

IT IS THE
PARAMOUNT DUTY OF THE STATE TO MAKE
AMPLE PROVISION FOR THE
EDUCATION OF
ALL CHILDREN RESIDING WITHIN ITS BORDERS....

Washington State Constitution, Article IX, section 1

On January 5, 2012, the Washington Supreme Court held that the trial court was right:

"We affirm the trial court's declaratory ruling and hold that the State has not complied with its Article IX, section 1 duty to make ample provision for the education of all children in Washington" [opinion at p. 70].

Supreme Court unanimously declared what our Constitution's education mandate means

- **paramount duty** means 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" [pp. 47-48 (*underline added*)].
- **ample provision** means "considerably more than just adequate" [p. 3].
- **all children** means "each and every child" in Washington – "no child is excluded" [pp. 47-48].
- **education** means "the basic knowledge and skills needed to compete in today's economy and meaningfully participate in this state's democracy" [p. 2]. They are specified in the EALRs, the four numbered provisions from ESHB 1209, and the Court's Seattle School District decision [p. 51 (*those three sources "together define a 'basic education' – the substance of the Constitutionally required 'education' under Article IX, section 1"*)].

Supreme Court unanimously rejected the State's excuses

- **Supreme Court rejected the State's claim that the State's K-12 funding level complies with Article IX, section 1:** The State "has failed to adequately fund the 'education' required by Article IX, section 1. Substantial evidence supports this conclusion"; moreover, "the State has consistently failed to provide adequate funding" [p. 58, *underline added*].
- **Supreme Court rejected the State's claim that the "education" required by Article IX, section 1 is the same as the basic education program the legislature defines and funds:** "The legislature's definition of full funding amounts to little more than a tautology" [p. 61]. Instead, the substantive knowledge and skills specified in the EALRs, ESHB 1209, and *Seattle School District* case are the "education" mandated by our Constitution [p. 53].
- **Supreme Court rejected the State's claim that K-12 funding restrictions (or cuts) are necessary to leave money for other important State programs.** The State never disputed that it currently has plenty of tax revenue to cover the multi-billion dollar increase necessary to amply fund the State's public schools if the State is required to provide that ample funding first. The Supreme Court held that is precisely what our Constitution requires the State to do: "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" [pp. 47-48, *underline added*].
- **Supreme Court rejected the State's claim that a fiscal crisis can justify cuts to parts of the State's K-12 education funding:** The State may not make reductions "for reasons unrelated to education policy, such as fiscal crisis or mere expediency" [pp. 55-56].

[continued from other side....]

Supreme Court refuses to stand on the sideline and “hope” the State keeps its promise to fully fund 2261

The State had assured the Court that it is increasing K-12 funding so as to amply fund all Washington’s public schools by no later than the 2018 deadline noted in ESHB 2261. For example, the State assured that it will:

- fund 95% of pupil transportation costs “by 2012” [State’s 8/20/2010 Brief to Supreme Court, p .18].
- increase State funding for reduced class sizes, full-day kindergarten, school maintenance, supplies, and operating costs “in the 2011-13 biennium” [State’s 4/9/2010 Brief to Supreme Court, p. 8].
- increase State funding “by billions of dollars” starting immediately, through full implementation of 2261 no later than 2018 [State’s 4/9/2010 Brief to Supreme Court, p. 8].
- accordingly increase State funding to at least \$9,710 per student/year under 2261 alone [State’s Exhibit 1483].

Although 2 justices believed the State should be trusted to keep its word, a 7-Justice majority held that the Supreme Court will instead retain jurisdiction to make sure that the State actually does:

- “What we have learned from experience is that this court cannot stand on the sidelines and hope the State meets its constitutional mandate to amply fund education” [p. 72].
- Noting the legislature’s recent failures to provide the increased funding it had promised for MSOCs, all-day kindergarten, K-3 class size reduction, and pupil transportation, the Supreme Court concluded that “This court cannot idly stand by as the legislature makes unfulfilled promises” [pp. 76-77].
- The Supreme Court declared it is retaining jurisdiction over this case because “Ultimately, it is our responsibility to hold the State accountable to meet its constitutional duty under Article IX, section 1” [p. 78].
- Noting that “success depends upon continued vigilance on the part of courts”, the Supreme Court reiterated it “intends to remain vigilant in fulfilling the State’s constitutional responsibility under Article IX, section 1” [p. 79].

The big question: will our State’s elected officials obey the Constitution they took an oath to uphold?

The State did not dispute any of the trial court rulings on the importance of education to our State’s democracy. For example, the court’s ruling that “a healthy democracy depends on educated citizens”, that education “plays a critical civil rights role in promoting equality”, that an “amply provided, free public education operates as the great equalizer in our democracy, equipping citizens born into underprivileged segments of our society with the tools they need to compete on a level playing field with citizens born into wealth or privilege”, and that education “is the number one civil right of the 21st century.” [trial court ruling ¶¶ 118-143, which the State did not dispute, contest, or appeal]. As one of the civil rights leaders at trial testified without disagreement from the State, “the only way you can be truly free is to be fully educated.” [Roberto Maestas, explaining why El Centro de la Raza had named its early learning program after the revolutionary who had emphasized that point (José Martí)].

Fittingly, *the Supreme Court unequivocally declared that “Article IX, section 1 confers on children in Washington a positive constitutional right to an amply funded education” [p. 2 (underline added)].* And as noted earlier, the Supreme Court held that our Constitution requires the State to provide that ample funding first – before the State funds any other program or operation. What remains to be seen is whether our State’s elected officials will promptly comply with the Constitution they took an oath to uphold . . . or come up with a variety of excuses and tactics to stall.