

Summary Of The Supreme Court's July 18, 2012 Retention Of Jurisdiction Order

In The *McCleary* Case

Article IX, §1 of the Washington Constitution mandates that “It is the paramount duty of the State to make ample provision for the education of all children residing within its borders”.

On January 5, 2012, the Washington Supreme Court unanimously held that that provision confers on each child in our State “a positive constitutional right to an amply funded education.” *McCleary v. State*, 173 Wn.2d at 483. It unanimously held that the “State must amply provide for the education of all Washington children as the State’s first and highest priority before any other State programs or operations”. *McCleary*, 173 Wn.2d at 520. It unanimously held that ample means “considerably more than just adequate”, and that all children means “each and every child” in Washington – “No child is excluded.” *McCleary*, 173 Wn.2d at 484 & 520. And it unanimously concluded that the State “has consistently failed” to provide its public schools with the ample funding for all children that is mandated by our State Constitution. *McCleary*, 173 Wn.2d at 529.

On July 18, 2012, the Supreme Court issued its Order establishing how it would retain jurisdiction in the *McCleary* case to ensure the State fully complies with Article IX, §1 by 2018 (the deadline by which the State had assured the Court it would be fully complying). That Order is straightforward and firm:

1. Periodic compliance reports by the defendant State.

The State must file periodic compliance reports in the *McCleary* case to report on the State’s actions to achieve compliance with Article IX, §1 as directed in the *McCleary* decision. *Order at ¶1.*

The State must file its first compliance report by September 17, 2012. *Order at ¶2.* The State must then file another compliance report within 60 days of the governor’s signing each biennial or supplemental budget from now until the 2018 compliance deadline. *Order at ¶2.* The Order expressly warns the State that the Court may also require additional compliance reports. *Order at ¶2.*

2. Periodic responses by the *McCleary* plaintiffs to the State’s claimed compliance.

Thirty days after each of the State’s compliance reports, the *McCleary* plaintiffs file their Response addressing the adequacy of the compliance progress claimed by State. *Order at ¶3.*

3. Holding the State to the 2018 compliance deadline.

The Order reiterates that the Supreme Court is requiring the State to fully comply with Article IX, §1 by 2018, and accordingly requires each of the State’s compliance reports to demonstrate “real”, “measurable”, and “steady” progress towards meeting that 2018 full compliance deadline. *Order at ¶4.* Since the Court’s review of each compliance report will also consider the *McCleary* plaintiffs’ Response to that report, the Order reserves for the Court full flexibility to decide the appropriate steps to take if the State fails to prove it is making the real, measurable, and steady progress required by the Court. *Order at ¶5.*