

## Face-off on Fayetteville Street

### Supt., lawyer to square off at judge's March hearing on CMS academics

Jim Pughsley in March not only must face an N.C. judge asking questions about “academically dead” high schools. Now the CMS superintendent may be quizzed by a civil rights lawyer seen as deeply angered by what CMS policies are doing to children.

And after Wake Superior Court Judge Howard Manning ends his March inquiry into high school achievement, the judge may still decide to explore lawyer Julius Chambers' argument, made in a motion filed in Manning's court, that the CMS student assignment plan violates the North Carolina Constitution.

At the Wake County Courthouse on Raleigh's Fayetteville Street Tuesday, Manning delayed until after March 7 all action on Chambers' motion to intervene in the long-running Leandro school finance lawsuit on behalf of four CMS students and two parents (Excerpts from the filing, Page 8).

Manning delayed other decisions as well – until after the pending release of Gov. Mike Easley's proposed state budget. On Wednesday afternoon, Easley's press office said no dates had been set either for the budget release or the governor's State of the State message.

But Manning said after a hearing Tuesday that, by March 7, the Leandro case would either be “more on track – or a constitutional train wreck will occur.”

Easley's budget either will or will not contain the money the state needs to implement court-approved educational improvements in 16 N.C. test counties. Those remedies to persistent low achievement in some of North



Pughsley



Chambers

Carolina's poorest counties were hashed out in earlier Leandro hearings.

Another motion before Manning

Tuesday sought to force the state to say immediately whether it will fund a five-part program to improve K-12 education statewide. The motion proposed a three-year phase-in, beginning at \$125 million next fiscal year.

Chambers, who sued CMS in the 1960s to end segregation, was not present in the courtroom Tuesday. But Manning said Chambers and other attorneys for the CMS students would be welcome at the March hearing, even before a decision on their motion

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## Meet kids' needs where they are?

A former CMS principal Tuesday added his voice to a growing chorus in the black community arguing that black children deserve to have their educational needs met in their own neighborhood schools.

The chorus grows even as a largely African-American citizens group pushes for the breakup of many of those high-poverty schools in the black community, saying that studies – and Supt. Jim Pughsley – have concluded that such schools are educationally unsound places for all children assigned to them.

Ken Simmons retired last year from the principalship of Derita Alternative School after a 30-year career that included a controversial stint at West Charlotte High.

Borrowing but also recasting the “cast down your buckets where you are” vision of Booker T. Washington (box, Page 3), Simmons catalogued ways in which black Mecklenburg residents could help boost educational outcomes for black children.

And woven throughout his presentation to the predominantly African-American Tuesday Morning Breakfast Forum was an assertion that school policies are deliberately designed to discourage black children from pursuing education.

He criticized schools for making second-graders plow through fractions before they had a thorough grounding in whole numbers.

State testing is a “tapestry that has been woven” to block black youth from maintaining their interest in education. “It is by design, y'all.”

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## Ken Simmons

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“Mathematics works like building blocks,” Simmons said. “You’ve got to learn some basic skills first.” If children don’t have those basic skills, the more advanced concepts “dull children’s minds” and lead to dropouts.

Similarly, the schools stopped teaching grammar in the 1980s when they began teaching writing, thinking that grammar could be taught as part of the writing process. The educational theory was based on British practice at a time when virtually all Brits knew the language well.

“Naturally they grew up to speak correctly,” Simmons said. “That is not the case with many of our poor or inner-city children. They do not get that role modeling. When you take it out of the school and it’s not in the home, there’s a void there.”

Simmons told a story on his own family. A teenaged daughter took up needle and thread to mend a garment. With every pull of the needle through the garment, the thread just kept pulling out and the child grew very frustrated. The parents finally realized that “she didn’t know she had to tie a knot” in the thread.

There was a time when all children learned such life skills at home, or in home economics, or shop. Carpentry classes survive only in a few schools. “But are we still building houses today with wood?” he asked.

Simmons advocated the opening of more alternative schools to handle unruly students. “Some children just need it said and done different.”

The main path from alternative schools “leads right to jail,” but teachers are putting up with too much from students, he said.

“My closest teacher friend is at Garinger, and she says, ‘I’m so tired of begging children to let me teach them.’”

Simmons also criticized the CMS policy change that required 28 units for graduation. With the

**“My closest teacher friend  
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begging children  
to let me teach them.’”**

**– Ken Simmons**

closing of summer school, a ninth-grader messing up in four courses can find his way to graduation already blocked. “This can be a discouraging factor. I’d drop out too,” he said.

Simmons said both teachers and principals believe “it’s taboo to discuss” education issues in Charlotte-Mecklenburg. “They are loaded with stuff, but they are afraid, especially in this day and time.” Simmons did not elaborate.

He said schools start too early in the morning. And he said the “middle class thinking” that shapes schools leaves poor children facing a “culture gap.”

Whites are leaving CMS, Simmons asserted, noting that whites represent about 60% of the county’s entire population, but about 40% of CMS students.

“They’ve crept out the doors of public schools, and you have to ask, why?”

Simmons said he was “blown away” on seeing “the immensity and the beauty” of private

Charlotte Latin School. “It costs money and this is where their children are going. Why isn’t anybody discussing this? Why isn’t CMS good enough?”

Simmons said it was time for the black community to speak out. “We talk in this group but many folks don’t open their mouths. It’s time to say something about the children.”

Simmons offered these suggestions:

– Mecklenburg needs to be growing its own African-American teachers. The low percentage in CMS “is a shame and a disgrace.”

“I’m not saying every black child needs all black teachers. But they must have a good number that they can count on, who look like their mama, their aunt, their daddy.”

– CMS must make salaries more attractive.

– Churches could subsidize black teachers so they don’t have to moonlight to make ends meet. He asserted that white teachers

Continued on Page 3

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## Letters

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### How to fix CMS

I don’t think it can be emphasized enough:

Good principals and teachers, in that order, are needed to correct CMS’s problems.

I assure you it starts at the top!

Terry Robertson

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**Educate!** is a journal on public education focusing on Charlotte-Mecklenburg and N.C. Our aim is to supply information useful to you in your role as student, parent or citizen.

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## Ken Simmons

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have other resources, but young black teachers just starting out depend on their paycheck.

– Assignment plans should leave inner city children “in their neighborhood or support those who have reason to leave” for magnets or other programs. If poverty is the real issue, then the community should address poverty rather than busing children away from it, he said. “It all begins at home.”

Simmons recalled his days in the 1970s greeting poor children bused into Albemarle Road Elementary. He met a child who only knew his name as “Boo.” The child didn’t know his mother’s name, his address, or his real name. To place the child in his assigned class, school staff drove the child home to find his mother and learn the child’s identity.

– Hold city and county officials responsible for wraparound services for all needy children and families where they live. “The only people held accountable now are teachers and schoolhouses.... but these other folks are getting government money, too.”

– The black community should create a commission to monitor services at inner city schools. “We need to monitor the resources,” Simmons said.

– Black children should be taught ancient African history. “If they don’t want to teach African-American history at North Meck or South Meck, that’s fine. But we ought to demand it.” Simmons said he wanted “to draw a circle” around central Charlotte schools and demand a curriculum relevant to students in those schools.

“Just because children are poor, I can’t buy this thing that they can’t learn.”

– Keep schools open until 8 p.m. weekdays and provide services for families. “OK,” he quipped, “I’m talking about a utopian society. But most of what works begins with dreams. We’re already paying for the lights.”

## ‘Cast down your buckets’ ...

*For many African-Americans, “cast down your buckets” has entered the language and can have a variety of meanings. But the term’s most famous usage was in an address by Booker T. Washington, principal of the Tuskegee Normal and Industrial Institute, Tuskegee, Ala. at Atlanta’s Cotton States and International Exposition, Sept. 18, 1895:*

“To those of my race who depend on bettering their condition in a foreign land, or who underestimate the importance of cultivating friendly relations with the Southern white man, who is their next door neighbor, I would say: ‘Cast down your bucket where you are’ – cast it down in making friends in every manly way of the people of all races by whom we are surrounded.

Cast it down in agriculture, mechanics, in commerce, in

domestic service, and in the professions....

“To those of the white race who look to the incoming of those of foreign birth and strange tongue and habits for the prosperity of the South, were I permitted I would repeat what I say to my own race, ‘Cast down your bucket where you are.’ Cast it down among the 8,000,000 Negroes whose habits you know, whose fidelity and love you have tested....

“Casting down your bucket among my people... you will find that they will buy your surplus land, make blossom the waste places in your fields, and run your factories. While doing this, you can be sure in the future, as in the past, that you and your families will be surrounded by the most patient, faithful, law-abiding, and unresentful people that the world has seen....”

– Demand character education built into the regular curriculum. “It’s all about goodness....”

– Insist on a holistic curriculum that includes arts and information on healthy lifestyles. “See how much art the children are getting.” Third grade is becoming “so sad,” he observed, as teachers insist they’ve “got to get them ready for the test.”

– Define the breadth of a quality education. “What does it really mean? Is it all about test scores? That’s a part of it.”

– Support reparations for African-Americans, who continue to suffer from wealth robbed by slavery, lack of education and lack of opportunity. “If you don’t have any money, you’re forced to stay at Piedmont Courts until they tear it down. And then you must go” to whatever housing is available. “It’s all tied together.”

– State testing leads teachers to push in front of students concepts that will be on tests but for which the children are not ready. Some

students are ready, of course.

“We’ve always had our little masterminds” who thrive in academically gifted classes. Simmons said he supports raising expectations, “but the majority of children are not ready.”

– The concept of God should be discussed in schools, Simmons said. “You may not be able to pray openly aloud,” he acknowledged, “but most people pray before they take a test. You don’t hear them, but they do.”

– More must be done to make teaching financially attractive to African-Americans with more lucrative options in other professions. Simmons presented a chart that showed Shamrock Gardens Elementary’s teaching staff of 26 included only 6 African-Americans. The school’s student body last fall was 91% minority, including 28% Hispanic and 56% black.

“This is what we are getting as long as we make the profession unattractive.”

## Face-off in court

Continued from Page 1

to intervene. A CMS press release put the best face on the setback:

“Judge Manning will allow the lawyers in the motion to intervene to participate in the March 7 hearing,” the statement said. “Their participation includes the opportunity to cross examine witnesses; however, they will not be allowed to put on evidence.”

What does the word “participate” really mean? One longtime observer of Manning’s courtroom observed: “In case you are thinking that this term has a well-known meaning among lawyers, it does not. No one seems to know what kind of role Chambers... may have...”

The Charlotte students, one of whom was in court Tuesday, filed their motion on Wednesday, Feb. 9. On Monday, another group of lawyers asked Manning to act quickly, urging the judge to use his powers to improve education immediately across the state. If not, the brief suggested, more students like the CMS group would file motions, but instead of consolidating their motions in front of Manning, would start filing in courts all across the state.

(At least one such case, claiming a violation of Leandro rights in an Edgecombe County suspension case, has already been heard (*Educate!*, Feb. 11).

Some court observers said the threat implied in that court filing irked Manning. “Maybe he didn’t like people telling him what to

## Got the fever

“If the poverty rate in CMS is 45% and we know that nothing good comes with a rise in the poverty rate, we must do everything in our power to make sure that no school has a poverty rate greater than 45%. The poverty rate is like a fever; the higher it goes the worse it gets.”

– Richard McErath, founder of People United for Education

do,” one witness to Tuesday’s proceedings said. “He was biting on his glasses. When my mama did that, she was serious.”

The possibility of a ruling on the Charlotte students’ motion lured a number of Mecklenburg residents to Manning’s court. One was struck by the judge’s renown sense of humor. When he told the bailiff to dim the lights for a video presentation, Manning remarked that, looking over the crowd, he thought he would be safe in the dark.

News outlets had representatives in court Tuesday. Manning placed them in the jury box.

The Charlotte Observer reported that the judge said Chambers’ motion could wait: “‘There’s no rush whether we take that up or not,’ Manning said of the motion. ‘I’ve got the big picture we need to look at.’”

Raleigh’s News & Observer reported that Manning “plans to

broaden the scope of his review of the state’s schools to include students at all levels, including those with average and high achievement. ‘This case involves not only poor children,’ he said, ‘but kids who are there in the middle who are being overlooked.... They have a Leandro right just as kids who are struggling.’”

The N&O raised a feature of this case that has troubled lawyers and educators for years. Is a sound basic education guaranteed only to poor children? Is the emphasis on “basic” – a floor of skills all children should have – or is the emphasis on “sound,” which would imply that the state’s duty is to help every child develop to his or her fullest?

Earlier rulings in the case have said some children’s needs should not be ignored to meet the needs of at-risk students. And the N.C. Supreme Court offered a wide-ranging definition of “sound

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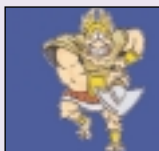
## DidYaHear?

✓ So once you own a mobile classroom, what does it cost to set one up? The latest numbers are from the Wake school board, which earlier this month approved a contract for site set-up of 25 units. Set-up cost per unit: \$18,476.48.

✓ “Come on, Terry!” came the catcalls when Guilford Supt. Terry Grier raised the racial divide at a community meeting. But Grier used a special edition of his e-mail newsletter this week to repeat the charge: “We are pleased that the percentage of GCS high school students taking one or more Honors or Advanced Placement courses increased 58 percent since 2001.... Still, over twice as many white students are currently taking one or more Honors or AP courses, as compared to the total number of all other students taking those courses. Given these numbers, when we look into many of our classrooms we can predict, with a high degree of reliability, the academic ‘level’ of the course being taught based on the ethnic composition of the class. We must be willing to recognize, discuss, and address these inequities in our schools.”



www.guilford.k12.nc.us  
Grier



www.wcps.net  
East Wake's  
Warrior mascot

✓ East Wake High is looking to the Gates Foundation-funded New Schools Project for startup money to open a health science school this fall. The school-within-a-school would enroll 400 and have 25 teachers. Perhaps field training can begin on the football field this fall, helping minister to the 11-1 TAAC 4A champion Warriors.

– Send intelligence to swannfello@aol.com

## Face-off in court

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basic” education that mandates that every child have “sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.”

The case, which dates from 1994, was first brought by five low-wealth counties, arguing that the state should pay more of the cost of educating their children. High-wealth counties like Mecklenburg later joined the suit, saying their costs of educating proportionately larger numbers of special needs students were not being covered by the state. Hearings and court decisions to date have focused on the low-wealth counties’ needs.

The public is accustomed to the judge’s role as convener of hearings, interpreter of the law, and referee of proceedings between prosecutors and defenders.

As Pughsley is about to observe first-hand, Manning’s courtroom runs by different rules.

The judge peppers witnesses with questions. He introduces his own evidence. He asks lawyers to present witnesses – even ones that don’t fit their particular view of where the case should be going.

Manning’s latitude is at the direction of the N.C. Supreme Court, which has ordered the judge – a former legislator – to work on a problem whose solutions must ultimately be supported by all three branches of state government.

Tuesday’s hearing, which some found puzzling, may have been the latest evidence of the balancing act that Manning is engaged in.

Hearings in October, December, January were devoted to nailing down how the state will mount additional efforts to give all students a sound basic education. Now the hearings to begin March 7 will open on that subject.

The scribes in the jury box may well have a busy week.

## Great teachers are what we need to close the gap

*Excerpts from “Qualified Teachers for At-Risk Schools: A National Imperative,” an inaugural report from the National Partnership for Teaching in At-Risk Schools:*

“Many Americans assume that the achievement gaps among our nation’s students are the inevitable result of poverty, poor family structure, and social problems. And indeed, these are daunting factors and challenges.

“But research suggests that if our poorest children are given a succession of motivated, well-prepared, and experienced teachers, the gaps in achievement between these children and their more affluent peers can be narrowed – if not completely closed....

“Few challenges facing America today are as critical as improving the educational attainment of poor and minority children. The dimensions of the problem – and its enormous social and economic consequences – are evident in the following statistics:

“– Black and Hispanic 12th graders perform at the same level in reading and mathematics as white 8th graders.

(Campbell, J. R., Hombo, C. M., & Mazzeo, J. (2000). National Assessment of Educational Progress 1999: Trends in academic progress (NCES 2000-469). Washington, DC: National Center for Education Statistics. Retrieved January 10, 2005, from <http://nces.ed.gov/nation-sreportcard/pdf/main1999/2000469.pdf>)

“– The high school graduation rate for Hispanics and blacks is roughly 55 percent, compared with 78 percent for white students.

(Greene, J. P. (2002). High school graduation rates in the United States. New York: Manhattan Institute.)

“– By the age of 24, nearly half of young adults raised in affluent families have graduated from college, compared with only 7 percent of young adults raised in low-income families; while 34 percent of white adults obtain either a two-year or four-year college degree by age 25, only 20 percent of black adults and 15 percent of Hispanic adults receive a college degree by that age.

(Ingels, S. J., Curtin, T. R., Kaufman, P., Alt, M. N., & Chen, X. (2002, September). Coming of age in the 1990s: The eighth grade class of 1988 12 years later. *Education Statistics Quarterly*, 4(2). Retrieved January 10, 2005, from [http://nces.ed.gov/programs/quarterly/vol\\_4/4\\_2/2-1.asp](http://nces.ed.gov/programs/quarterly/vol_4/4_2/2-1.asp); Ruppert, S. (2003). Closing the college participation gap. Denver, CO: Education Commission of the States.)

“– Eighty percent of inmates under the age of 25 in U.S. prisons lack a high school diploma, and 40 percent are functionally illiterate. Fifty percent of black high school dropouts have been incarcerated; in 2000, there were more black males in prison (791,600) than in college (603,000).

(Center on Crime, Communities and Culture. (1997). Education as crime prevention: Providing education to prisoners (Research Brief No. 2). New York: Open Society Institute; Harrison, P. M., & Karberg, J. C. (2003, April). Prison and jail inmates at midyear 2002. *U.S. Bureau of Justice Statistics Bulletin*; U.S. Bureau of Justice Statistics. (1997 and 1998). Characteristics of jail and state and federal inmates: 1996 and 1997 surveys. Washington, DC: Author; Western, B., Schiraldi, V., & Ziedenberg, J. (2003). Education and incarceration. Washington, DC: Justice Policy Institute.)

“– According to the 2000 Census, the median annual household income was \$33,000 for Hispanics and \$29,000 for blacks, compared with \$47,000 for whites.

(U.S. Census Bureau. (2000). United States Census 2000. Retrieved January 10, 2005, from <http://www.census.gov/main/www/cen2000.html>)

“– By 2020, there will be a shortage of workers qualified to fill the estimated 14 million white-collar jobs that will be vacated by baby boomers reaching retirement age.”

(Carnevale, A. P., & Deroschers, D. M. (2004). Standards for what? The economic roots of K-16 reform. Princeton, NJ: Educational Testing Service.)

– Download full report from <http://www.ecs.org/clearinghouse/57/96/5796.pdf>

# School campuses built in pieces over long periods

The long range plan now being revised within CMS aims not only to replace all mobile classrooms with brick-and-mortar rooms:

It also proposes to tackle the remaining unrenovated space that dates back as far as 1925.

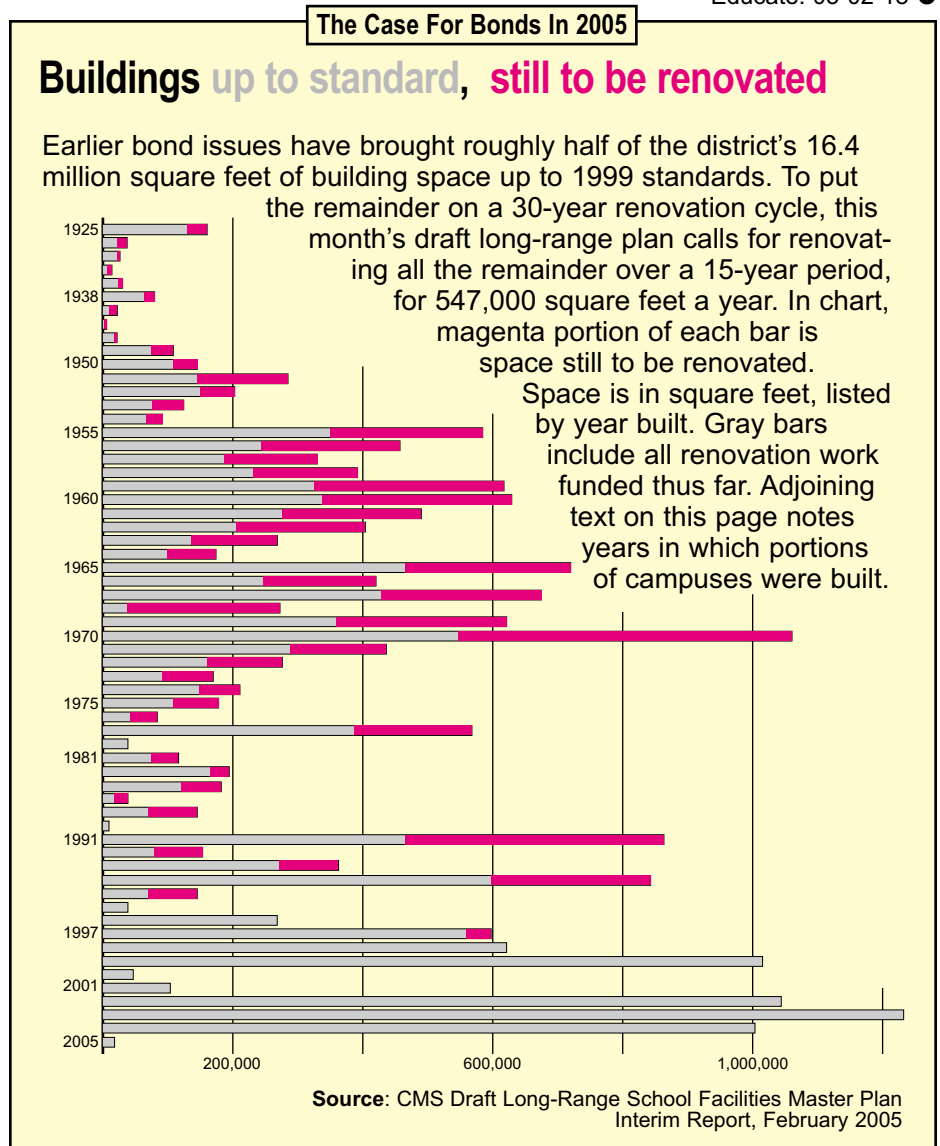
In the list below taken from a draft of the long range plan, schools are listed with the years during which individual buildings or additions were opened – or will be opened with funds already committed.

Years are listed (in parentheses) when the building opened in that year has since been demolished.

SCHOOL/ FACILITY      CONSTRUCTION DATES (EX. 1952=52)

## ELEMENTARY

ALBEMARLE ROAD	68, 76, 91,01
ALLENBROOK	66, 69, 91,00
AMAY JAMES	58, 69
ASHLEY PARK	51, 53, 57, 70, 91,00,04
BAIN	25, 51, 52, 69, 83, 94
BARRINGER	51, 56, 59, 70, 81, 83, 92
(NEW) BARRINGER	02
BERRYHILL	78
BEVERLY WOODS	69, 90, 91, 97
BILLINGSVILLE	27,49,(53),(56),(57),(64), 72,(81),94,04
BLYTHE	98
BRIARWOOD	56, 59, 71, 72, 76, 98
BRUNS AVENUE	69,98
BYERS	01
CHANTILLY	48, 53, 98
CLEAR CREEK	60, 69, 82, 89
COLLINSWOOD	59, 68, 74, 98
CORNELIUS	30, 71, 80, 89, 98
COTSWOLD	56, 57, 70, 91, 97
CROWN POINT	93
DAVID COX RD	94
DAVIDSON	94, 96
DERITA	37, 53, 71, 82, 92
DEVONSHIRE	64, 65, 71, 76, 77,01
DILWORTH	66, 91
DOUBLE OAKS	52, 55, 65, 71
(NEW) DRUID HILLS	01
DRUID HILLS	60, 64, 70
EASTOVER	35, 41, (56), 72, 04
ELIZABETH	25, 51, 71, 03
ELIZABETH LANE	96
ENDHAVEN	03
FIRST WARD	61, 67, 89
(NEW) FIRST WARD	03



GREENWAY PARK	95	MERRY OAKS	52, 57, 58, 71, 91
GRIER RD.	01	(NEW) MERRY OAKS	02
HAWK RIDGE	98	METRO	49, 58, 61, 76
HICKORY GROVE	51, 59, 71, 74, 81, 91	MONTCLAIRE	58, 64, 71, 97
HIDDEN VALLEY	66, 67, 76, 78, 94	MOREHEAD	98
HIGHLAND MILL	54, 56, 71,02	MT. ISLAND	02
HIGHLAND REN.	01	MYERS PARK TRAD.	28, 48, 54, 72,02
HORNETS NEST	91	NATHANIEL ALEXANDER	96,97
HUNTERSVILLE	38, 54, 68, 91,98	NATIONS FORD	57, 60, 65, 71, 74, 92,01
HUNTINGTOWNE FARMS	64, 67, 91	NEWELL	58, 70, 76, 82,01
IDLEWILD	57, 68, 92,99,00	OAKDALE	52, 54, 57, 66, 92
IRWIN AVENUE	35, 38, 95	OAKHURST	32, 52, 59, 64, 71, 92,02
J. H. GUNN	52, 57, 63, 66, 74, 81, 87	OAKLAWN	63, 64,04
(NEW) J.H. GUNN	02	OLDE PROVIDENCE	68, 80, 92
LAKE WYLIE	92	PARK ROAD	49, 54, 71, 97
LANSDOWNE	59, 60, 68, 74, 81,01	PAW CREEK	54, 59, 70,99
LEBANON ROAD	90	PAWTUCKETT	30, 57, 73, 76,97
LINCOLN HEIGHTS	(56),(58),(63),(71), (92)	PINEVILLE	68, 75, 76, 97
(NEW) LINCOLN HEIGHTS	02	PINEWOOD	53, 57, 60, 71, 75
LONG CREEK	32, 36, 54, 69, 74, 82, 91, 97	(NEW) PINEWOOD	05
MALLARD CREEK	87, 89,00	PINEY GROVE	77, 81, 92, 98
MATTHEWS	38, 54, 69, 71, 76, 79, 80, 83, 89,01	PLAZA ROAD	52, 73, 76
McALPINE	86, 87	PROVIDENCE SPRING	02
McKEE ROAD	89	RAMA ROAD	64, 66, 81, 92,00
		RANSON RD.	05
		REEDY CREEK	81, 91

# Construction years

Continued from Page 6

REID PARK	94
SEDFIELD	54, 55, 60, 71, 91
(NEW) SEDFIELD	02
SELWYN	58, 63, 64, 74, 82, 88
(NEW) SELWYN	02
SHAMROCK GARDENS	54, 57, 71, 83, 98,99
SHARON	77
SMITHFIELD	94
STARMOUNT	62, 65, 68, 88, 91
STATESVILLE ROAD	55, 58, 69, 75, 76, 87,98
STEELE CREEK	68, 76, 89, 98
STERLING	(37),(51),(57),(77),(80),(92)
(NEW) STERLING	02
THOMASBORO	41, 45, 52, 77, 82, 03
TRYON HILLS	53, 59, 69, 74
TUCKASEEGEE	57, 60, 70, 92
UNIVERSITY MEADOWS	92
UNIVERSITY PARK	57,58,64,71,73,96
VILLA HEIGHTS	74, 76, 97
WESTERLY HILLS	69, 76,01,03
WINDING SPRINGS	95
WINDSOR PARK	60, 62, 65, 88, 91
(NEW) WINDSOR PARK	05
WINTERFIELD	64, 65, 97

## MIDDLE

ALBEMARLE ROAD	67, 70, 80, 92,00
ALEXANDER	59, 62, 63, 68, 82, 92,04
ALEXANDER GRAHAM	58, 69,01
BRADLEY	98
CARMEL	70, 73, 80, 83
COCHRANE	61, 64, 65, 68, 03, 04
COMMUNITY HOUSE	05
COULWOOD	60, 65, 69, 82, 97,01
CRESTDALE	98
DAVIDSON	35, 48
EASTWAY	54, 56, 66,01,04
HAWTHORNE	37, 56, 66, 69, 82, 94
KENNEDY	89
LAMBETH	03
MARIE G. DAVIS	51, 53, 54, 57, 59, 71, 96, 00
MARTIN	98
McCLINTOCK	55, 59, 72, 76, 82,04
MINT HILL	03
NORTHEAST	76, 81
NORTHRIDGE	96
PIEDMONT	25, 37, 49, 73,04
QUAIL HOLLOW	64, 65, 68, 92
RANDOLPH	67, 81
RANSON	64, 70, 91,01
ROBINSON, J. M.	02
SEDFIELD	55, 56, 71,01,02
SMITH	60, 62, 63, 66, 69, 75,00, 02
SOUTH CHARLOTTE	92
SOUTHWEST	03
SPAUGH	56, 70,00
WILLIAMS	62, 75, 98
WILSON	55, 60, 69, 74, 83, 92,01

## HIGH

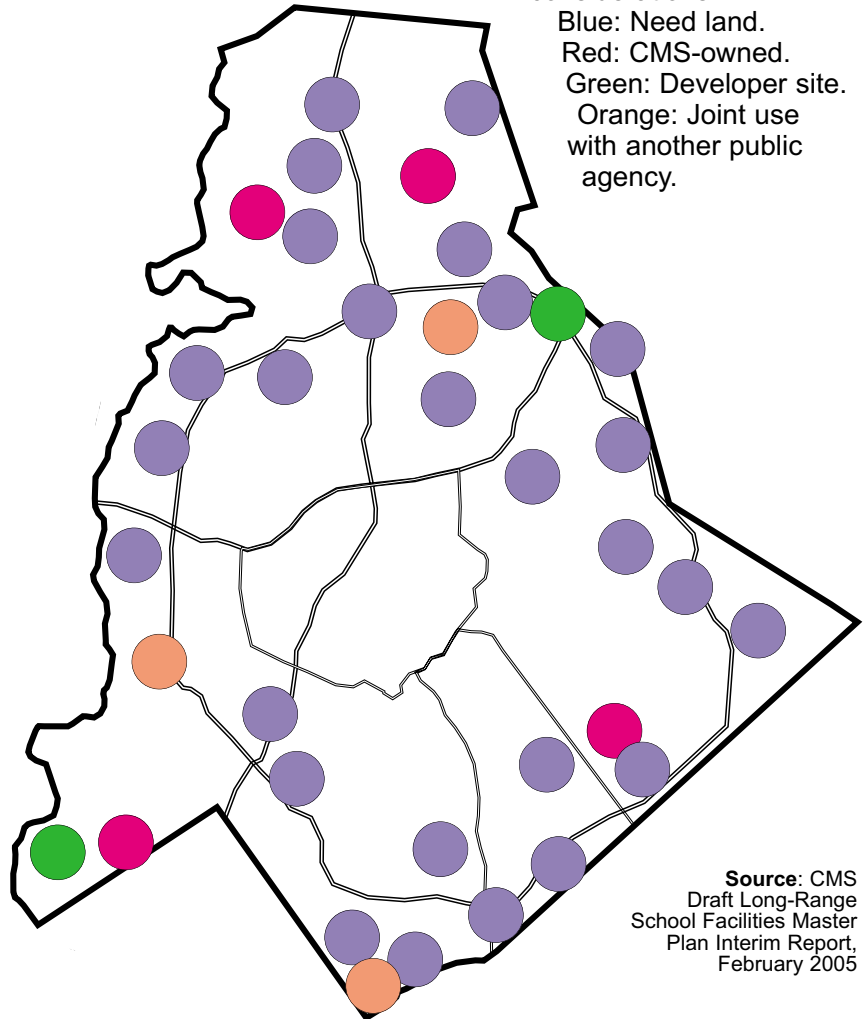
BERRY, PHILLIP O.	02
BUTLER	97

# New elementary locations by 2014

CMS's draft long-range plan projects locations where new elementary schools may be needed by 2014. Colors refer to land ownership considerations:

considerations:

- Blue: Need land.
- Red: CMS-owned.
- Green: Developer site.
- Orange: Joint use with another public agency.



Source: CMS  
Draft Long-Range  
School Facilities Master  
Plan Interim Report,  
February 2005

EAST MECK	49,51,54,55,56,61,63,65,69, 76,80,97,98
GARINGER	59, 60, 67, 76, 01, 03
HARDING	61, 69, 76, 81
HOPEWELL HIGH	01
INDEPENDENCE	66, 69, 73, 76, 80, 86,00,04
MIDWOOD	35,37,41,47,71
MYERS PARK	51, 54, 62, 63, 70, 76, 77, 81, 96,01,03
NORTH MECK	51, 54, 58, 64, 68, 70, 75, 76, 91, 96,00,04
NORTHWEST	37,47,52,69,96, 03
OLYMPIC	65, 74, 76, 96,00
PROVIDENCE	89, 96
SOUTH MECK	58,62,70,75,76,81,96,04
WADDELL, E. E.	01
WEST CHARLOTTE	54,55,57,59,66,67,76,81,90,91,98,99
WEST MECK	50, 54, 57, 67, 91, 96, 97
VANCE	97

## CENTERS

ADA JENKINS	37, 52, 61
BUILDING SERVICES	92
EDUCATION CENTER	69
ENDERLY PARK	(35),(45),(70),(76)
EUCLID	26 (leased to county)
GRAHAM	26
GRAPHIC PRODUCTIONS	87
LAKEVIEW	53, 54, 71
LEADERSHIP ACADEMY	83
MATTHEWS CTR.	06, 27(leased to Matthews)
MORGAN SCHOOL	25,50
NORTH POINTE BUS	97
ORR BUS MAINT	97
PROF. DEV.	25, 35, 50, 56, 70, 74
TRANSPORTATION (Craig)	64, 72, 92
WALTON PLAZA	72
WAREHOUSE	66, 75, 81
WILKINSON MAINT	96

# The argument for intervention

## Leandro brief sets out concerns about CMS assignment

*Below are excerpts from the legal papers filed with the Leandro court Feb. 9 arguing that four Charlotte students should be allowed to intervene in Leandro.*

*Filed by a group of lawyers headed by Julius Chambers, who sued CMS in the 1960s demanding racial desegregation, the papers argue that the CMS student assignment plan allows socioeconomic isolation that injures the students' academic prospects.*

*Wake County Superior Court Judge Howard Manning took no action Tuesday on the motion. The court's next currently scheduled hearing is during the week of March 7.*

### Intervening complaint

Plaintiff-Intervenors Rafael Penn, Clifton Jones, Clifton Matthew Jones, Donna Jenkins Dawson, Neisha Shemay Dawson and Tyler Anthony Hough-Jenkins allege and state the following against the defendants:

#### Nature of this action

1. Plaintiffs are public school students in the Charlotte-Mecklenburg school district (hereafter, "the Charlotte district") some of whom who are represented by their parents and next friends. They seek a limited intervention in this lawsuit to enforce their constitutional rights to a sound basic education—which is guaranteed by North Carolina Constitution, art. I, § 15 and art. IX, § 2 (1), as clarified by the North Carolina Supreme Court in *Leandro v. State*, 346 N.C. 336 (1997), by *Hoke County Board of Education v. State*, 358 N.C. 605 (2004), and by the various prior orders and decisions of this Court—and to guarantee their right under the North Carolina Constitution art. I, § 19 to the equal protection of the laws.

2. Plaintiffs attend, or expect to attend, high schools within the Charlotte system that have undergone profound changes in their student assignment patterns during the past five years because of a series of resolutions adopted by defendant Charlotte-Mecklenburg Board of Education (hereafter, "the Charlotte Board"). These resolutions have created and implemented a new system of student assignments (hereafter, "the 2000 assignment plan").

3. The 2000 assignment plan succeeded 28 years of federal-court supervised assignment plans that were designed to bring about racial desegregation under the three-decades-long *Swann v. Charlotte-Mecklenburg Board of Education* lawsuit. The 2000 plan is built upon a policy foundation purportedly

emphasizing parental choice. It announces as its highest priorities a "home school guarantee" – that all students can attend a school in proximity to their residences – and the maximization of stability – assuring that these home school guarantees and other choices will be stable "to the fullest extent feasible."

4. The defendant Charlotte Board knows, and was cautioned by educational consultants, that the Charlotte-Mecklenburg district is characterized by residential neighborhoods that vary widely in their average socioeconomic circumstances. Some neighborhoods, especially in central city and west Charlotte, are predominantly lower-income. Others, especially in the northern and southern suburbs of Charlotte, are predominantly higher-income. The defendant Charlotte Board knew, therefore, that its adoption of the 2000 assignment plan with its "home school guarantee" would necessarily create public schools whose student populations would vary greatly in their overall average socioeconomic circumstances.

5. The 2000 plan has created many "high poverty" schools within the Charlotte system. These "high poverty" schools enroll disproportionately large concentrations of students who stand at risk of educational failure assessed by every known measure – poverty, parental unemployment or underemployment, low parental educational levels, single parent family status, inadequate or unstable housing, poor health, racial minority status, limited English proficiency, and status as exceptional children.

6. Recognizing the adverse educational impact of its chosen priorities, the Charlotte Board created special student assignment rules that purportedly would permit lower income students (calculated by the percentage of free and reduced price lunches (hereafter "FRPL," a common measure of lower-income status), and low-performing students, to transfer out of high poverty schools to higher-income schools.

However, Charlotte's home school guarantee remains the Charlotte system's first priority, and the effective use of transfer rights depends upon the availability of open seats in higher-income schools. Since many parents in the Charlotte system's higher-income neighborhoods, including Charlotte's northern and southern suburbs, select a nearby home school, many higher-income schools in these neighborhoods have student occupancy rates of well over 100% of capacity and few empty seats for would-be transfer students from high poverty schools. Transfer opportunities are further limited



by a systemwide rule that provides bus transportation only to students who transfer to other schools within their defined “zones.”

7. The Charlotte Board acknowledges that “some greater concentrations of low socioeconomic status... may not be reasonably avoidable under the Plan.” To compensate for this educational disadvantage, it has declared that “schools with higher concentrations of low socioeconomic status and schools which qualify as Equity Plus II schools under the applicable criteria of the Board shall receive additional resources under the Equity Plan, including, but not limited to, family support services, teacher and administrator incentives to create and maintain stable balances of experience and qualification, reduced class sizes and curriculum enhancements to elevate and meet expectations of excellence.”

In effect, the 2000 plan accepts the certainty that Charlotte’s central city schools will be economically and racially isolated, but with the promise that, in compensation, these “Equity Plus II” schools will receive sufficient additional inputs and resources to bring equity and high performance to every school.

8. These compensating inputs and resources have not been sufficient to offset the severe, crippling learning environments created within Charlotte’s high poverty high schools. Schools such as West Charlotte High School, E.E. Waddell High School, Garinger High School, West Mecklenburg High School, Zebulon B. Vance High School, and Olympic High School, suffer from levels of student achievement, graduation rates, and other measures of student and school performance that are far lower (and disciplinary rates and dropout rates that are far higher) than those in higher-income schools throughout the Charlotte district. Similarly disappointing results have characterized Charlotte’s high poverty middle and elementary schools.

9. The Charlotte Board has failed to assure a stable balance of experienced and qualified teachers in its high poverty schools. For example, 38% of all teachers who taught in Charlotte’s Equity Plus II schools in 2003-04 have left these schools or transferred, as compared with only 16% of current teachers systemwide.

Although there are many remarkable and dedicated teachers in these Equity Plus II schools, the average levels of experience, retention, teachers who teach-in-field, and other recognized measures of teaching excellence are significantly lower in high poverty schools than in other schools within the Charlotte system. Although the Superintendent of the Charlotte system, Dr. James Pughsley, proposed a number of major steps in January of 2005 that might redirect experienced teachers toward Equity Plus II schools, none of those steps has yet become Charlotte Board policy.

On information and belief, these efforts, even if fully implemented, cannot suffice to redress the difficult working conditions, the demoralization of staff and students, and other features that prompt teach-

### ‘I forcefully stand behind these words’

*The night before lawyers filed the motion to intervene, parent-plaintiff Donna Jenkins Dawson stood before the school board holding a sign that read, “We Want Real Solutions... Develop a Plan That’s Good For All Children.” Her speech:*

“I too am here to talk about the student assignment and wanting real solutions that will develop a plan that’s good for all children.

“And I choose these words and I forcefully stand behind these words:

“We need real solutions. We don’t need to throw good money after bad. We don’t need to ignore the real problems of overcrowding.

“We don’t need to heighten problems as far as out-of-school suspension, when some of those aren’t truly valid, and look at getting the help for those to truly need assistance.

“And develop a plan. Develop. Not look at a lot of numbers and decide. Develop. Work with the people in their communities, together. Work with the students in the communities, together.

“Because I have found, even though I was told that the students and the parents don’t want to help, they don’t want to participate, they don’t have too much of an opinion about it, I found out that is not true.

“It is just the thing of where it’s not welcomed. They can’t keep fighting the fight of trying to get their leaders to lead them towards the right plan. They feel that they’re losing the hope, they’re losing the fight, and I am here and I will continue to be here to help them to work with their leaders instead of the leaders leading their people, but work with their leaders to develop a plan that’s good for all children.

“And I am more than sure them as well as I will be more than happy when our leaders do decide to start leading us – all, together, all across Charlotte-Mecklenburg School System – toward a good plan, a plan that is good for all children.”



Dawkins with sign

ers to resign from teaching altogether or to transfer from these schools.

10. Moreover, among principals, assistant principals, and other administrators in Charlotte’s high poverty schools, experience levels are significantly lower and turnover rates significantly higher than in other schools within the Charlotte system.

11. These consequences were not unforeseen. Nearly 40 years of social scientific studies have

found repeatedly that a school's socioeconomic composition has a strong impact on the quality of the education delivered inside their walls. These studies have demonstrated that the average socioeconomic background of fellow students is one of the most influential "inputs" affecting a student's own education, apart from his or her own family background, and that high poverty schools create significantly more difficult learning environments for all students who attend them.

12. Consistent with those findings, 82% of Charlotte lower-income students who attended low-poverty schools in 2003-04 performed at grade level on State ABC tests, while only 64% of similar lower-income students who attended Charlotte's high-poverty schools achieved at grade level – an 18 percentage point "poverty gap" among children, all from lower income families, that varies by whether they attended high-poverty or low-poverty schools in Charlotte.

13. Charlotte's present 2000 student assignment system, which consigns plaintiffs and fellow students to high poverty elementary, middle, and high schools, therefore deprives the plaintiffs of the opportunity for a sound basic education guaranteed by Leandro. These plaintiffs stand at grave risk of suffering permanent and irreparable injury to their prospects for post-secondary educational or vocational training, for competing on an equal basis with others in further formal education or gainful employment, and for functioning in a complex and rapidly changing society.

Plaintiffs seek limited intervention in this lawsuit to demonstrate these facts, and to obtain declaratory relief that the Charlotte Board's adoption and present maintenance of its 2000 student assignment system –

(a) despite clear evidence that this system would create many high poverty schools within the Charlotte system;

(b) despite clear evidence that most high poverty schools create significantly more adverse learning environments for their students;

(c) despite feasible, educationally sound alternative assignment plans that could significantly reduce disparities in the socioeconomic composition of Charlotte schools, and thereby reduce the attendant educational injuries to students such as the plaintiffs, who attend high poverty schools; and

(d) despite the actual experience under this system, which has not vindicated the Charlotte Board's crucial educational assumption that it could steer sufficient compensating resources to high poverty schools to overcome their social and educational disadvantages – therefore violates the North Carolina Constitution.

14. Plaintiffs also seek injunctive relief requiring the defendant Charlotte Board to develop forthwith, and the defendants State and State Board to oversee, a revised, systemwide student assignment plan that will end the large socioeconomic divisions that

currently characterize the Charlotte system.

15. Assuring a sound basic education to all Charlotte students will require many other improvements in Charlotte's current fiscal, administrative, and educational policies and practices. Unless Charlotte's school system is set on an equitable student assignment foundation, however, none of the other changes will suffice to redress the educational deficiencies, inequities, and long-term instabilities created by the present assignment plan.

### Plaintiffs

16. Plaintiff Rafael Penn is a resident of Mecklenburg County and is a student at Zebulon B. Vance High School in the Charlotte-Mecklenburg school system.

17. Plaintiff Clifton Jones is a resident of Mecklenburg County. Plaintiff Clifton M. Jones is a resident of Mecklenburg County and is a student at Phillip D. Berry Academy in the Charlotte-Mecklenburg school system. He is a minor and is represented in this case by his father, Clifton Jones.

18. Plaintiff Donna Jenkins Dawson is a resident of Mecklenburg County. Plaintiff Neisha Shemay Dawson is a resident of Mecklenburg County and is a student at Olympic High School in the Charlotte-Mecklenburg system. She is a minor and is represented in this case by her mother, Donna Jenkins Dawson.

19. Plaintiff Tyler Anthony Hough-Jenkins is a resident of Mecklenburg County and is a student at Southwest Middle School in the Charlotte-Mecklenburg system. He is a minor and is represented in this case by his mother, Donna Jenkins Dawson....

### Factual allegations

#### Background

25. For nearly 15 years, from the late 1970s until 1992, the Charlotte system operated under a federal desegregation plan approved by a federal district court, which formally oversaw student assignment policy as part of the Swann v. Charlotte-Mecklenburg Board of Education case. The assignment plan, based on the remedial needs under the Equal Protection Clause of the Fourteenth Amendment, required racial balance in virtually every elementary, middle, and high school. Because of the lower average incomes of African American families than of white families, this racial desegregation led indirectly toward the creation of schools with relatively similar socioeconomic compositions throughout the Charlotte system.

26. In 1992, the Charlotte Board, responding to the proposal of a new school superintendent, began to experiment with a more flexible system of student assignments, in which parents had the option to choose one of many magnet schools for their children.

27. In 1997, new litigation over Charlotte's assign-

ment policy led to a declaration by the federal district court in 1999 that the Charlotte system had become “unitary” and no longer required federal judicial supervision. As part of its final order and judgment, the district court enjoined the Charlotte Board to cease any use of race as a criterion in making student assignments. The federal district court’s finding that the Charlotte district had become “unitary” was affirmed on appeal to the United States Court of Appeals for the Fourth Circuit; the portion of the district court’s order enjoining the Charlotte Board’s further use of race in making student assignments was reversed.

### The current student assignment plan

28. In March of 1999, the Charlotte Board adopted a document entitled *Achieving the CMS Vision: Equity and Student Success*, which set forth the basic goals and strategies for a new student assignment system. On June 1, 2000, the Charlotte Board adopted a resolution committing itself to the new plan. In the June 1, 2000 resolution, the Charlotte Board instructed the superintendent to develop a student assignment plan for 2002-03 that would “maximize stability for students to the fullest extent feasible,” “guarantee availability of a ‘home’ school assignment choice for every student in proximity to the student’s home,” and “guarantee[s] options for low performing students” and for “students of low socioeconomic status” . . . “who are assigned to home schools with high concentrations of low performing students, to choose assignment to schools with higher performance and lower concentrations of low socioeconomic status.”

29. The entire Charlotte system is divided, under this plan, into four contiguous zones (designated the ‘blue,’ ‘gold,’ ‘purple,’ and ‘green’ zones). Each zone contains various elementary, middle, and high schools that are grouped to form separate “feeder systems.” Students who enter particular elementary schools will flow into designated middle schools (designated as “continuation schools”), and students from middle schools will flow into designated high schools. Therefore, parents and students are assured that, if they are pleased with the feeder system attached to their home elementary school, they have an assured pathway through known continuation schools throughout their elementary, middle, and high school careers.

30. Students may, in theory, choose options other than their home school among an array of non-magnet and magnet schools within their residential zone, with the Charlotte system providing transportation (or may choose schools outside their assigned zone, though with no transportation provided). However, the Charlotte Board cautions that the available options, in reality, are far fewer. The Charlotte Board has informed parents that “[d]uring the 2004-05 school year the district grew by approximately 4,700 students. Our current overcrowding conditions at some schools will probably continue

and thus limit the district’s ability to provide families with their school of selection.”

Even in Charlotte’s fifteen “Title I Choice Schools” – whose students are theoretically entitled under federal law to elect other schools since these schools failed to make “adequate yearly progress” under the federal No Child Left Behind Act for the past two years – the Charlotte Board has warned parents that “because so many of our schools are full, we cannot guarantee that we will be able to assign... students to one of their first three choices. The district may have to place them in another school that has space in their grade level.”

31. Apart from the Title I Choice schools, the Charlotte Board’s priorities for transfer have shifted over time. Under the 2000 student assignment’s initial priority design, highest priority was given (1) to those students who were eligible for free and reduced price lunch, so long as the student population of their home school averaged at least 30 percentage points higher in FRPL population than did the Charlotte systemwide.

As of 2005-06, however, the transfer priority for transfers to non-magnet schools has shifted away from poverty deconcentration and toward assisting in moves from low-performing schools.

Students who are themselves low-performing in reading have the highest priority (if they attend home schools in which the reading performance is 15 percentage points below the Charlotte system’s reading average). They may transfer to other, higher-performing schools.

The second priority is reserved for those students who are not themselves low-performing in reading, but who attend schools that are low-performing. These students have a priority to attend any school in the entire Charlotte district, whether or not it is in their assigned zone.

32. Only after students in low-performing schools have exercised their priorities are priorities honored for students who themselves qualify for FRPL, and only if they attend elementary or middle schools where the FRPL student populations are above 40%, or high schools where the FRPL populations are above 30%.

33. In sum, many students including the plaintiffs, who attend high poverty high schools in Charlotte system, are effectively locked into those schools by an assignment system that begins with an absolute home school guarantee, based upon a parent’s residence at the elementary school level, and then links each elementary school to middle and high schools that likewise are “high poverty.” The transfer options are broad in principle but restricted in practice, since the overwhelming majority of parents in higher-income neighborhoods opt for home schools that quickly fill to 100% capacity and beyond, foreclosing any new transfers into these schools. Moreover, students within many of the Charlotte system’s schools are segregated by classroom according to their socioeconomic status, with lower income

students grouped together in low-performing classes that often have less well-qualified teachers.

34. As a further result of this system, high poverty high schools (and elementary and secondary schools) tend to be disproportionately underutilized. The Charlotte system's center city high schools – including West Mecklenburg and E.E. Waddell – operated at 77% and 81% capacity respectively during the 2004-05 academic year, with West Charlotte, Berry Academy, and Vance high schools at 90%, 95% and 96% capacity respectively. During the same academic year, Charlotte high schools in the northern and southern suburbs are seriously overcrowded – Butler at 127%, North Mecklenburg at 120%, Providence at 119%, and South Mecklenburg at 118%.

35. Nor has the 2000 assignment system achieved significant transportation efficiencies. Approximately 65% of those Charlotte system students currently eligible for transportation are transported to their schools on public school buses. On information and belief, transportation costs are currently higher, on a real dollar basis, under the 2000 student assignment system, than they were under the desegregation assignment system.

### **The educational consequences of the current student assignment plan**

36. Although the 2000 assignment plan has only been in effect for two academic years (2002-03 and 2003-04), very wide disparities in student performance have already emerged among the schools, grouped by their socioeconomic status. For example, the high school composite scores reported by the North Carolina Department of Public Instruction in 2003-04 at the five highest poverty schools among Charlotte's 15 regular high schools – West Charlotte (61.92% eligible for FRPL; 31% at or above grade level); Garinger (57.03 eligible for FRPL; 45% at or above grade level); West Mecklenburg (46.49% on FRPL; 48% at or above grade level); E.E. Waddell (45.56% eligible for FRPL; 41% at or above grade level); and Independence (35.67% eligible for FRPL; 49% at or above grade level) – are far lower than the high school composite scores at Charlotte's six lowest poverty high schools – Providence (4.92% eligible for FRPL; 85% at or above grade level); Hopewell High (11.61% eligible for FRPL; 68% at or above grade level); North Mecklenburg (13.91 eligible for FRPL; 72% at or above grade level); David W. Butler (14.32% eligible for FRPL; 75% at or above grade level); South Mecklenburg (15.37% eligible for FRPL; 74% at or above grade level), Myers Park (17.78% eligible for FRPL; 75% at or above grade level). Similar disparities, closely tied to the socioeconomic composition of various schools, are also present in Charlotte's elementary and secondary schools.

37. These disparities in measured student performance are caused, in substantial part, by the high poverty concentrations. Lower income students

who attend higher-income schools significantly outperform, on average, lower income students who attend high poverty schools. In 2003-04, 82% of lower-income students who attended Charlotte's low poverty schools were performing at grade level. Only 64% of lower-income students who attended high poverty schools were at grade level.

38. On information and belief, students who attend high poverty schools are more likely to drop out of school before graduation than are students in the Charlotte system as a whole.

39. On information and belief, students who attend high poverty schools are less likely to graduate than are students in the Charlotte system as a whole.

40. On information and belief, students who attend high poverty schools are more likely to face both in-school and out-of-school suspensions than are students in Charlotte's higher-income schools. Consequently, the academic atmosphere in high poverty schools is substantially more chaotic and less well-ordered than is the academic atmosphere in Charlotte's higher-income schools. At Phillip Berry Academy, for example, classes in automotive engineering attended by plaintiff Clifton Jones went for weeks without any teacher at all – neither a qualified, certified teacher teaching in field, nor even a substitute teacher.

41. Under the Charlotte Board's Equity Plus II plan, schools with higher proportions of low income children are entitled to compensating educational inputs, including financial incentives designed to draw competent and experienced teachers to these schools.

42. These inputs and incentives have failed to stem very high losses of teachers from Charlotte's high poverty schools – a 38% departure rate for teachers employed in such schools in 2003-04, compared with a 16% departure rate in the Charlotte system overall.

43. The Equity Plus II plan has not succeeded in lifting student performance and graduation rates to levels comparable to those of other schools in the Charlotte system, or in reducing dropout rates, disciplinary rates, and other indicia of academic distress and failure, to levels comparable to higher-income schools in the Charlotte system.

### **The defendants' knowledge of likely adverse educational consequences**

44. The adverse effects of high poverty schools have been widely reported for nearly forty years. In his magisterial study of student performance and school resources in the mid-1960s, "Equality of Educational Opportunity," Dr. James S. Coleman and his colleagues, commissioned by the United States Congress to carry out a comprehensive analysis as part of the implementation of the Civil Rights Act of 1964, concluded that:

"a pupil's achievement is strongly related to the educational backgrounds and aspirations of the

other students in the school,” and that if a “minority pupil is put with schoolmates with strong educational backgrounds, his achievement is likely to increase.” Indeed, the Coleman Report found that “[a]ttributes of other students account for far more variation in the achievement of minority group children than do any attributes of school facilities and slightly more than do attributes of staff.”

45. Professor Coleman’s findings have been replicated in dozens of highly reliable, meticulous scientific studies.... These findings are well known to the defendant Charlotte Board and to the defendants State and State Board.

46. Upon information and belief, Professor Gary Natriello of Columbia University Teacher’s College was retained as an expert by the Charlotte Board as it conducted its revision of its student assignment policies in 2000 and thereafter. Professor Natriello told the Charlotte Board that, “Once you get at least 50% concentrations of poor students, it becomes very difficult to be effective in helping disadvantaged kids achieve.” He also told the Board that it would cost significantly more to educate students in high poverty settings.

#### **First claim for relief:**

##### **Denial of a sound basic education**

...48. Plaintiff students have a fundamental right under Article I, § 15 and Article IX, § 9(2) of the North Carolina Constitution to the opportunity for a sound basic education. Defendants the State, the State Board of Education, and their local educational agent, the Charlotte Board of Education, have a duty to guard and protect that right.

49. The defendant Charlotte Board has denied the plaintiffs their constitutional opportunity for a sound basic education, because it has chosen and maintained a student assignment system that systematically deprives plaintiffs of many essential elements of a sound basic education.

50. Defendants have the available fiscal, administrative, and educational capacity to adopt and implement alternative student assignment plans, including, for example, a plan that would establish floor and ceiling caps on the percentage of free and reduced price lunch students in every Charlotte school, in order to eliminate the barrier to a sound basic education erected by the Charlotte’s 2000 student assignment policy.

51. The failure of defendant Charlotte Board to adopt and implement, and of the defendants State and State Board to insist upon, some alternative assignment policy, despite their awareness of the adverse educational consequences of high poverty schools, despite their knowledge that Charlotte’s high poverty schools have not responded sufficiently to the Equity Plus II strategy, and despite the fact that alternative remedies are available in this

wealthy school district, violates the plaintiffs’ constitutional rights under Article I, § 15 and Article IX, § 2(1) of the North Carolina Constitution.

#### **Second claim for relief: Defendants’ violation of plaintiffs’ right to the equal protection of the laws**

... 54. Defendants’ maintenance of a system for student assignments that relegates plaintiffs and many other lower-income students to high poverty schools, which are (1) disproportionately filled with students at serious risk of educational failure because of parental poverty, parental unemployment and underemployment, lower parental educational levels, single parent families, non-white students, students with poor health, students whose families have inadequate or unstable housing, limited English proficient students, and students who need exceptional services, and which are (2) characterized by high teacher turnover, more inexperienced teachers, more teachers who teach out-of-field, and more administrative turnover, deprives the plaintiffs of educational opportunities that are equal to those afforded to those Charlotte’s students who attend lower-poverty schools with fewer at-risk students and greater teacher stability and quality.

55. Defendants chose and implemented the present Charlotte student assignment system despite their clear knowledge that it would create many of these adverse school socioeconomic conditions and would, therefore, create educational disadvantages for plaintiffs and other students in high poverty schools.

56. Charlotte’s present student assignment system deprives plaintiffs of the equal protection of the laws.

#### **Prayer for relief**

WHEREFORE, plaintiffs respectfully request:

1. A declaration that Charlotte’s present student assignment plan is unconstitutional on its face and/or in its application to plaintiffs and others students similarly situated, under Articles I, §§ 9 and 15 and Articles IX, § 2(1);
2. An order enjoining the defendants to design and implement an alternative student assignment plan to end high poverty concentrations in every Charlotte school by establishing reasonable floor and ceiling caps on the free and reduced price lunch population of every elementary, middle, and high school in the Charlotte system;
3. An order retaining jurisdiction over this case to ensure full compliance with the Court’s decree;
4. An order granting to plaintiffs their attorneys’ fees and reasonable costs to the extent permitted by law; and
5. An order granting such other and further relief as to the Court shall seem just and proper.

## Briefly...

**New York appeal:** New York Gov. George Pataki said he would appeal a court ruling that \$5.6 billion should be spent on New York City's public schools, the New York Times reported. An appeal is expected to take a year or more. The school funding case began in 1993. Some observers said Pataki didn't want to spend the money. Pataki said legislators should set the amount to be spent, not a court.

[www.nytimes.com](http://www.nytimes.com)

**Kids as inventory:** High-tech equipment called forth in the name of safety is raising concerns that students are being treated like parts in a warehouse, the BBC suggested. In a report about means employed to discourage truancy, the organization noted that use of Radio Frequency Identification (RFID) tags is raising civil rights concerns in California schools. A lawyer was quoted as saying, "The monitoring of children with RFID tags is comparable to the tracking of cattle, shipment pallets, or very dangerous criminals," violating their rights. CMS administrators said last year they were considering trials of bus-mounted sensors that read children's irises.

<http://news.bbc.co.uk>

**Phonics:** A seven-year study, conducted by St. Andrews and Hull universities in Scotland, found that 11-year-old students who were taught using a "synthesised phonic" approach were 3.5 years ahead in reading and 1.75 years ahead in math compared to their counterparts who were not taught using this approach, the Guardian reported. In contrast to mainstream phonics approaches which teach children to sound out words letter-by-letter, "synthesised phonics" teaches children to blend words by recognizing the different components within words. Children also spend 20 minutes a day learning letter sounds and building a word recog-

## Calendar

### FEBRUARY

**17** School board's Personnel Committee, 2 p.m., Side B Board Room, Education Center.

**17** Parent meeting on comprehensive review of student assignment plan, Highland Renaissance Elementary, 6-8 p.m., Subject: Fundamentals and guiding principles.

**22** School board's Curriculum Committee, 3 p.m., Room 414, Education Center.

**22** School board meets, 6 p.m., Government Center Meeting Chamber.

**24** School board's Finance, Capital & Facilities Committee, 4 p.m., Room 414, Education Center.

**26** Let's Talk R.A.C.E. Conference focusing on "Language, Culture and Education," 9 a.m.-4 p.m., UNC Chapel Hill. Speakers: Lisa Delpit, Enrique Murillo. For information and for online registration, see [www.unc.edu/sites/ltr](http://www.unc.edu/sites/ltr)

### MARCH

**16-18** Quad State Fair Housing and Equal Opportunity Conference, Adam's Mark Hotel. Keynote: Scott Syphax, CEO of Sacramento's Nehemiah Corp. of America. Registration: \$75 for 3 days; \$40 for one day, by March 1; scholarships available. Info: Renee Thompson at 704-336-2424 or [rtompson@ci.charlotte.nc.us](mailto:rtompson@ci.charlotte.nc.us)

**23** What's Working Community Forum, 7:30 a.m.-11:30 a.m., TIAA-CREF Auditorium, sponsored by Charlotte Chamber. To participate: Kit Cramer, 704-378-1301.

**24** Parent meeting on comprehensive review of student assignment plan, Ranson Road Middle, 6-8 p.m. Subject: Magnet programs.

### APRIL

**19** Parent meeting on comprehensive review of assignment plan, Waddell High, 6-8 p.m. Subject: Boundaries and feeder patterns.

nition base.

<http://education.guardian.co.uk>

**Phony gains?:** Intensive instruction for English as a second language (ESL) students in California has resulted in another annual increase in test scores ESL students, the Los Angeles Times reported. Some critics said one reason for the rise is that many students remain in the program rather than being reclassified as "English Proficient." State education officials say teachers may be reluctant to cut students off from the extra support they receive in the ESL classes.

[www.latimes.com](http://www.latimes.com)

**No Child No Go Away:** New U.S. Secretary of Education Margaret Spellings told Education Week that despite calls

to amend No Child Left Behind, the act is here to stay. Spellings said any refinements in NCLB could be done through administrative procedures and that amendments are not necessary.

[www.edweek.org](http://www.edweek.org)

**Trying smaller:** The Philadelphia school district has decided to change the structure of its high schools over the next three years, the Philadelphia Inquirer reported. The new schools will have smaller campuses and the effect, administrators hope, is that teachers and students will develop closer ties. The district is hiring outside consultants to help with this transition including Kaplan and Princeton Review, both well known for their test preparation expertise.

[www.philly.com](http://www.philly.com)