAS, these programs are fundamental to addressing the needs of at-risk students, eliminating the achievement gap, reducing the State's persistently high dropout rate, increasing college enrollments, and meeting other educational challenges; and

WHEREAS, House Bill 1473, "The 2007 Appropriations Act," under consideration by the House and Senate has not been passed; and

WHEREAS, while the General Assembly continues working to ratify a final budget I can approve, the school year for the majority of North Carolina's children is about to begin and preplanning, hiring, and facilities preparation must take place.

NOW THEREFORE, in light of the factual circumstances set forth above, including the decision in *Leandro*, and under the legal authority vested in me as Governor by Article I, Section 15 of the Constitution of North Carolina (which states that "The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right."), Article III of the Constitution of North Carolina, and N.C.G.S. §143C-6-4, I hereby **AUTHORIZE AND INSTRUCT**:

Section 1. The Director of the More at Four Pre-Kindergarten Program to recruit the teachers necessary to expand the program; and

Section 2. The Superintendent of Public Instruction, working with and through local school system superintendents, to put into place the additional teachers and academic support programs needed to support the achievement of at-risk students in districts eligible for Disadvantaged Student Supplemental Funding and to keep class size ratios at current levels.


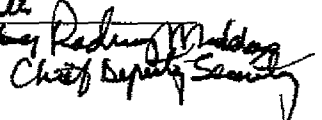
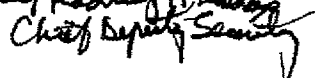
This Executive Order is effective July 20, 2007.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twentieth day of July in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall 
Secretary of State 

3

<p align="center">North Carolina Business Committee (NCBCE) Members</p>
--

- | | |
|--|--|
| ❖ ACT Bridge | ❖ Golden Corral |
| ❖ AECOM | ❖ GlaxoSmithKline |
| ❖ Alfred Williams & Co. | ❖ Google |
| ❖ Allscripts | ❖ Grifols |
| ❖ Apple | ❖ Grove Park Inn |
| ❖ Aseptia | ❖ Highmark Companies |
| ❖ AT&T | ❖ IBM |
| ❖ Attends Healthcare Products | ❖ Intel |
| ❖ BB&T | ❖ ITG |
| ❖ BBH Design | ❖ K&L Gates |
| ❖ BD | ❖ Kelly Services |
| ❖ Belk | ❖ Kilpatrick Townsend |
| ❖ Biltmore | ❖ Kimley-Horn and Associates |
| ❖ Biogen Idec | ❖ Lenovo |
| ❖ Blackboard Connect | ❖ LexisNexis |
| ❖ BlueCross Blueshield of North Carolina | ❖ Logical Advantage |
| ❖ Brady Energy Services | ❖ Manpower |
| ❖ Business North Carolina | ❖ MCNC |
| ❖ Capstrat | ❖ Metrics |
| ❖ Captrust Advisors | ❖ Mission Hospitals |
| ❖ Carolina Biological Supply | ❖ Murphy Power Board |
| ❖ Carolina Hurricanes | ❖ Nationwide |
| ❖ CaroMont Health | ❖ NetApp |
| ❖ Caterpillar | ❖ North Carolina Community College System BioNetwork |
| ❖ CenturyLink | ❖ North Carolina Chamber of Commerce |
| ❖ Charlotte Motor Speedway | ❖ North Carolina Biotechnology Center |
| ❖ Childress Klein Properties | ❖ NC Electric Cooperatives |
| ❖ Cisco | ❖ North Carolina Mutual Life Insurance |
| ❖ Coca-Cola | ❖ NCTA |
| ❖ Corning | ❖ Noresco |
| ❖ Coty | ❖ North Carolina Office of the Governor |
| ❖ Dell | ❖ Novartis |
| ❖ Dominion | ❖ Novozymes |
| ❖ Duke Energy | ❖ Nucor |
| ❖ Dzeel Clinical | ❖ Parker Poe |
| ❖ EMC2 | ❖ Pease |
| ❖ Fidelity Investments | ❖ Pfizer |
| ❖ Fifth Third Bank | ❖ Piedmont Natural Gas |
| ❖ Firestone Fibers & Textiles Company | ❖ PNC |
| ❖ Fleishman Hillard | ❖ PSNC |
| ❖ Food Lion | |
| ❖ Frontier Communications | |
| ❖ Gerber Collision | |

- ❖ Que Pasa Media Network
- ❖ Quintiles
- ❖ Rayson Group
- ❖ Redhat
- ❖ REX Healthcare
- ❖ ReynoldsAmerican
- ❖ RTI International
- ❖ Ruddick Corp
- ❖ Samet Corporation
- ❖ SchoolDude.com
- ❖ Schwartz & Shaw
- ❖ Smith Anderson
- ❖ Smith Moore Leatherwood
- ❖ Sports Endeavors, Inc.
- ❖ State Employee's Credit Union
- ❖ State Farm Insurance
- ❖ Strategic Educational Alliances
- ❖ SunRock
- ❖ Syngenta
- ❖ TE Connectivity
- ❖ Truliant Federal Credit Union
- ❖ Universal Technical Institute
- ❖ VIF International Education
- ❖ VantageSouth
- ❖ Vidant Health
- ❖ Wake Forest Baptist Medical Center
- ❖ WakeMed
- ❖ Wells Fargo
- ❖ West Pharmaceuticals
- ❖ Womble Carlyle
- ❖ Xerox