

McCleary v. State

Summary of January 5, 2012 Decision by Washington Supreme Court

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Court's Conclusions

- ▶ The State has failed to meet its duty under article IX, section 1 by consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program.
- ▶ The legislature recently enacted sweeping reforms (ESHB 2261 & SHB 2776) to remedy the deficiencies and is currently making progress toward phasing in those reforms.
- ▶ The court defers to the legislature's chosen means of discharging its article IX, section 1 duty, but the judiciary will retain jurisdiction over the case to help ensure progress in the State's plan to fully implement the reforms.

Basis for Court's Holding

- ▶ Lack of correlation between old funding system and cost of providing opportunity to achieve basic education goals.
 - ▶ Over-reliance on local levies as established by testimony and the state's own studies and task forces and workgroups.
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Washington Constitution Article IX

Principles

- ▶ **Art IX, section 1.** “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.”
- ▶ **Legislature Selects the Means of Complying.** The legislature must select the means for discharging the State’s duty and must enact a basic program of education that conforms to, and augments the broad constitutional guidelines set forth by the Court. In short, the program must be calculated to provide all children the opportunity to compete adequately in our open political system, in the labor market, and in the market place of ideas.

Washington Constitution Article IX Principles

- ▶ **Basic Education Program Must Provide Opportunities.** Article IX does not require the state to guarantee academic outcomes. It is “inescapable that certain factors critical to a student’s achievement are outside the state’s control.” Rather, the state must provide an *opportunity* for students to acquire the knowledge and skills described in the learning goals and the essential academic learning requirements.
- ▶ **Funding Sources.** The basic education program must be amply funded from dependable and regular tax sources. Local levy revenues are not dependable and regular. Therefore, the State may not use such revenue sources to discharge its duty.
- ▶ **Periodic Review of Basic Education Program.** Legislature has obligation to review the program as needs of students and demands of society evolve.

Remedy for Article IX Violation

- ▶ The state identified the underfunding problem through its work groups and then identified the appropriate remedy through adoption of ESHB 2261 and SHB 2276. ESHB 2261 embodies a “promising reform program.”
- ▶ Therefore, the remedy identified by the Court is to fully implement ESHB 2261. However, Court notes that the 2011–13 budget made only minimal progress toward the full implementation goal (of 2017–18).

Retained Jurisdiction – Standard

- ▶ Court believes it has responsibility to ensure the enacted reforms are not “unfilled promises for reform.”
- ▶ In deference to ESHB 2261 and its implementation schedule, the Court’s review will focus on whether the actions taken by the legislature show real and measurable progress toward achieving full compliance by 2018.
- ▶ While it is not realistic to measure the steps taken in each legislative session between 2012 and 2018 against full constitutional compliance, the State must demonstrate steady progress according to the schedule anticipated by the enactment of the 2261 reforms.

Retained Jurisdiction – Process

- ▶ Through the Legislative Joint Select Committee on Article IX Litigation (or through legal counsel), the state shall file periodic reports summarizing its actions taken towards implementing the reforms initiated by ESHB 2261 and achieving compliance with article IX, section 1, as directed by the Court.
- ▶ Each report thereafter to be filed at the conclusion of each legislative session through 2018, within 60 days after the final biennial or supplemental operating budget is signed by the governor (and, at such other times as the court may order).
- ▶ After reviewing the parties' submissions, the Court will determine whether to request additional information, direct further fact-finding or take any other steps.
- ▶ The next report should set forth a plan sufficient to allow progress to be measured between 2013 and 2018.