



School Technology Issue Brief

Background

The North Carolina Supreme Court ruled in 1996 that civil penalties were constitutionally required to go to public schools.¹ Following that 1996 decision, the General Assembly created the Civil Penalty and Forfeiture Fund² and declared that the clear proceeds of all civil penalties collected by state agencies should be paid into the fund and used exclusively for technology. The same legislation provided that the agencies could withhold the actual costs of collecting the penalties but only up to 10% of the amount collected.

The court determined in August 2008 in the case of *North Carolina School Boards Association, et al., v. Richard H. Moore, State Treasurer, et al.*, that civil penalties collected by state agencies between January 1, 1996 and June 30, 2005 were diverted to other purposes in violation of the NC Constitution. The court determined the total amount of money owed to public schools totaled \$747,833,074. To date, the plaintiffs have received only \$18.1 million in parking fines held in escrow by the UNC system (approximately 2.5% of the court judgment), leaving almost \$730 billion unpaid. Judge Howard Manning did not give the State a deadline to make the payment but stated that, “Satisfaction will depend on the manner in which the General Assembly elects to carry out its constitutional duty.”

The North Carolina School Boards Association (NCSBA) proposed legislation in 2009-10³ to address this longstanding matter. The Association also proposed legislation in 2011-12 and 2013-14⁴, 2015-16⁵, and 2017-18⁶. One of those bills passed out of one chamber, but none became law.

On August 1, 2018, NCSBA and twenty local boards of education filed a lawsuit in Wake County Superior Court - against the state agencies named in the 2008 decision - seeking to extend the enforceability of the existing unpaid judgment. The judgment would otherwise have expired on August 8, 2018.

Technology Needs

According to the North Carolina Digital Learning Plan, the statewide goal is to have a ratio of one mobile device per student. The refresh cycle for those devices – whether Chromebook, iPad or something of that nature – is every four years. During the 2017-18 school year, there were more student devices in North Carolina’s public schools than students. However, thousands of students across the state are using “old” devices which are beyond the state’s target refresh rate. In fact, almost 30% of North Carolina’s 115 school districts didn’t have resources budgeted for replacement devices during 2017-18.

¹ Craven County Board of Education v. Boyles

² G.S. 115c-457.1

³SB 269 (2009); Work/School Zones – Speed Camera Pilot Program.

⁴ HB 145 (2011), HB 992 (2013); Phoebe’s Law.

⁵ HB 682 (2015); Civil Fines and Forfeitures/Study.

⁶ HB 554 (2017); Fines and Forfeitures/Payment to Schools.

The chart below outlines the replacement rate for student devices as reported by all 115 LEAs to DPI for the 2017-18 school year⁷.

<i>Refresh Rate</i>	<i># of LEAs</i>
4 years or less	46
5 years	20
6 years or more	7
Other/as needed	8
Don't have resources budgeted	34

NCSBA Position

NCSBA and local school boards have tried to work with the legislature for over ten years to find an amicable resolution to this matter. We continue to seek a win/win outcome and remain willing and ready to work on a mutually beneficial resolution.

Judge Howard Manning stated in his 2008 decision that, "Satisfaction will depend on the manner in which the General Assembly elects to carry out its constitutional duty." More than a decade later, it is long past time for the State to fulfill its constitutional responsibility and obligation to North Carolina's public-school students.

Technology is not a partisan issue, nor a rural one. It is universal. As former NCSBA President, Minnie Forte-Brown, said during an August 2018 press conference, "North Carolina's public-school students deserve a 21st century education. The use of current technology should not be a choice. It's a necessity." Forte-Brown added, "This judgment and the \$730 million the State still owes public schools is not about school boards. It's about the students and their futures."

⁷ http://apps.schools.nc.gov/ords/f?p=237:140:0:Request:NO:ClearCache,RP:P140_QID:491