

# THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE McCLEARY, et al.,  
 Respondent/Cross-Appellant,  
 v.  
 STATE OF WASHINGTON,  
 Appellant/Cross-Respondent.

**ORDER**

Supreme Court No  
 84362-7  
 King County No:  
 07-2-02323-2 SEA

FILED  
 SUPREME COURT  
 STATE OF WASHINGTON  
 12 JUL 18 PM 3:49  
 BY RONALD D. APPENTER  
 CLERK

This matter came before the court on its July 11, 2012, En Banc Conference. In its decision in this case, the court held that the State is not currently meeting its duty under article IX, section 1 of the Washington State Constitution to make ample provision for the education of all children in the State. *McCleary v. State*, 173 Wn.2d 477, 539, 269 P.3d 227 (2012). The court recognized the legislature’s enactment of “a promising reform program in [Laws of 2009, ch. 548] ESHB 2261,” *id.* at 543, designed to remedy the deficiencies in the prior funding system by 2018. The court retained jurisdiction “to monitor implementation of the reforms under ESHB 2261, and more generally, the State’s compliance with its paramount duty.” The court directed the parties to provide further briefing addressing the preferred method for retaining jurisdiction. Having considered the parties’ arguments, and being fully advised in this matter, the court enters the following order:

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1. The State, through the Legislative Joint Select Committee on Article IX Litigation or through legal counsel, shall file periodic reports in this case summarizing its actions taken towards implementing the reforms initiated by Laws of 2009, ch. 548 (ESHB 2261) and achieving compliance with Washington Constitution article IX, section 1, as directed by this court in *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012).
2. The first report shall be filed no later than 60 days following entry of this order. Thereafter, reports shall be submitted (a) at the conclusion of each legislative session from 2013 through 2018 inclusive, within 60 days after the final biennial or supplemental operating budget is signed by the governor, and (b) at such other times as the court may order. After the filing of the initial report, subsequent reports should summarize legislative actions taken since the filing of the previous report.
3. A copy of each report shall be filed with the court and served on the respondents' counsel. The report shall be a public document and may be published on the legislature's web page. Within 30 days after receiving a copy of the report, the respondents may file and serve written comments addressing the adequacy of the State's implementation of reforms and its progress toward compliance with article IX, section 1.

4. 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 with article IX, section 1 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 program of reforms in ESHB 2261.

5. Upon reviewing the parties' submissions, the court will determine whether to request additional information, direct further fact-finding by the trial court or a special master, or take other appropriate steps.

DATED at Olympia, Washington this 18<sup>th</sup> day of July, 2012.

For the Court,

  
CHIEF JUSTICE