

In Our View: Custodial Interference

Legislature's inability to reach plan for K-12 funds means court must keep watch

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State lawmakers have their noses a bit out of joint, but that's only because the Supreme Court keeps tweaking the proboscises of legislators. The result could be a constitutional showdown or merely a few sore beaks, yet the reality of the situation shows why the court keeps throwing punches.



In 2012, the Washington Supreme Court ruled in the *McCleary v. Washington* lawsuit that the Legislature had not met its first obligation — spelled out in the state constitution as providing for and paying for K-12 education. In January of this year, the court declared that lawmakers must present a complete plan with year-by-year spending details.

Last week, that plan was delivered, and the Legislature's Article IX Committee freely admitted that it fell short of expectations. "There was no political agreement reached either among the political caucuses or between the legislative chambers on what the full implementation plan should look like," the report said in reference to this year's session. That serves as the legislative equivalent of, "The dog ate my homework."

Not that the assignment was an easy one. Estimates are that an extra \$3.5 billion must be unearthed in order to meet the *McCleary* mandate by the 2018 deadline. Lawmakers added nearly \$1 billion to K-12 spending when they approved a biennial budget during the 2013 session, but this year's short session yielded little in the way of education spending, kicking the can to next year's full-length conclave. "The real test will be in the next biennium," House Majority Leader Pat Sullivan said, failing to answer the question of why last year or this year didn't serve as real tests.

That left lawmakers to plead for leniency on the part of the court: "Our goal is to ensure that the paramount duty is met and that measures taken by the Legislature, and by extension, the Court, do not result in a constitutional conflict that is counterproductive to that end," read the report. Some legislators have thumbed their nose at justices in recent months, saying the court has overstepped its boundaries with its ongoing oversight of the Legislature.

Yet the spending plan — or lack thereof — highlights the need for such oversight, and the options are limited. The Supreme Court could hold lawmakers in contempt; it could direct the state treasury to send billions of dollars to school districts; it could call for new taxes and bypass the tax-writing function of the Legislature. None of those plans would be ideal, yet that is what lawmakers have brought upon themselves. As *The Seattle Times* wrote editorially: "For too long, they have shorted education in all its forms, and they have spent the state's money where the special interests were the noisiest."

The Times also wrote: "If the court backs off just a tad, the result could be far more positive." On the other hand, lawmakers have left the court with little choice. Legislators repeatedly have shirked their duties and said, "We'll get to it tomorrow." Tomorrow arrived in the form of the annual report, and lawmakers slept through the alarm.

The original *McCleary* decision gave the Legislature a reasonable five-year window in which to ease the state into a new era, but much of that time has been squandered. As state schools superintendent Randy Dorn said, "In other words, wait until next year. But I have to ask: Will tomorrow ever come? The Legislature isn't going to take its responsibility seriously unless the court forces it to."

And sometimes that requires a little tweak on the nose.

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