

2014 N.C. Charter School Cases

1. **Thomas Jefferson Classical Academy v. Cleveland County BoE**, 758 S.E.2d 688 (N.C. Ct. App. 2014) [Appeal sought]
 - A. Background: Three charter schools brought action against local education agency (LEA), alleging LEA failed to pay over \$100,000 to three charter schools from the Local Current Expense Fund (LCEF / “Fund 2”). The LEA claimed that it legally moved “restricted” funds to other accounts and was not obligated to share those funds with plaintiffs. Trial judge awards almost \$60,000 and attorneys fees; LEA appeals.
 - B. Issues:
 1. Did 2010 legislative amendments to charter funding statute that defined “restricted funds” apply to this case since this case involved facts that
 2. Did the trial judge properly determine which funds were and were not “restricted”?
 3. Is an LEA a “state agency,” subject to attorney fees statute?
 - C. Holding/Rulings
 1. Because the 2010 amendments were “clarifying” (not “altering”) existing law, then such amendments apply to pending cases.
 2. Because of ruling (i), the case must be remanded for the trial judge to follow the 2010 Amended statute and identify how funds in question do or do not fit “restricted” categories in that statute.
 3. LEA was not a “state agency” (though it may be an “agent” of the state) and therefore not subject to attorney fees statute
2. **Northeast Raleigh Charter Academy, Inc.** (d/b/a Torchlight Academy) v. Wake County BoE, 757 S.E.2d 527 (N.C. Ct. App. 2014) [Unpublished Opinion]
 - A. Background: Torchlight Academy awarded \$126,640.18 to account for per pupil share of the unreserved and undesignated portions of the general fund balance
 - B. Issue raised on appeal is whether the trial court erred in not awarding Torchlight Academy an additional share of the fund balance
 - C. Holding: decision affirmed
3. **Charter Day School, Inc. v. New Hanover Co. BoE**, 754 S.E.2d 229 (NCA 2014)
 - A. Background: Charter school sued LEA, alleging LEA failed to accurately calculate the per pupil local current expense appropriation to which charter school was entitled.
 - B. Issues
 1. Must LCEF \$ to be allocated to CS include all funds or only those “appropriated”?
 2. May the LEA calculate Pre-K pupils in its per pupil allotment?
 - C. Holding:

1. The LCEF due to charter schools does not include the entire LCEF balance, only that amount which is actually appropriated.
2. LEA not entitled to include pre-kindergarten students given past precedent.

4. **NC SBE. v. North Carolina Learns, Inc.**, 751 S.E. 2d 625 (NCA 2013)

- A. Background: State Board of Education filed petition for judicial review of ALJ decision holding that application to operate proposed virtual charter school was deemed approved by the Board's failure to act. ALJ decision was ultimately reversed. Operator of proposed school appealed.
- B. Holding/Rulings:
 1. Board chairman's announcement on virtual charter schools was an announcement of already-decided policy that did not require a motion and a vote.
 2. Statutes requiring State Board to act by deadline were directory rather than mandatory such that failure to act did not result in approval.
 3. Operator required to wait 120 days until after deadline to file hearing petition