

# State Superintendent Wins Lawsuit Over Her Authority

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State Superintendent June Atkinson has won at least the first round in the legal battle over who is in charge of public education in North Carolina.

Wake Superior Court Judge Robert Hobgood ruled today that Atkinson, who was elected statewide as the State Superintendent of Public Instruction, has the authority under North Carolina's Constitution to run the state's schools. Hobgood ruled that the State Board of Education has the authority to set policy for the state's public schools, but that the State Constitution dictates that Atkinson as State Superintendent is responsible for implementing those policies.

Atkinson, a Democrat, had sued Democratic Gov. Beverly Perdue and the State Board of Education for improperly stripping her of her duties in March by appointing former Cumberland Schools Superintendent William Harrison to run the state Department of Public Instruction in a dual role as Chief Executive Officer of Public Schools and Chairman of the State Board of Education. That prompted Atkinson to file a lawsuit in April.

Deputy Attorney General Mark Davis had argued in court earlier this week that the State Constitution gives the legislature the right to set out the State Superintendent's duties, and the law says the Superintendent will do what the State Board of Education prescribes for her job duties.

Former Supreme Court Justice Robert Orr, who is defending Atkinson in this case, argued that the State Constitution gives the State Superintendent the authority to administer public schools, and he contends that authority cannot be transferred to another person or entity without a Constitutional amendment approved by the voters of North Carolina.

Hobgood's ruling agrees that the Constitution gives the State Superintendent the right to administer public schools on a daily basis. His ruling is effective immediately because he issued a memorandum order for injunctive relief to require that the State Superintendent be given the authority to oversee the daily operations of DPI and the public school system.

Davis of the State Attorney General's Office asked the judge to delay implementation of his orders.

"This sweeping opinion will have a significant impact on the day-to-day operations of the Department of Public Instruction," Davis said. "To change (authority for the department) once and then potentially in nine months to a year have to change it back would not be beneficial to the schoolchildren of this state."

Judge Hobgood, however, denied that request, even though Davis gave notice that the state will appeal the ruling.

Media reports about this ruling, along with a copy of the ruling once it becomes available, are accessible at: <http://www.ncasa.net/displaycommon.cfm?an=1&subarticlenbr=228>.

The North Carolina Association of School Administrators (NCASA) will provide additional updates on this issue as developments occur.