



Leandro: North Carolina's 30-Year Battle to Assure Basic Educational Rights to Every School Child

“The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.” *NC State Constitution*

These words and others from the [North Carolina State Constitution](#) have culminated in a legal battle lasting over 30 years. *Leandro v. State of North Carolina* (1994), commonly referred to as simply *Leandro*, is a lawsuit filed by five school districts in low-wealth counties along with families arguing that their school districts are underfunded and unable to provide an equal education for their children. *Leandro* has been re-litigated and heard numerous times by the courts since it was first filed and, as of today, a conclusive ruling has yet to be rendered.

Leandro is a complex case that combines the tumultuous public education landscape in North Carolina with a raging constitutional battle between the state's political forces. To fully understand *Leandro*'s impact and its progression through the years, it is paramount to know the legal structures, political landscape, and power dynamics surrounding it.

Legal Background

There are two overlapping systems of law in the United States:

System of Law:	Applies To:	Stems From:
Federal Law	Entire United States	U.S. Constitution
		Statutes enacted by Congress
		Executive actions taken and enforced by the President and executive officials
		Opinions and orders issued by federal courts, including the Supreme Court
State Law	Individual U.S. states	State constitution
		Statutes enacted by a state legislature
		Executive actions taken by a governor and executive officials
		Opinions and orders issued by a state Supreme Court



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Constitutions, both federal and state, are deemed to be the “higher law” of the land, as they are adopted by the people and are binding on all branches of government. The United States operates in a system of checks and balances with three branches of government.

Branch	Role	Examples
Legislative	Propose, debate, and enact statutory laws	Congress (federal), State legislatures
Executive	Carry out laws enacted by the legislative branch; propose and adopt regulations to implement laws	President (federal), Governors (state)
Judicial	Hear lawsuits debating the interpretation of existing laws and hear criminal and civil cases to enforce laws	Federal and state courts

Each of these branches has mechanisms to check the others' authority.

Branch	Checks on	Methods
Legislative	Executive, Judicial	<ul style="list-style-type: none"> - Enacts laws the executive must enforce - Withholds funds if it disapproves of executive actions - Impeaches and removes executive and judicial officials
Executive	Legislative, Judicial	<ul style="list-style-type: none"> - Vetoes proposed legislative enactments - Declines to vigorously enforce laws they disapprove of - Appoints federal judges, justices, and high executive officials
Judicial	Legislative, Executive	<ul style="list-style-type: none"> - Interprets statutes broadly or narrowly - Enjoins executive officials to act (or cease actions) violating a valid statute - Declares laws or executive actions unconstitutional

The check the Judiciary possesses follows the idea of ‘judicial supremacy,’ a staple of the American legal system where the final say rests with the courts when interpreting the constitutionality of laws. Federal and state legal systems possess many similar attributes. However, federal and state constitutions and bodies of statutes often differ from one another. Thus, before filing a lawsuit in court, advocates like those involved in *Leandro* must decide which court system to file in. Advocates often consider the political balance of courts and language in constitutions (federal and state) regarding the issue at hand to give themselves the best chance at winning for their clients.



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The first cases dealing with school funding were filed by human rights advocates in the late 1960s and early 1970s. Most of these cases were filed in federal courts and relied on Section 1 of the 'Equal Protection Clause' of the Fourteenth Amendment to the U.S. Constitution, which reads "No State shall . . . deny to any person . . . the equal protection of the laws." However, the Supreme Court's 5-4 decision in [San Antonio Independent School District v. Rodriguez \(1973\)](#) held that, since the federal Constitution never explicitly mentions or guarantees 'education,' it would largely leave decisions about school funding to state legislators—even if that meant some districts (and children) received far fewer resources than others. Thus, advocates turned their attention to state constitutions, as every state had some provision expressly assuring the right to education for their children.

State constitutional challenges were brought forth by advocates in numerous states, and many were successful (California, Connecticut, Kentucky, New Jersey, Texas, etc.) Supreme Court justices in other states read their state constitutions as not promising full equality of education. The outcomes of these cases largely depended on the state, its constitution, the judges, the evidence presented, the lawyers working the case, and the political landscape of states at the time.

Attention on North Carolina

Following successful litigation in other states, various public interest and human rights groups turned their attention to growing educational inequities in North Carolina. North Carolina's Constitution contains several sections regarding the provision of public education, offering activists an avenue for litigation:

- **Article I, section 15:** 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 IX, section 2(1):** The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools...wherein equal opportunities shall be provided for all students."
- **Article IX, section 2(2):** The General Assembly may assign units of local government such responsibility for the financial support of the free public schools as it may deem appropriate [and local taxing authorities]...May use local revenues to add to or supplement any public school...Program."

In the early 1990s, poorer students across the state were scoring demonstrably lower on end of grade tests than their more well-to-do peers. Teacher-to-student ratios in 'low wealth' counties were much higher than in wealthier counties. School buildings in low wealth districts were old and breaking down, and some classrooms were staffed with non-certified teachers filling the holes left by teacher turnover rates upwards of 30%. Schools in wealthier districts across the state were newer, in significantly better shape, and staffed with qualified teachers with experience in their community.

North Carolina school districts [receive education funding from three sources](#): federal tax receipts, state tax receipts, and local tax receipts. Federal support is relatively modest, with the majority of support coming from state and local taxes. The amount of taxable property and revenue from local taxes varies greatly throughout North Carolina. Wealthier counties, which have larger homes, more prominent businesses, and higher-value land, generate significantly more property tax revenue compared to less affluent counties. Thus, schools in the richest districts had several thousand more dollars to spend per student and tens of thousands more dollars to spend per classroom than the poorest districts. Wealthy districts are able to spend more to attract top teachers and administrators, hire more teachers, maintain and update their buildings, and offer more specialized and advanced classes. They are also able to provide better resources for special programs (e.g. special education services), psychological services, and classrooms.

The difference in resources and quality of education between poor and wealthy districts was palpable. This led to human rights and educational reform groups like the North Carolina Justice Center and the NC



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Chapter of the ACLU getting involved with university law professors, private law firms, and longtime advocates to devise a plan of legal action.

Leandro I

Leandro was filed in NC Superior Court in 1994 by the late Robert Spearman of Parker Poe, a private law firm.

Plaintiffs:

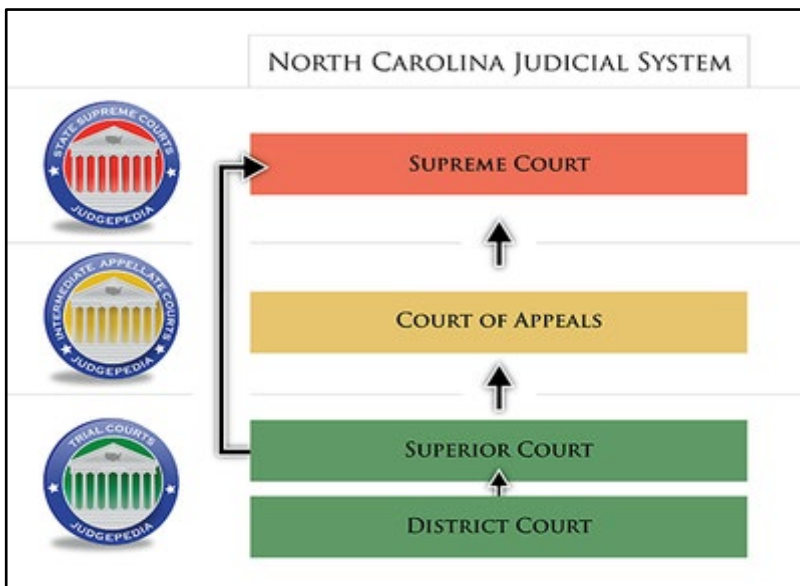
- Counties of Cumberland, Halifax, Hoke, Robeson, and Vance, five 'low wealth' school districts in North Carolina.
- Students of these low-wealth schools and their parents.

Plaintiff-intervenors:

- School districts of Asheville, Buncombe, Charlotte-Mecklenburg, Durham, Wake, and Winston-Salem/Forsyth County

Defendants:

- The State of North Carolina and the State Board of Education.



In the lawsuit, the plaintiffs alleged the existence of a state constitutional right to an equal education and that equal education was not being provided by the State. State defendants asked the case be dismissed outright, stating there was no legal basis for the lawsuit to proceed to trial. However, the Superior Court denied the defendants' motion to dismiss, prompting an appeal by the defendants to the North Carolina Court of Appeals (NCCA). In contrast to the Superior Court, the NCCA ruled in favor of the State, stating that no substantive right to education beyond "some school" being open existed.

Thus, the NCCA dismissed the lawsuit. The plaintiffs appealed this decision to the North Carolina Supreme Court (NCSC). In 1997, three years after *Leandro* was filed, the NCSC ruled unanimously (7-0) that the North Carolina Constitution does "guarantee to every child of this state an opportunity to receive a sound basic public education in our public schools..." The NCSC defined a "sound basic public education" for students as:

- 1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society;
- 2) sufficient knowledge of geography, history, and basic economic political systems...etc.;
- 3) sufficient academic and vocational skills to...successfully engage in post-secondary or vocational training; and
- 4) sufficient academic and vocational skills to...compete on an equal basis with others in further formal education or gainful employment in contemporary society.

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With the constitutional *right* to a sound public education established, an important question loomed for all parties involved: What actions (or inaction) would be considered a *violation* of this right? The NCSC directed trial courts to measure whether the state was meeting their constitutional duty by:

- analyzing the legislature's educational goals;
- reviewing student performance on state achievement tests;
- looking at the state's level of general educational expenditures and per pupil expenditures;
- considering other factors of relevance.

The NCSC directed lower courts to grant "every reasonable deference to the legislative and executive branches" and act judicially only if a "very clear showing" of educational failure had been proven. While the NCSC gave lower court judges guidelines on how to determine a constitutional violation, they did not rule on whether a violation had occurred in *Leandro* and relegated that question back to Superior Court. The NCSC authorized a trial of the facts and assigned *Leandro* to a special trial judge, the Hon. Howard Manning, Jr. Judge Manning would be tasked with applying these new standards set by the NCSC to *Leandro*.

Trial of the Facts



Judge Howard Manning was appointed to the North Carolina Superior Court by Governor Jim Martin in 1988. Following the NCSC's ruling and subsequent remand to the Wake County Superior Court, Judge Manning was designated to oversee the *Leandro* trial. He was asked to determine whether the State of North Carolina had, in fact, failed to provide all children with the equal opportunity for a sound basic education.

If so, then Judge Manning was empowered to rule upon the remedies needed to ensure each child's *Leandro* right. To begin this process, with the consent of both parties, Judge Manning chose to divide *Leandro* into two separate phases—one focusing on the claims made by the plaintiffs from rural school

districts, and the other addressing the claims of plaintiff-intervenors from larger urban districts. The Superior Court then determined that the evidence presented in the trial for the rural districts should be confined to the claims related to a single district. Hoke County was chosen as the representative plaintiff district, and the case focused on the impact on Hoke County. As a result, the case was titled *Hoke County Board of Education v. State*.

Over the 14-month trial, Judge Manning heard from over 40 witnesses and analyzed 50 boxes of transcripts and over 670 documentary exhibits. Plaintiffs presented to Judge Manning evidence from Hoke County that demonstrated poor student performance, including:

- only 45-55% of students in Hoke County were reaching the State's Level III benchmark (out of 5 levels) for End of Grade exams;
- only 41% of 1990 Hoke County 9th graders went on to graduate from high school, and 55% of those who did graduate and went on to community college in 1996 had to be placed in remedial college classes;
- testimony from local employers that Hoke County graduates often lacked the basic minimum job skills;
- high teacher turnover rates leading to classes being staffed by substitute teachers or teachers without a high school degree.

The plaintiffs used this evidence from Hoke County to bolster their case that the State was not meeting its obligation of providing all children with a sound basic education. The State did not dispute most of the facts



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presented by the plaintiffs. Instead, the State claimed it had adequately “set the educational table” by offering all the subjects students needed to learn. It claimed that offering sufficient educational ‘inputs’ was enough to meet its constitutional duty. The State argued that subsequent educational failure was not its responsibility but rather that of the students, their parents, and/or the local school district. While Level III was the State’s own defined benchmark for student performance, it argued in this case that children were receiving a constitutionally adequate education as long as they were scoring in Level II.

Judge Manning issued four lengthy opinions in this case, culminating with his Final Ruling in April of 2002.

Judge Manning found that:

- the ultimate responsibility for educating students rested with the State, not the local district;
- many children were not receiving a sound basic education, therefore **violating their constitutional right**;
- State standards mandate that educated children must demonstrate Level III performance;
- North Carolina has many children ‘at risk’ of educational failure (families in poverty, low parental education, single parent families, racial or ethnic minorities, limited English language proficiency¹);
- North Carolina has resources that could materially improve the educational prospects of these ‘at risk’ children and
- The State has an ‘affirmative duty’ to act to improve those prospects. Judge Manning noted that many school districts across North Carolina had high percentages of ‘at risk’ students who were not meeting Level III standards.

What would a constitutionally compliant school district look like? Judge Manning declared that it would have:

- A “competent, certified, well-trained teacher who is teaching the standard course of study” in every classroom;
- A “well-trained, competent principal with the leadership skills and ability to hire and retain competent, certified and well-trained teachers” in every school; and
- The “resources necessary to support the effective instructional program” in every school “so that the educational needs of all children, including at-risk children, to have an equal opportunity to obtain a sound basic education, can be met.”

Poor performance by Hoke County children on State tests demonstrated a lack of educational assistance in the county. Because Judge Manning ruled that the State has an affirmative duty to meet student needs, he directed it to fund ‘prekindergarten’ education for ‘at risk children,’ not only in Hoke County but statewide, beginning at age 4. However, the plaintiff’s claims were not fully accepted by Judge Manning. Judge Manning did not agree that performance problems in low wealth districts could be solved primarily by the allocation of more funds. Instead, he believed it might require a better use of the funds already available in Hoke County, and he directed the State to oversee a remedy to use funds more effectively. Regardless, Judge Manning’s overall ruling was challenged by the State and, again, appealed to the NCSC.

Leandro II

In 2004, seven years after its initial *Leandro* ruling, the NCSC revisited the case, hearing arguments from the parties and reviewing numerous amici curiae briefs submitted by human rights organizations. In another unanimous decision, the Court upheld most of Judge Manning’s decision. The Court agreed that “there was a clear showing of evidence...that the ‘constitutional mandate of Leandro has been violated in the [Hoke County system] and action must be taken by **both the [local school district] and the State to remedy the violation.**” The Court also held that “**no [local school district] may be funded in...[a way that] fails to provide the resources required to provide the opportunity for a sound basic education.**” The Court

¹ In his ruling, Judge Manning defined what makes a student ‘at risk’. If a student fell into any of the categories mentioned in the parentheses, they were considered at risk. The number of at-risk children in North Carolina was used to calculate the amount of funds needed to develop the pre-k program ordered by Judge Manning.



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affirmed that “there has been a clear showing of the denial of the established right of Hoke County students to gain their opportunity for a sound basic education...And that the State [must] assess its education-related allocations to the county's schools so as to correct any deficiencies that presently prevent the county from offering its students the opportunity to obtain a Leandro-conforming education.” The Court did not affirm all of Judge Manning's ruling, however, as it reversed the order requiring pre-k for all at-risk children. It did agree with Judge Manning that some form of early educational attention was needed.

The NCSC commended the Superior Court for restraining from directing the precise steps the legislature and educational authorities should take to remedy the issues in Hoke County. The legislative and executive branches would have the opportunity to correct constitutional deficiencies unimpeded by the courts. Despite this, the Court added: “Certainly, when the State fails to live up to its constitutional duties, a court is empowered to order the deficiency remedied. And if the offending branch of government...fails to do so...a court is empowered to provide relief by imposing a specific remedy and instructing the recalcitrant state actors to implement it.”

Following its ruling, the NCSC remanded the case back to Wake County Superior Court and directed Judge Manning to continue monitoring state educational performance data and explore potential constitutional violations where necessary. To his dismay, Judge Manning continued to see poor student performance, failure on State proficiency exams, low levels of high school graduation, and other serious issues in many of North Carolina's 116 school districts. These issues were most prominent in low wealth districts.

Judge Manning held hearings statewide pertaining to these issues, but the State never formulated a comprehensive plan to address the deficiencies in student performance. Judge Manning continued to assert that the State was not meeting its constitutional obligation and pressed for legislative action. However, he stayed firm in his belief that a lack of financial resources was not the chief problem in *Leandro's* goals not being fulfilled.

North Carolina's Political Shift

The United States experienced a [monumental shift in political power in 2010](#). The rise of the Taxed Enough Already (TEA) Party in response to the policies of the Obama administration led to a 'red wave' in the 2010 midterms. Republicans regained control of Congress with comfortable majorities and saw major success on the state level. This success was also [demonstrated in North Carolina](#), as Republicans gained full control of the state legislature, which had been controlled by Democrats for decades. With their new majorities in the NC House and Senate, Republicans oversaw the 'redistricting' of state legislative districts and drew lines that protected their majority. These new districts also increased Republicans' chance of strengthening that majority in subsequent elections. Republican Pat McCrory [won the race for governor](#) in 2012, the first Republican to win in 20 years. This gave Republicans the executive and legislative branches for the first time in modern North Carolina history.

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The Republican policies towards public education are vastly different from the policies of their Democratic counterparts. Under the leadership of House Speaker Tim Moore (pictured right) and Senate President Pro Tempore Phil Berger (pictured left), state education policies have focused more on supporting certain alternatives to public education such as charter schools and taxpayer-funded private school voucher programs. The leadership has offered less support for certain traditional programs designed to help lower-income and 'at-risk' children.

Republicans have also expressed opposition to some of *Leandro's* development goals and have made no efforts to implement remedies for poor student performance in low wealth districts. North Carolina's leading teacher groups have opposed the Republican education policies, warning that they are weakening public schools, and the confidence North Carolinians have in their public school system.



Judge Manning Retires

After nearly two decades of overseeing *Leandro*, Judge Manning was forced to step aside due to illness in 2015. Retired Superior Court Judge David Lee was selected as Manning's replacement. Judge Lee took over *Leandro* litigation and was immediately asked by the State to end the case entirely without promising further remedies to fully address proven violations.



In early 2018, Judge Lee rejected this motion and urged the plaintiffs and the State to work together toward a comprehensive remedy to improve education in low wealth districts and mitigate violations.

Further political change in North Carolina heightened the attention on *Leandro* and public education policy. North Carolina's government became divided in 2017 when [Democratic Governor Roy Cooper took office](#) after narrowly defeating incumbent Pat McCrory in the 2016 elections. Governor Cooper's strong conviction for prioritizing public schools contrasted greatly with the policy preferences of Republican legislative leaders. Significant differences in the two parties' approaches to public education policy quickly became evident. While policy debates in the General Assembly heated up, the parties in *Leandro* worked towards the formulation of a comprehensive plan to remedy the state's *Leandro* violations.

WestEd Action Plan

The plaintiffs and the State jointly asked for an independent agency to provide recommendations for how to meet the provisions of the *Leandro* case. Judge Lee appointed the nonpartisan, nonprofit education research agency, WestEd, to conduct a review and submit recommendations. WestEd, working closely with North Carolina educators and faculty members in its schools of education, conducted 13 separate studies of the



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state's

K-12 education, analyzing aspects such as teacher training and recruitment, student performance, administrative training, and special education needs.



After the studies were completed, [WestEd created an action plan](#) to turn around underperforming schools in North Carolina. The December 2019 report found that the overall educational progress of North Carolina school children had grown worse since the *Leandro I* decision in 1997. The plan proposed specific, targeted steps to be taken in eight major areas and recommended funding for each step.

It estimated that the General Assembly needed to appropriate an additional \$4.3 billion dollars to public schools over the next 8 years and another \$1.2 billion for early childhood investments to implement the action plan and meet the goals of the *Leandro* case. In the spring of 2020, plaintiffs and the State agreed to accept and implement WestEd's comprehensive set of remedies.

The [Leandro Comprehensive Remedial Plan](#) was submitted to the court in March of 2021, with a [summary of the plan](#) released in June. The plan outlines initiatives and action steps aligned with seven key components, based on WestEd's recommendations, to help North Carolina meet the mandate of providing all children with a sound, basic education.

These components include:

- 1) A teacher development and recruitment system that guarantees every classroom is led by a highly qualified teacher, supported through early and continuous professional development, and offered competitive compensation.
- 2) A principal development and recruitment system that ensures each school is managed by a skilled principal, who receives ongoing professional growth opportunities and competitive pay.
- 3) A funding system that delivers sufficient, equitable, and consistent financial resources to school districts, with a focus on addressing the needs of all North Carolina students, particularly those at risk, as outlined in the *Leandro* decisions.
- 4) An assessment and accountability framework that measures various aspects of student performance in alignment with the *Leandro* standard and ensures accountability accordingly.
- 5) A support and intervention mechanism that provides targeted assistance to underperforming schools and districts.
- 6) An early education system that guarantees access to high-quality prekindergarten and other early learning programs, ensuring that at-risk children across the state enter kindergarten prepared for success.
- 7) A structured alignment between high school education and postsecondary or career pathways, offering early college and workforce learning opportunities to prepare all students for future success.

Judge Lee directed the parties to seek the specified funds for the plan's implementation from the state legislature.

Legislative Refusal



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With Republicans maintaining firm control of the state legislature, no action was taken in the summer or fall of 2021 to provide the necessary funds to implement the plan. During the summer and fall of 2021, Judge Lee issued orders mandating that the legislature provide updates on its efforts to secure education funding in accordance with the established plan. In October, Judge Lee determined that the legislature had yet to finalize an appropriations bill to fully finance education and subsequently issued an order requiring a response by November 1.

A response was never given by the legislature. As a result, on November 10th, 2021, Judge Lee issued a [court order directing the State](#) to begin implementing the first three years of the plan and to prepare for eight years of *Leandro* funding to fully execute it. The initial three years would necessitate an additional \$1.753 billion in educational expenditures beyond the State's regular allocation. With Republican legislators unwilling to budge, Judge Lee engaged in an unprecedented maneuver; instead of ordering the General Assembly to appropriate the needed funds, he directed the State Controller and State Treasurer (executive officials) to transfer the funds directly, bypassing the General Assembly.

The unprecedented move by Judge Lee put all three branches of government in conflict. Senate President Phil Berger and House Speaker Tim Moore entered the lawsuit as 'legislative intervenors' to dispute Judge

Lee's order. State Controller Linda Combs promptly contested Judge Lee's ruling by filing an appeal with the NC Court of Appeals. [Combs argued](#) that she could not take part in any transfer of funds without authorization from the General Assembly. To do so would violate her oath of office and expose her to criminal charges. The NCCA agreed and, on November 30, 2021, issued a rare "writ of prohibition" against Lee's Nov. 10 order on the basis that the Superior Court lacks the authority to mandate the transfer of \$1.7 billion in state funds to finance the plan.

The Court of Appeals did not disturb the trial court's determination that these funds were necessary to remedy the State's violations and to assure to all NC children their right to a sound basic education, but it held that the responsibility to allocate the funds lay solely with the legislative and executive branches in accordance with their constitutional duties. In December 2021, multiple parties involved in the lawsuit filed appeals—some challenged the Superior Court's November 10th ruling, while others contested the NCCA's November 30th decision.

Leandro IV²

In March of 2022, the NCSC agreed to hear the appeal regarding the Superior Court's ruling directly. Simultaneously, the NCSC sent the case back to the Superior Court for an assessment of how the recently enacted State Budget affected the court's previous order. A budget had been passed and signed by Governor Cooper twelve days before the NCCA's overturning of Judge Lee's order. The Superior Court then established a schedule for involved parties to submit their positions on the budget's implications. Following a hearing, the Superior Court issued an order on April 26, 2022 concluding that the State had underfunded the *Leandro* Plan by \$785 million. However, the court did not mandate the transfer of these funds from the state treasury to the appropriate agencies.

The NCSC received numerous amici curiae briefs submitted by human rights groups and allies in support of Judge Lee's order. Submittants include:

² The *Leandro III* opinion is not covered directly. *Leandro III* dealt with 2012 legislation that capped funding for the 'prekindergarten' program Judge Manning had ordered the State to provide in *Leandro II*. *Leandro III* was heard by the NCSC, with the State arguing that the pre-k program was not intended to cover all at-risk students but rather up to 40,000. The plaintiff's argued against this and insisted the pre-k program was to be implemented over time, adding at-risk children to it each year without a limit. Before the Court could issue its ruling, the state legislature removed the artificial cap on pre-k funding. Thus, the Court instead issued a [per curiam opinion](#) that legislative changes eliminating the artificial cap rendered the controversy moot. The decision was raised "ex mero motu" (i.e., on its own) by the Court.



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- [North Carolina Justice Center](#)
- [Duke Children's Law Clinic, Education Law Center, Center for Educational Equity, Southern Poverty Law Center, Constitutional and Educational Law Scholars](#)
- [Professors and Long-time Practitioners of Constitutional and Educational Law](#)

The NCSC heard oral arguments in the case on August 31st, 2022. The Court was tasked with resolving two key questions:

- 1) whether Judge Manning had determined that a *statewide violation* of students' constitutional right to a sound, basic education had occurred, and
- 2) whether, in remediating a long-delayed constitutional violation, the courts have the direct authority to order executive branch officials to transfer \$785 million to state agencies as a remedy for such a violation, if the legislative branch has persistently refused to do so.

On November 4, 2022, [the NC Supreme Court upheld](#) the Superior Court's November 10, 2021 ruling in a 4-3 decision split along partisan lines. Justice Hudson, writing for the Court, stated:

"Accordingly, in response to decades of inaction by other branches of state government, the judiciary must act. This Court has long recognized that our Constitution empowers the judicial branch with inherent authority to address constitutional violations through equitable remedies... Today, to remedy that inaction, we exercise that power. For twenty-five years, the judiciary has deferred to the executive and legislative branches to implement a comprehensive solution to this ongoing constitutional violation. Today, that difference expires. If this Court is to fulfill its own constitutional obligations, it can no longer patiently wait for the day, year, or decade when the State gets around to acting on its constitutional duty "to guard and maintain" the constitutional rights of North Carolina school children. Further deference on our part would constitute complicity in the violation, which this Court cannot accept. Indeed, ultimately "[i]t is the state judiciary that has the responsibility to protect the state constitutional rights of the citizens."

Inaction by the State left the judiciary with both the authority and duty under the state constitution to require the Treasurer and Controller fund the full remedial plan. The case was then sent back to the Superior Court to recalculate the precise amount to be transferred, taking into account the funding provided by the 2022 State Budget.

On December 19, 2022, the Office of State Budget and Management submitted an affidavit stating that 63% of the Year Two Action Items and 60% of the Year Three Action Items in the Comprehensive Remedial Plan had received funding. As a result, approximately \$257.68 million in Year Two Action Items and \$420.12 million in Year Three Action Items remained unfunded.

Changing Dynamics of the NCSC

Four days after the NCSC's *Leandro IV* ruling, the [2022 midterm elections](#) were held. Justice Sam Ervin IV (D) was on the ballot and lost to his Republican challenger, Justice Trey Allen. Justice Robin Hudson, the author of *Leandro IV*, did not run for re-election in 2022 because she was nearing the court's mandatory retirement age. Republican Richard Dietz defeated Democrat Lucy N. Inman to replace Justice Hudson. Republicans retained all of their existing seats, giving them a 5-2 majority and firm control over the Court.

With their new majority, Republican justices soon took aggressive steps to overthrow several landmark rulings made by the previous Court. The new Court overturned a 2022 decision holding that the North Carolina legislature had unconstitutionally 'gerrymandered' (drawn the boundaries of) the State's



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Congressional and state legislative districts in order deliberately to favor future Republicans who were seeking office. It overturned a second decision previously rendered in December of 2022 which had held that a statute requiring all voters to show NC-approved identification documents to vote had been drawn by Republican leaders to discriminate against African-American voters.

On February 8th, 2023, N.C. Senate President Phil Berger and House Speaker Tim Moore [filed suit to halt the transfer of Leandro funds](#) until issues were resolved regarding separation of powers and the requirement for the state to provide a sound basic education to its students. State Controller Nels Roseland [asked the NCSC](#) to pause the order to transfer funds until it heard arguments over whether funds could be transferred without legislative direction. On March 3rd, [this motion was granted](#) by the Court.

On October 20th, 2023, [the Court again ruled](#) to hear arguments related to *Leandro*. Justice Berger, in his concurrence of the ruling, claimed there are "...many...unresolved issues" that the legislative intervenors had brought forth, effectively preventing the finality of a ruling. Berger alleged the "Court rushed to complete its earlier opinion in this incredibly complex, novel case (one that has spanned decades) so that it could be released in November of last year." In a vigorous dissent, Justice Earls wrote "Legislative-Intervenors' bypass petition should be denied because it is substantively hollow and procedurally improper. This Court resolved the question of subject-matter jurisdiction in *Leandro IV*. In that case—just 11-months old—the

Legislative-Intervenors raised the same arguments they did in their bypass petition: That the trial court lacked jurisdiction to remedy constitutional deficiencies in public education. We examined that claim and "unequivocally rejected" it."

2024 Oral Arguments

On February 22nd, 2024, the NCSC [heard oral arguments](#) from the parties in *Leandro* – in effect, a full rehearing of the previously decided *Leandro IV* appeal. Attorneys representing the state and school districts contended that the 2022 decision should remain in effect, as no new legal matters had been introduced for the Court's consideration.

Meanwhile, the attorney for legislative leaders once again argued that the Court does not have the authority to override the General Assembly's budgetary decisions. He also raised concerns about whether a statewide ruling on education policy and funding might infringe on the rights of individual districts, asserting that the previous decision should have been limited to Hoke County. In response, state and district attorneys emphasized that Judge Manning had frequently made findings and offered remedial suggestions that addressed statewide failures in multiple districts across North Carolina and that the case had already been held properly to raise statewide issues in the Court's 2004 ruling, making the matter legally settled.

The Court has yet to release a decision (as of 3/5/2025).

Conclusion

While *Leandro* has occupied the courts for over three decades, public schools have remained underfunded. Legislators have prioritized taxpayer-funded private school voucher programs and the expansion of charter schools over ensuring our public schools are adequately funded to give students the greatest opportunities to succeed. Although leaders of the General Assembly have attempted to reframe *Leandro* as a case about their own non-delegable legislative powers over spending, *Leandro* at its core has always been about the long-neglected, but core educational rights guaranteed to all North Carolina students, raising key issues of human rights.



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How can our state claim to support all public school students when massive inequities in per pupil and per classroom funding still exist? How are 'low wealth' districts expected to provide their students an adequate education when they cannot afford to keep qualified, experienced teachers in the classroom? Unfortunately, North Carolina's tumultuous political landscape has interfered with the provision of a sound, basic public education.

The wellbeing of our state's next generation seems to be mired down in politics. Regardless of the Court's upcoming decision, public school advocates must continue to fight for an equal education for all students, regardless of race, ethnicity, socioeconomic status, or place of residence. Fully funding the Leandro Comprehensive Remedial Plan and heeding the recommendations laid out in the WestEd report are paramount steps in strengthening our state and giving its next generation of leaders the resources they need to prepare our state for a rapidly changing society.

Thank you to Dean John Charles Boger for allowing PSFNC to use his extensive work on Leandro to create this fact sheet. Dean Boger is an [emeritus professor](#) and former dean of the University of North Carolina Law School; he previously worked at the NAACP Legal Defense and Educational Fund, Inc. (LDF) and during that time represented Warren McCleskey in the U.S. Supreme Court.

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