

In January 2012, the Washington State Supreme Court upheld the King County Superior Court decision in the case *McCleary, Venema, and NEWS v. Washington State*, asserting the state was failing to meet its constitutional obligation to amply fund basic education for Washington's students. Article IX, Section 1 of the Washington State Constitution states, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders..." which the court in previous rulings determined includes stable state funding. The court ruled in *McCleary* that the Legislature is required to establish a system and means to reliably and fully fund basic education through state funds, and make measurable progress in doing so.

Basic education is currently defined as the instructional program (with specified minimum hours) in public schools and detention and residential facilities; categorical programs like the Learning Assistance Program (LAP), Transitional Bilingual Instructional Program (TBIP), and special education; and transportation, including for extended day. By 2018, basic education will also include highly capable programming, a 24-credit high school diploma, and full-day kindergarten, among other enhancements (see *ESHB 2261 document for more detail*).

Use of Local Levies

In *Seattle School District v. Washington State* (1977), the court asserted that a funding system relying on local levies to fund basic education was inherently inequitable and unreliable because of the unpredictable nature of levy passage and varying property values. Evidence presented during the *McCleary* case showed districts used local levies to fund basic education functions and make up for state funding shortfalls. The court found that over time the burden of funding basic education shifted toward local districts and away from the state, a violation of the state constitution. The *McCleary* ruling reaffirmed that basic education must be funded through dependable state sources in order to ensure consistent, full funding for all students.

Performance-Based Education System

The *McCleary* ruling noted that when the state transitioned to a performance-based education system in the early 1990s, the funding formula and finance structures were not changed. The Legislature developed new goals for the education system, focused on preparing a competitive workforce and engaged citizens. These goals resulted in Essential Academic Learning Requirements (EALRs) on which each student could be assessed. This was a shift from the previous system that focused predominantly on instructional hours with no means of assessment at the state level. However, the funding formula remained based on instructional hours and number of students, with no mechanism to relate funding to the new EALRs and system goals. The funding formula did not account for the actual resources needed to meet the EALRs, thus providing inadequate funds for the new program of basic education. The court found this inconsistency and the resulting underfunding forced districts to become dependent on local levies to fill in gaps in basic education funding. The court recommended the new funding system established by the Legislature should consider student outcomes as a result of program funding, rather than only system inputs, such as number of students and instructional hours.

Education Standards Review

The ruling requires the Legislature to periodically review and update, if necessary, education standards and requirements, to ensure students meet the evolving goals of the education system. These evolving goals will also bring changes in resource requirements that will require the state to review funding formulas and make appropriate changes to maintain consistency with system goals. The court emphasized the goals of educating new members of the workforce and the shifting knowledge requirements in Washington's economy.

Recent Legislative Efforts

The Supreme Court recognized recent efforts, in particular ESHB 2261 (2009) and SHB 2776 (2010), to redefine basic education, establish a mechanism for fully funding basic education, and link the school finance system with student outcomes. The new funding formula outlined in SHB 2776 is based on prototypical schools, which include the resources needed to achieve desired student outcomes. However, because of budget cuts in the 2011-13 biennium, the court found the state has yet to make measurable progress toward fully funding basic education. The court ruling requires the Legislature to make measurable progress toward fully implementing and funding the reforms laid out in ESHB 2261.

Paramount Duty and Paramount Right

The court determined that because it is the paramount duty of the state to amply fund a basic education for every student in Washington, it is the paramount right of every student to have access to a fully funded basic education. It is the court's duty to ensure the state is providing that right. The court also highlighted that a basic education is more than content knowledge — it prepares a student to be a productive member of society, an active citizen, and a contributor and competitor in today's workforce.

The court was careful to emphasize that educational outcomes, such as graduation, are not guaranteed or protected under the state constitution, but rather the opportunity to achieve established outcomes is guaranteed. The court recognized the individual student as a variable in achievement, but acknowledges the state's responsibility to mitigate factors preventing students from meeting standards.

Court's Continued Involvement

The court argued that because the state constitution asserts it is the state's responsibility to amply fund education, without specifying an obligation to one particular branch, the court is also responsible for ensuring basic education is fully funded. The court therefore retained jurisdiction over the case, though defers to the Legislature as to the means of fulfilling the responsibility.

In a court order made after the ruling, the Supreme Court required the Legislature to report on progress made towards implementing ESHB 2261 and meeting the constitutional obligation to fund basic education. These reports must be submitted starting 60 days after the court order (July 18, 2012) and following every legislative session thereafter through 2018. These reports will be reviewed by the court and the parties of the case to determine if adequate progress is being made. The court may then request additional information, or take other steps to ensure the state meets its duty.