

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

BONNIE PELTIER, as Guardian of
A.P., a minor child; ERIKA BOOTH, as
Guardian of I.B., a minor child; and
KEELY BURKS,

*Plaintiffs-Appellees, Cross-
Appellants, v.*

CHARTER DAY SCHOOL, INC.;
ROBERT P. SPENCER; CHAD
ADAMS; SUZANNE WEST;
COLLEEN COMBS; TED
BODENSCHATZ; and MELISSA
GOTT in their capacities as members
of the Board of Trustees of Charter
Day School, Inc.; and THE ROGER
BACON ACADEMY, INC.,

*Defendants-
Appellants,*

THE ROGER BACON
ACADEMY, INC.,

No. 20-1001 (L)

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN
SUPPORT OF PLAINTIFFS-APPELLEES'
PETITION FOR REHEARING EN BANC**

Pursuant to Rule 29(b) of the Federal Rules of Appellate Procedure, the National Alliance for Public Charter Schools (“National Alliance”), requests leave to file the accompanying brief as *amicus curiae* in support of the Plaintiffs-

Appellees' Petition for Rehearing En Banc. Counsel for the Plaintiffs-Appellees and Defendants-Appellants do not object to the proposed *amicus* appearing in this case.

National Alliance is the leading national organization committed to supporting students attending or hoping to attend a public charter school. The National Alliance does this through federal and state advocacy efforts, research, and elevating national awareness of the charter school movement. These efforts also include legal advocacy to safeguard the rights of charter school students, who are always public school students, of which there are 126,000 in North Carolina and 3.3 million nationwide.

This brief will assist the Court in considering the proper approach when determining whether a charter school is a state actor bound to respect its students' constitutional rights. While supporting Plaintiffs-Appellees' arguments concerning the flaws in the panel decision on point, proposed *amici* provide additional legal authority regarding how charter schools function as public schools in North Carolina and as well as how North Carolina courts have without fail recognized their public character.

If allowed to stand, the panel ruling would conflict with the clear intent of the state of North Carolina in establishing charter schools, state court opinions assessing these schools as part of the public school system, and controlling

decisions from this Court and the United States Supreme Court. It would not only call into serious question the public status of charter schools throughout the Carolinas, Virginias, and Maryland but also the constitutional rights of hundreds of thousands of charter students in these states.

For these reasons, proposed *amici curiae* respectfully request leave to file the proffered brief.

Respectfully submitted this the 30th day of August, 2021.

/s/ Christopher A. Brook
Christopher A. Brook, N.C. Bar No. 33838
cbrook@pathlaw.com
PATTERSON HARKAVY LLP
100 Europa Drive, Suite 420
Chapel Hill, NC 27517
Tel: 919.942.5200
Fax: 866.397.8671

*Counsel for Amicus Curiae National
Alliance*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on August 30, 2021.

I certify that all participants in the case that require service are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Date: August 30, 2021.

/s/ Christopher A. Brook
Christopher A. Brook, N.C. Bar No. 33838
cbrook@pathlaw.com
PATTERSON HARKAVY LLP
100 Europa Drive, Suite 420
Chapel Hill, NC 27517
Tel: 919.942.5200
Fax: 866.397.8671