NO. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

MATHEW and STEPHANIE McCLEARY, et al.,

Respondents,

v.

STATE OF WASHINGTON,

Appellant.

STATE OF WASHINGTON'S REPLY BRIEF AND ANSWER TO AMICI CURIAE RESPONDING TO ORDER DATED JULY 14, 2016

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I. INTRODUCTION

Plaintiffs and amici again raise a variety of attacks on the State's accomplishments, progress, credibility, and ability to finish implementing the educational reforms enacted in ESHB 2261 (Laws of 2009, ch. 548). They again call for immediate sanctions and for the Court to direct legislative action.

Unfortunately, they have lost sight of this Court's holdings and direction in its 2012 decision and the process the Court approved for reaching ultimate compliance with the State's duty to amply fund basic education. As a consequence, they have drifted far from the issue that is now before the Court: whether the State has submitted a complete plan for fully implementing the reforms in ESHB 2261 by 2018. The State has done so—and it is poised to complete the task on schedule.

The next Legislature will convene in January 2017 to write the biennial budget that will fund the State's basic education obligations through the next two school years. This is the final biennial budget to be written before the 2018 deadline the Legislature established in ESHB 2261 and the Court adopted in its 2012 decision, *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012). We have not yet reached that deadline, but it is an appropriate time to look back at the 2012 decision—at the Court's

articulation of the specific obligations imposed on the State by article IX, section 1 of the Washington Constitution, and the deadline the Court set for the State to reach compliance. It is an appropriate time to measure the State's progress against the language and expectations of that decision. That decision provides the proper context for responding to the claims and arguments of Plaintiffs and amici curiae, and for assessing whether the State has purged contempt.

II. ARGUMENT

A. The Court Retained Jurisdiction in 2012 to Facilitate the State's Implementation of the Education Reforms Enacted in ESHB 2261

In its 2012 decision, the Court held that the duty imposed in article IX, section 1 is imposed on the entire State, including all three branches of state government and school districts. *McCleary*, 173 Wn.2d at 515, 541. It is a shared duty, but with divided responsibilities. The State's constitutional duty is to "provide 'basic education' through a basic program of education." *Id.* at 516.[1] But it is the Legislature's responsibility to provide the specific details of the constitutionally required basic education and which programs are necessary to deliver that

[1] The Court explained that the State is not under a constitutional obligation to provide a program of "total education" or one that purports to guarantee outcomes. *McCleary*, 173 Wn.2d at 485, 524-25. Rather, the State must provide a program of "basic education" that provides educational opportunities. *McCleary*, 173 Wn.2d at 483-84, 525-26.

education. *McCleary*, 173 Wn.2d at 517, 526. "The legislature's 'uniquely constituted fact-finding and opinion gathering processes' provide the best forum for addressing the difficult policy questions inherent in forming the details of an education system." *Id.* at 517 (quoting *Seattle Sch. Dist. 1 v. State*, 90 Wn.2d 476, 551, 585 P.2d 71 (1978) (Utter, J., concurring)). Respecting the "delicate balancing of constitutional responsibilities under article IX, section 1," and the constitutional division of responsibilities between the judiciary and the Legislature, the Court has refused to establish specific guidelines for staffing ratios, salaries, and instruction, leaving them to legislative discretion. *Id.* at 517.

Plaintiffs filed this case in January 2007. It went to trial in 2009. The evidence at trial showed that the State's former basic education funding formula underfunded three major components of basic education: basic operational costs (what are now called MSOCs), transportation of students, and staff salaries and benefits. *McCleary*, 173 Wn.2d at 533. The evidence showed that the State allocation for salaries and benefits under that formula was substantially less than what school districts spent to recruit and retain competent teachers, administrators, and staff. *McCleary*, 173 Wn.2d at 535-36. The evidence did not show what proportion of the districts' spending was attributable to basic education that should be funded by the State, and what was attributable to enrichment and other

nonbasic education that is not the State's constitutional responsibility to fund. *McCleary*, 173 Wn.2d at 536; *see Seattle Sch. Dist. 1*, 90 Wn.2d at 526 (approving use of local levies to fund enrichment programs that exceed the State's program of basic education).

But by the time the appeal reached this Court, the Legislature had enacted a new funding formula in ESHB 2261 and was implementing it. Accordingly, the Court retained jurisdiction in this case not to rehash the failings of the former funding formula, but to "monitor implementation of the reforms under ESHB 2261, and more generally, the State's compliance with its paramount duty." *McCleary*, 173 Wn.2d at 545-46. Nor did the Court retain jurisdiction in order to displace the legislative function. It did so to foster "dialog and cooperation between coordinate branches of state government" in facilitating State compliance by 2018, in recognition of the different roles played by those branches. *Id.* at 547. As explained below, the State believes the Court has been successful.

In its 2012 decision, the Court provided a detailed review of education and education funding reforms enacted in the wake of the decision in *Seattle School District 1 v. State*, 90 Wn.2d 476, 585 P.2d 71 (1978). The efforts leading to ESHB 2261 and its progeny began in the 2005 Legislature, which created a number of committees and workgroups and provided funding to examine options and make recommendations for

reforming the education funding system. *McCleary*, 173 Wn.2d at 500-05. The culmination of that work was the development of a new prototypical school funding model for allocating state funds to pay for basic education, released in the final report of the Joint Task Force on Basic Education Finance in January 2009. *Id.* at 503-05.

The 2009 Legislature responded to the Task Force's report by enacting ESHB 2261, which adopted many of the recommended reforms, including the new prototypical school model for allocating state funding. *McCleary*, 173 Wn.2d at 505-06. The new model implements an "evidence-based approach to funding adequacy" that attempts to identify and adequately fund those interventions that lead to improved student achievement. *Id.* at 542. The Court characterized ESHB 2261 as "institut[ing] bold reforms to the K-12 funding system." *Id.* at 506. The Court called it a "promising reform program" that at full implementation and funding in 2018 "will remedy the deficiencies in the prior funding system" and "meet the State's constitutional duty." *Id.* at 543-44; *id.* at 484 (same).

B. The State Has Taken Seriously the Court's Charge to Implement the Reforms Enacted in ESHB 2261

Although bold and promising, ESHB 2261 did not set out details of the new allocation model—the specific class sizes, staffing ratios, salary

levels, or dollar allocations for MSOCs—that would be necessary to calculate allocations. *McCleary*, 173 Wn.2d at 506. Recognizing that implementing the new model would be a multi-year project, the Legislature set 2018 as the deadline for completing the implementation, and established the Quality Education Council to develop and recommend the details necessary to allocate ample funding and the implementation schedule to meet the 2018 deadline. *Id.* at 508.[2]

The next year, in 2010, the Legislature enacted SHB 2776 (Laws of 2010, ch. 236), which adopted many of the Council's recommendations, including an immediate shift to the new prototypical school funding model and phasing in increased funding under the model. *McCleary*, 173 Wn.2d at 509-10. SHB 2776 required phase-in of the new transportation funding formula beginning in the 2011-13 biennium, full funding for MSOC allocations by the 2015-16 school year, and allocations sufficient for all-day kindergarten and for K-3 class sizes averaging 17 students by the 2017-18 school year. *Id.* In short, SHB 2776 was an enacted plan for implementing most of the educational reforms enacted in ESHB 2261, with enacted benchmarks and deadlines for completion. In 2014, the

[2] The Plaintiffs argue that the recent repeal of RCW 28A.290.010, with its September 1, 2018, deadline for implementation of ESHB 2261, somehow nullifies the intent expressed by the Legislature when the bill was enacted and the Court's adoption of that deadline in 2012. Repeal of the statute does not negate that legislative history or the Court's 2012 adoption.

Legislature enacted E2SSB 6552 (Laws of 2014, ch. 217), amending the prototypical school model to enhance certain staffing and MSOC values.[3]

As the Court explained in its 2012 decision, the prototypical school model is an allocation model that is used to distribute state basic education funding to schools. It uses "commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff," sufficient to support the number of students in a given school to determine the level of resources needed for that school, but it does not mandate how school districts actually use the funds. *McCleary*, 173 Wn.2d at 506 n.16. Because the State's funding formula is for allocation only, school districts controlled by locally elected boards have substantial discretion in deploying state funding to implement the State's program of basic education in accordance with local priorities. Thus, the model is designed to provide state funding sufficient for specified class ratios, staffing, supplies, etc., but local school districts may choose different

[3] For example, contrary to the Plaintiffs' assertion that the State failed to provide for the shift to 24 credits (Pls.' Answer at 25), E2SSB 6552 modified the prototypical school model to increase funding to reflect the increased resources needed to provide students the opportunity to complete 24 credits (among other changes). Laws of 2014, ch. 217, §§ 201(2)(a), (3)(b), 206(4)(a), (5), (8)(c); *see also 2014 Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation* at 17-24 (as corrected May 1, 2014) (*2014 Report*).

approaches to allocating funds than the model assumes for purposes of allocation.[4]

Beginning with the 2013-15 budget, the Legislature has steadily increased funding to implement ESHB 2261. As summarized at pages 9-13 in the State's brief filed August 22, 2016,[5] the State has met every benchmark and every deadline in SHB 2776 and is in the process of meeting the final deadline established in that plan. Without doubt, this successful implementation has been facilitated by the "dialogue and cooperation between coordinate branches of state government" the Court intended when it retained jurisdiction. *McCleary*, 173 Wn.2d at 546. While there have been some tensions between the legislative and judicial branches—as might be expected in an endeavor of this scope and importance—that dialogue has continued and the State has moved steadily toward full implementation under SHB 2776.

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[4] RCW 28A.150.260(2) reads as follows:

> The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. *Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff.* Nothing in this section entitles an individual teacher to a particular teacher planning period.

(Emphasis added.)

[5] State of Washington's Brief Responding to Order Dated July 14, 2016 (filed Aug. 22, 2016) (State's Br. Aug. 22, 2016).

As the Court has recognized, SHB 2776 did not address the need to increase state allocations for staff salaries and benefits, and it therefore did not comprise a complete plan. When the Legislature was unable to reach agreement on a plan to fill the gap left in SHB 2776, the Court reluctantly found the State in contempt and finally imposed a sanction to compel such a plan. The Governor offered his assistance, legislators renewed their discussions, and a tentative plan was crafted, debated, adjusted, finalized, and approved in both houses of the 2016 Legislature. That enacted legislation, E2SSB 6195 (Laws of 2016, ch. 3), fills the gap left in SHB 2776 by establishing (1) a process, with benchmarks and a deadline, for the Legislature to develop evidence-based recommendations as to the levels of salaries and benefits sufficient to hire and retain competent certificated instructional staff, administrators, and classified staff; and (2) a commitment to legislative action by the end of the 2017 session to provide state funding for compensation sufficient to eliminate school district dependence on local levies to implement the State's program of basic education. *See* State's Br. Aug. 22, 2016, at 14-15, 26-33.

The State has taken the necessary actions to fully fund the areas of underfunding called out by this Court in its 2012 decision, except for compensation. E2SSB 6195 enacted a plan to determine compensation

levels and to fund them, squarely committing the 2017 Legislature to take action to provide the funding.

C. The Plan Enacted in E2SSB 6195 Is Necessary to Determine the Cost of Fully Funding the State's Program of Basic Education

In deciding to retain jurisdiction to monitor implementation, the Court cautioned against the prospect of immediate follow-on lawsuits were it to simply declare the funding system inadequate and relinquish jurisdiction. *McCleary*, 173 Wn.2d at 541, 544. The Court was prescient, as the current round of briefing shows that Plaintiffs and others are eager to challenge the reforms before they have been fully implemented. But the success of the funding reforms cannot be assessed until they are fully implemented. And the information being gathered pursuant to E2SSB 6195 is necessary to complete that implementation.

1. The Plan Enacted in E2SSB 6195 Is Necessary to Determine the State's Cost for Staff Compensation

Providing full funding for salaries and benefits for the State's program of basic education is the last major step in implementing the funding reforms initiated in ESHB 2261. The work being done pursuant to E2SSB 6195 is vital to achieving that end for several reasons.

First, it provides essential information concerning what services districts are paying for with local levy funds and what portion of the local contribution is appropriately the State's obligation.

Second, it sets the stage for legislative action in 2017.

Third, that legislative action will substantially affect funding levels in all the basic education instructional programs. Employee compensation is the largest driver of programs costs. An increase in state contribution to salaries will result in additional state money throughout the prototypical school model, including the special education, transitional bilingual, learning assistance, highly capable, and pupil transportation programs. For example, the learning assistance program provides additional instruction to eligible students. RCW 28A.150.260(10)(a). The primary expense of the program is teacher salaries. Therefore, increasing state funding of teacher salaries increases state funding attributable to the program.[6] Consequently, only after the compensation piece is added in 2017 (per the commitment in E2SSB 6195) could there be a fair assessment of whether the State's funding models remain compliant. For

[6] The same holds true for other programs based on additional instruction such as the bilingual and highly capable programs. Special education is based on a multiple of the general education formula and, therefore, as general education funding rises, so does special education. The transportation allocation formula expressly incorporates any increases in salaries or fringe benefits. RCW 28A.160.192(2)(b).

that reason many, if not all, of the criticisms by the Plaintiffs and amici about the model and formulas are premature.

Neither the trial records nor any currently available report contains recent, accurate data about the cost of salaries and benefits for the State's program of basic education (and not the locally determined enrichments to basic education, for which local funding must be used). Because those critical data are not currently available, Plaintiffs and the Superintendent look to different sources for information. The conflicting numbers they present demonstrate the need for more complete and accurate information.

After conceding that it is difficult to provide the Court with meaningful numbers, the Superintendent supplies district-reported (and unvalidated) local expenditure numbers from school year 2014-15 without context or full explanation as to what they mean. There is no discussion of what the money is spent on (e.g., whether the MSOC allocation actually is spent on MSOC), the role of local enrichment choices, whether federal revenue covers some expenditures, or, most importantly, the overlap between compensation expenditures and program expenditures. In other words, the Superintendent reports on salary expenditure disparities and separately reports on program expenditure disparities. By doing so, the Superintendent fails to identify what portion of the district program expenditures are attributable to district salary expenditures. Therefore, the

Superintendent double counts reported shortfalls when school district program expenditures are measured against state funding.

The numbers provided by the Superintendent support the conclusion that the State is not paying its full share of staff compensation—which the State has admitted—but it does not quantify the State's appropriate share of total district salary expenditures. His numbers include salary expenditures attributable to local enrichment, which is not part of the State's obligation. Assuming the Superintendent is best positioned to provide the data necessary to determine the State's share, he has not been able to do so—which supports the Legislature's conclusion in enacting E2SSB 6195 that the necessary information simply is not known and must be obtained.

The Plaintiffs take a different approach to make their claim that the State must increase per pupil funding to $12,701 per student. Pls.' Br. at 33. They extrapolate their per-pupil number from their own 2013 Post-Budget Filing wherein they erroneously state that the State "testified" at trial that ESHB 2261's reforms will increase State funding to $9,710 per pupil.[7] Plaintiffs are referring to the testimony of witness Ben Rarick, then of the Office of Program Research. Mr. Rarick said no

[7] Plaintiff/Respondents' 2013 Post-Budget Filing (filed Sept. 30, 2014), at 12-13 (Pls.' Post-Budget Filing) (citing RP 3951:14-3953:2; 3965:10-3970:17; 4018:17-4021:11 & Tr. Ex.1483)).

such thing. Mr. Rarick was discussing a costing exercise (Exhibit 1483) he prepared at the request of legal counsel. Exhibit 1483 was a chart that depicted an attempt to break down costs related to various policy assumptions, some of which ended up in ESHB 2261 and some of which did not. Contrary to Plaintiffs' statement, Mr. Rarick emphasized that the exhibit was *not* a cost-out of ESHB 2261, that he had not costed out ESHB 2261, and that ESHB 2261 could not be costed out because it lacked the necessary specifics. RP 3953:20-21 (Ex. A); 4032:8-14.[8] The Plaintiffs' starting point of $9,710 per pupil therefore has no basis in the record.

The Plaintiffs next claim that the Compensation Technical Working Group determined that the State needed an additional $2.9 billion per year to fund market rate salaries. Pls.' Post-Budget Filing at 12. The cited report contains several compensation projections, depending on policy assumptions, ranging from $1.4 billion to $2.0 billion per year.[9] The Plaintiffs' value of $2.9 billion is associated with "provisional discussion values" discussed by the Quality Education Council, which

[8] Under questioning by opposing counsel, Mr. Rarick was asked: "Would you agree that it is essentially impossible to cost out 2261 on its face, because the bill does not include the necessary specifics in order to do a costing analysis? A. I would." RP 4009:5-9. The court later asked a similar question: "I believe on cross examination you were asked if you looked at House Bill 2261. And you indicated that you couldn't cost it out, because there is so many assumptions and it requires recommendations to the working groups. Is that correct? THE WITNESS: Yes, sir." RP 4032:8-14.

[9] *Compensation Technical Working Group Final Report* 47, 20 (June 30, 2012), http://www.k12.wa.us/Compensation/CompTechWorkGroupReport/CompTechWorkGroup.pdf.

were not enacted by the Legislature.[10] Thus, the second building block of the Plaintiffs per pupil number does not represent an accurate compensation projection.

Because the Plaintiffs' per-pupil number rests on a faulty foundation, it is not reliable. In contrast, while the known costs of the components of SHB 2776 are reported in the State's Brief (Aug. 22, 2016) at pages 17-19, the additional data and analysis obtained in the E2SSB 6195 process are necessary to determine the compensation component.

The amicus brief from Arc of Washington also supports the conclusion that determining and providing the State's compensation contribution is the essential next step. Arc of Washington has not established, nor can it establish in an amicus brief, that special education is underfunded. That assessment cannot be made until the final compensation piece is added to the funding model, and even then adequacy cannot be determined without an appropriate factual record.

The need for a factual record is illustrated by the litigation and decision in *School Districts' Alliance for Adequate Funding of Special Education v. State*, 170 Wn.2d 599, 244 P.3d 1 (2010). In 2004, an alliance of school districts initiated a lawsuit claiming that special education was underfunded. Before reaching this Court, the parties

[10] *Id.* at 48.

engaged in substantial factual development through discovery and a lengthy trial. The case required factual development concerning a host of issues related to revenues, expenditures, populations of eligible students in each plaintiff district and statewide; whether the districts were operating reasonably efficient programs; whether individualized education programs were properly formulated; whether districts had methods for costing out IEP services; and whether districts could show that the basic education allocation, federal flow-through funding, the state excess cost allocation, and federal and state safety net processes were all exhausted. Both the Court of Appeals and this Court paid close attention to the evidence in the record in concluding that the adopted special education formula had adequate evidentiary support. *See Sch. Dists.' All. for Adequate Funding of Special Educ. v. State*, 149 Wn. App. 241, 249-50, 261, 202 P.3d 990 (2009); *Sch. Dists.'All.*, 170 Wn.2d at 611.

To the extent Arc of Washington is making a new claim that the special education funding formula is constitutionally deficient, it needs to file a new lawsuit to allow the type of factual development necessary for a court to adjudicate its claim. To the extent Arc of Washington is claiming simply that the State has not yet eliminated over-reliance on local tax levies to support basic education services (including special education), their arguments put all parties and amici in agreement. The State has not

achieved full compliance and there is a substantial step yet to be implemented. But their claim says nothing about the validity, viability, or necessity of the plan in E2SSB 6195.

2. The Plan Enacted in E2SSB 6195 Is Necessary to Determine the Appropriate State Share of Capital Costs

Plaintiffs and amicus Washington's Paramount Duty argue that funding for classroom construction must be included in the State's funding model. That argument is an attempt to relitigate the 2009 trial and obtain a result now that Plaintiffs did not obtain then. The State's statutory program of basic education allocates funding for operation, not construction. Construction costs are budgeted separately.

But they are wrong to argue that the State is failing to provide funding for classrooms. In the last three biennia, the Legislature has provided almost two billion dollars to assist school construction. *See* Laws of 2015, 3d Sp. Sess., ch. 3, § 5013 ($611 million for 2015-17); Laws of 2015, 3d Sp. Sess., ch. 3, § 5028 ($200 million for 2015-17); Laws of 2013, 2d Sp. Sess., ch. 19, § 5020 ($495 million for 2013-15); Laws of 2011, Sp. Sess., ch. 48, § 5003 ($316 million for 2011-13); Laws of 2011, Sp. Sess., ch. 49, § 5006 ($346 million for 2011-13). Total = $1,968 million. Significantly, the Legislature has provided this money even though the actual need is unknown (because school facilities

are designed, built, and operated by local school districts, because construction costs vary widely, and because there is no validated and reliable estimate as to the number of additional classrooms needed). *See* State's Br. Aug. 22, 2016, at 22-23. And the Legislature has initiated a multistep process (summarized in State's Br. Aug. 22, 2016, at 23-25) to ensure that it has accurate data concerning school facilities inventory and need by the beginning of the 2017 legislative session.

D. Lifting Contempt and Determining Compliance

In retaining jurisdiction, the Court acknowledged that its ultimate determination whether the State had achieved constitutional compliance likely would be difficult, because it involves such a "delicate exercise in constitutional interpretation" and because it tests "limits of judicial restraint and discretion[.]" *McCleary*, 173 Wn.2d at 519 (internal quotation marks omitted). The Court explained that it ultimately would evaluate the State's constitutional compliance in a positive rights context, asking whether the State's action "achieves or is reasonably likely to achieve" ample funding of basic education. *Id.*

The time for assessing the State's ultimate compliance has not yet arrived, because the 2018 deadline has not yet arrived. When the Court does assess ultimate compliance, the actions taken in the 2017 legislative session will be before the Court, together with all of the other actions the

State will have taken by that time. The Court has indicated that the State's cumulative action—all the progress the State will have made in implementing the "promising reform program" enacted in ESHB 2261, *McCleary* 173 Wn.2d at 543—will be evaluated for constitutional compliance based on whether it "achieves or is reasonably likely to achieve" ample funding of basic education. *Id.* at 519. Necessarily, the Court must wait for the State to finish its promised implementation (or for the 2018 deadline to be reached) before making that assessment.

Throughout the course of the Court's retained jurisdiction, Plaintiffs and amici have been impatient. Impatience is understandable. But their impatience has produced repeated calls to override the legislative process and for immediate sanctions for constitutional noncompliance in advance of the deadline the Court adopted. Those calls have been premature and they continue to be premature. The Court's ultimate determination whether the State's cumulative action achieves or is reasonably likely to achieve ample funding of basic education likely will require factual development beyond the estimates and assertions the parties and amici can provide at this time. It will require evidence that addresses the effects and impacts of the fully implemented funding models, not a recounting of old estimates and incomplete data. Put simply, it is premature to assess the State's compliance with the Court's 2012

decision and the constitutional obligations set out in that decision. The Court gives up none of its remedial authority by waiting until the proper time to assess compliance.[11]

The issue now before the Court is whether the State has purged contempt by enacting a plan to fully comply with its constitutional duty to amply fund the State's program of basic education. The State has done so. E2SSB 6195 establishes a timeline and benchmarks for obtaining the final needed information and analysis and developing specific recommendations for legislative action. It commits to legislative action by the end of the 2017 session to provide state funding for compensation sufficient to eliminate school district dependence on local levies to implement the State's program of basic education. That plan fills the gap left in SHB 2776, which did not address compensation. Read together, E2SSB 6195 and SHB 2776 identify the steps, benchmarks, and deadlines for fully implementing and funding the reforms enacted in ESHB 2261. *See McCleary*, 173 Wn.2d at 543-44 (full implementation and funding of ESHB 2261 "will remedy the deficiencies in the prior funding system" and "meet the State's constitutional duty"). Read together, E2SSB 6195 and SHB 2776 constitute a complete plan that complies with the

[11] The State does not seek to avoid this Court's oversight, as asserted by amicus curiae Washington's Paramount Duty. To the contrary, the State continues to participate diligently in every aspect of the Court's exercise of retained jurisdiction.

Court's January 2014 Order. The State respectfully contends that it has purged contempt.

III. CONCLUSION

In 2012, the Court explained that "article IX, section 1 contemplates a sharing of powers and responsibilities among all three branches of government as well as state subdivisions, including school districts." *McCleary*, 173 Wn.2d at 515. All three branches of state government are working to implement the educational and funding reforms enacted in ESHB 2261. Full implementation is within reach, and the State now has a complete plan for accomplishing full implementation. The State respectfully asks the Court to dissolve its order finding the State in contempt and to terminate its order imposing a daily sanction on the State.

RESPECTFULLY SUBMITTED this 2nd day of September 2016.

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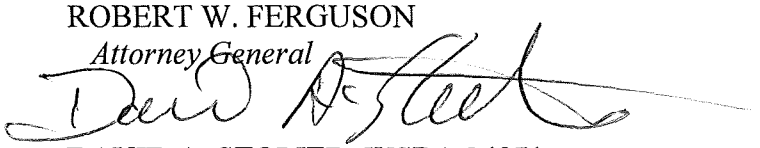
Attorney General



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CERTIFICATE OF SERVICE

I certify that I served a copy of the State Of Washington's Reply Brief And Answer To Amici Curiae Responding To Order Dated July 14, 2016, via electronic mail, upon the following:

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I certify under penalty of under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of September 2016, at Olympia, Washington.

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