



Learning about *Leandro*: A Chronology of the Case and Its Past Trips to the Supreme Court¹

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Leandro I (*Leandro v. State*, 346 N.C. 336 (1997))

May 1994: Parents and students in low-wealth rural counties filed *Leandro v. State*, alleging students in these counties were being denied their right to an adequate education under the North Carolina Constitution. The Complaint (the document which starts a lawsuit) is filed in Halifax County.

Various local school boards for higher wealth school systems join the lawsuit as plaintiffs. The North Carolina chapter of the NAACP and students and parents also join the lawsuit.

- The **low wealth school district plaintiffs** alleged that even though they imposed higher taxes than some wealthier districts, those higher tax rates could not make up for their lack of resources or for the disparities between systems.” *Id.* They also alleged that the supplemental funding provided by the State to finance schools in “low-wealth” districts was not enough to meet the requirements of the State’s Basic Education Program, established in 1988 and required under statutes in place at the time.
- The **wealthier, urban school district plaintiffs** alleged the opposite: that the State gave certain rural districts supplemental state funding and the State had failed to recognize the comparable if not greater needs of urban school districts

November 1994: Defendants file a motion to dismiss the case for lack of subject matter jurisdiction, lack of personal jurisdiction, and for failure to state a claim.

February 1995: Defendants’ motion to dismiss is denied. Defendants appeal.

1996: The North Carolina Court of Appeals reverses the trial court and dismisses the case. The Court of Appeals concluded that the constitution guarantees equal access to the existing system of education but does not have a qualitative standard.

¹ This chronology is intended to cover major events in the litigation of the case. For the reader’s convenience, some events are combined and others, such as motion for extensions of time, are omitted.

1997: The North Carolina Supreme Court partially overturned the Court of Appeals and permitted the case to proceed to trial, declaring that all students in the state are entitled to “the opportunity to receive a sound basic education.” The Supreme Court’s decision (now known as *Leandro I*) has two key features:

- The Supreme Court defined what constitutes a “sound basic education” in terms of substance, like sufficient ability to read and sufficient knowledge of math to function in society. The Supreme Court does not define “sound basic education” in terms of funding or money. The Supreme Court acknowledges that “the legislative process provides a better form than the courts for discussing and determining what educational programs and resources are most likely to ensure that each child of the state receives a sound basic education.”
- The Supreme Court rejected the plaintiffs’ arguments for equal funding. The Supreme Court held that because the NC Constitution explicitly authorizes local governments to use local revenue to add to state funding, the NC Constitution “does not require substantially equal funding or educational advantages in all school districts.”)

Leandro II (Hoke Cnty Bd. of educ. v. State, 358 N.C. 605 (2004))

October 1997: The case is reassigned to Superior Court Judge Howard Manning.

January-October 1998: Plaintiffs amend their complaint. Plaintiffs amend their complaint again. Plaintiff-Intervenors (various boards of education) amend their complaint. At the behest of the trial court, the plaintiffs amended the complaint to add paragraph 74(a) raising issues about Pre-K services for the first time in the case.

September 1999: The trial begins. The trial judge split the issues two parts (one for low wealth districts and the other for wealthier districts) and conducted a trial limited only to the conditions in Hoke County. The trial was conducted periodically over 14 months.

April 2002: The last part of the trial court’s 4-part decision is entered. In total, the trial judge’s decision was over 400 pages long.

- The trial judge concluded the State’s curriculum, system for licensing and employing teacher, standards for academic accountability, and educational funding delivery system were all sufficient to provide the constitutionally guaranteed opportunity to a sound basic education
- The trial judge rejected the Plaintiffs’ arguments that the State was providing insufficient funding. The trial judge wrote: “Instead, the Court believes that the funds presently appropriated and otherwise available are not being effectively applied.”
- The trial judge did agree with Plaintiffs that at-risk students in Hoke County were not receiving an equal opportunity to receive a sound basic education.
- The trial judge ordered the state to develop a plan to address the deficiencies in the educational services provided to the students in Hoke County but stated the “nuts and

bolts of how this task should be accomplished is not for the Court to do” because “this task belongs to the Executive and Legislative Branches of Government.” He also ordered an expansion of Pre-K programming.

2004: The Supreme Court stated that because the trial was limited to the conditions in Hoke County, “our consideration of this case is properly limited to the issues relating in Hoke County as raised at trial.” For this reason, the Supreme Court held that its mandates did not extend beyond Hoke County and trials on the conditions in other counties would be necessary.

- The Supreme Court held the trial judge properly considered both “outputs” (evidence regarding student performance, including results from standardized testing) and “inputs” (evidence of available resources put into the district).
- The Supreme Court wrote that it could not determine whether the trial court’s findings applied to all students or only at-risk students in Hoke County.
- The Supreme Court refused to accept Plaintiffs’ argument that the court should ignore federal funding when considering whether the State has satisfied its obligations to provide for education.
- The Supreme Court rejected the trial court’s order requiring the State to provide Pre-K.
- The Supreme Court ordered the trial court to proceed with trials for the other rural schools involved in the lawsuit and the urban districts involved in the lawsuit.

2004-2016: Despite the Supreme Court’s opinion remanding the case for trials for the districts other than Hoke County, no such trial occurred. The trial court and the parties moved to the “remedial phase,” seeking enforcement of the prior decision. The trial judge held a series of status conferences, and the Defendants produced several reports and updates. Over time, these reports and updates began to address progress across North Carolina, not just Hoke County (the district for which the court had conducted a trial).

October 2016: North Carolina Chief Justice Mark Martin appointed W. David Lee, a retired Union County judge, to preside over the case. After that time, the Defendants and Plaintiffs began to seek consent orders agreed to by both sides of the case. These consent orders purported to require the State to fund various programs, even though funding requires legislative approval and the legislature was not then a party to the lawsuit.

July 2017: The Plaintiff parties, including the Plaintiff-Intervenor, Charlotte-Mecklenburg Branch of the NAACP, and the Defendants State jointly asked superior court to appoint an independent expert consultant to develop recommendations for the State to comply with the three *Leandro* elements for a sound basic education.

February 2018: The Plaintiffs and the NC Department of Justice asked the trial court to appoint WestEd, a progressive education research group from San Francisco, CA, to conduct a remedial study and prepare recommendations to remedy alleged ongoing constitutional violations. The DOJ and the Plaintiffs ask that the court instruct WestEd to develop recommendations not only for Hoke County but for “every public school in North Carolina.” The parties asked that WestEd

work with the Governor's Commission on Access to a sound Basic Education. They did not ask the WestEd work with the General Assembly.

June 2019: The trial court and the parties with their lawyers receive a report from consultants at WestEd. Judge Lee does not make the report recommendations public. The report is sealed by the court.

- According to the WestEd report, the consultants "engaged with 1,310 stakeholders including superintendents, teachers, central office staff, school board members, and members of the Governor's Commission.
- The report shows no indication that WestEd consulted with the General Assembly.

January 2020: The West Ed report is made public, and the trial court signed a consent order agreed to by the parties. The order directed the State to create a plan to implement the WestEd reports' recommendations.

March 2021: The DOJ submits the "Comprehensive Remedial Plan" to the trial court. For the most part, it regurgitates WestEd's report and echoes the Governor's budget proposal. The Plan includes 146 proposed action items to be implemented across the State, even though the only trial in this case was limited to at-risk children in Hoke County. The Plan, created by executive branch agencies, repeatedly acknowledge that any proposal would require legislative approval.

June 2021: The trial court orders the State to implement the Comprehensive Remedial Plan, which would cost roughly \$5.4 BILLION each year by 2028, according to an appendix to the Plan itself.

November 2021:

- Before the state budget was enacted, Plaintiffs and the State ask the trial court to require the State Controller and Treasurer (neither of whom were part of the lawsuit) to transfer \$1.7 BILLION out of the State treasury to pay for the beginning years of the Comprehensive Remedial Plan.
- The parties submit to the judge a proposed order which incorrectly stated that the Supreme Court held there was a statewide failure to provide children with the opportunity for a sound basic education. In reality, the Supreme Court's decision was limited to Hoke County.
- The trial judge recognizes the NC Constitution prohibits the drawing of money from the State treasury except "in consequence of the appropriations made by law" (NC Const. Art. V, § 7. He also cites Supreme Court and Court of Appeals precedents hold that the General Assembly has exclusive power to make appropriations. Still, the trial judge largely agrees with the parties.
- On November 10, 2021, the trial judge purported to direct the Office of State Management and Budget, the Treasurer, and Controller to transfer \$1,754,153,000 and treat it as an "appropriation." The trial judge stayed implementation of the order for 30 days.

- On November 18, 2021, the General Assembly enacted, and the Governor signed the State Budget. The State Budget appropriated \$21.5 BILLION to K-12 public education for fiscal years 2021-2023.
- On November 24, 2021, the State Controller (who was not a party to the lawsuit but had been ordered to transfer money from the State treasury in the November 10 Order) asked the Court of Appeals to stop implementation of the November 10 Order.
- On November 29, 2022, the Court of Appeals issued a writ of prohibition “restrain[ing] the trial court from enforcing the portion of its order requiring the petition [State Controller] to treat the \$1.7 billion in unappropriated funding...as an appropriation.”

December 2021: Various parties to the lawsuit appealed. Some appeals were from the trial court’s November 10 Order, others were from the Court of Appeals decision on November 18.

March 2022: The Supreme Court grants several motions including motion to take the appeal of the trial court’s order directly, thus letting it skip the Court of Appeals. At the same time, the Supreme Court sends the case back to the trial court to determine what effect the enactment of the State Budget had on the trial court’s November 10 Order. The next day, the case was assigned to a new trial judge, Michael Robinson.

April 2022: The trial court issued its decision stating it was bound by the Court of Appeals decision that the court could not order State officers (like the State Controller) to transfer funds out of the State treasury. The trial court ruled that the State Budget provided some of the money necessary to implement the Comprehensive Remedial Plan but entered a judgment for additional money. He did not order a transfer of money, however. The parties appealed this order.

May 2022: The Supreme Court issued a schedule for the parties to brief the outstanding appeals. [Various briefs were filed in June, July, and August.]

August 2022: The Supreme Court is scheduled to hearing oral arguments on August 31, 2022.