

STATE OF NORTH CAROLINA

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF MECKLENBURG

2009 NOV 23 AM 11: 23 09 CVS 23289

SUGAR CREEK CHARTER SCHOOL,
INC., et al,

MECKLENBURG COUNTY, N.C.

BY _____

Plaintiffs,

v.

MOTION TO DISMISS

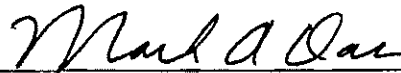
STATE OF NORTH CAROLINA, et al.

Defendants.

NOW COMES the State of North Carolina, through counsel, and moves to dismiss this action pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure based on Plaintiffs' failure to state a valid claim upon which relief can be granted on the following grounds: (1) the statutory provisions governing the operation of charter schools in North Carolina do not authorize the provision of capital outlay funding to them; and (2) the North Carolina Constitution does not require the provision of capital outlay funding to charter schools.

Respectfully submitted, this the 19th day of November, 2009.

ROY COOPER
Attorney General



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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **MOTION TO DISMISS** in the above titled action upon all other parties to this cause by:

- Hand-delivering a copy hereof to each said party or to the attorney thereof;
- Transmitting a copy hereof to each said party via facsimile transmittal; or
- Depositing a copy hereof, first-class postage pre-paid, in the United States mail, properly addressed to:

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This the 19th day of November, 2009.



Mark A. Davis
Special Deputy Attorney General