

Court should appoint a K-12 “special master”

By Lisa Macfarlane
The Olympian
September 14, 2014

It has been more than two years since the state Supreme Court’s McCleary decision declared that legislators are violating the state constitution by underfunding public schools.

Frustrated by the lack of progress, the Court held a hearing Sept.3rd and asked the Legislature and governor to show why they should not be held in contempt of court for the State’s ongoing violation of its constitutional duty to public school children.

A state lawyer made a plea for more time. That makes sense if there were evidence that legislators are any closer to enacting and funding a plan now than they have ever been, but that does not appear to be the case.

The Legislature has been deadlocked. Democrats have shown no inclination to increase education funding by cutting other state services. Republicans have shown no inclination to increase taxes.

Unfortunately, this year’s revenue projections show there won’t be enough money to maintain the existing budget, let alone the several billion additional dollars needed to fully fund the legislature’s own definition of basic education.

On Thursday, the news broke that the Washington Supreme Court is holding the state in contempt for violating the Court’s January 2014 order. They held off imposing sanctions, none of which will solve the underlying political problem.

Most of the possible sanctions suggested by the plaintiffs would impact thousands of people who are not to blame for decades of state underfunding of our public schools.

There is another, better way. While the Court "can't engage in active dialogue with other branches of government", it can -- and should -- appoint a special master who can act as a bridge-builder who helps shape a remedy that can both pass the Legislature and meet our constitutional obligation to schools.

The appointment of a special master is a well-established practice in complex cases, and the Court included the prospect in its 2012 ruling when it wisely decided to retain jurisdiction.

For a special master to be successful, legislators must acknowledge the Court's obligation to uphold the sanctity of the state constitution. They also need to acknowledge that much of the

problem is their own fault as well as the fault of more than 30 years of bad decisions by governors and legislators who came before them.

Just as legislators must respect the Court's involvement, the Court must acknowledge that they cannot write a budget or pass laws. The heart of the problem is the lack of public enthusiasm for major changes in school funding policies. Most voters do not seem bothered by the inequities and inadequacies found unacceptable by the Court.

The success of a special master will also depend on the freedom he or she has to develop a plan based on what is best for our students rather than the preferences of special interests that have been woven into existing state policies.

While the Court is limited to ruling on what is brought before it, a special master would have a broader view of the state's obligations.

Education is the state's "paramount" duty, but not its only duty. Education policies and funding must take into consideration the effect they have on higher education, early learning, and the social services that children need in order to learn.

The Court must act to uphold the constitution and protect the rights of our children. Appointing a special master who will "foster dialogue and cooperation in reaching a goal shared by all Washingtonians" is still the best option.

Lisa Macfarlane is the Washington State Director of Education Reform Now. She co founded the League of Education Voters in 2001. She is a former juvenile court public defender with a long history of fighting for needed resources for our public schools at the local and state level.

Read more here: <http://www.theolympian.com/2014/09/14/3313427/court-should-appoint-a-k-12-special.html?sp=/99/109/#storylink=cpy>