

State wants contempt order lifted, but plaintiffs want sanctions in landmark school-funding case

Originally published July 28, 2015 at 5:03 am Updated July 28, 2015 at 4:22 pm

The latest filings in the ongoing McCleary lawsuit were filed Monday, and now the justices will decide whether lawmakers made enough progress this session.

By [John Higgins](#)

Seattle Times education reporter

It's judgment time for the state Legislature, which crunched out a two-year budget this spring under the threat of punishment from the Supreme Court. Last fall, [the court found lawmakers in contempt](#) for not moving fast enough to fix school funding, but the justices postponed deciding whether to order sanctions until the end of the this year's session.

[Arguments to the court](#) were due Monday on whether the Legislature [did enough](#) when it passed the 2015-2017 budget.

The state gave an unequivocal yes. Attorney General Robert Ferguson, in fact, asked the court to dissolve the contempt order, arguing that that lawmakers have met all the court's deadlines.

"Although work remains to be done, the 2015 Legislature's actions move the State closer to ultimate constitutional compliance than any written plan would have done, and continuing to demand a plan at this point would serve no useful purpose," Ferguson wrote.

While the Legislature didn't come up with a full plan for the rest of the work, he wrote, "the Court's purpose in requiring a plan—to force real and measurable progress—has been achieved."

Not surprisingly, that's not how the plaintiffs — a coalition of parents, school districts, teachers and other community groups — see it. Their attorney, Thomas Ahearne, asked

for immediate sanctions. He gave them a number of ideas, including holding up action on all other legislation or invalidating all tax exemptions given since 2012.

Plaintiffs “respectfully submit that the time has come for this Court to make what some would call a ‘fish or cut bait’ decision,” Ahearne wrote, adding that the court needs to “either stand up and enforce Washington schoolchildren’s positive constitutional right to an amply funded education, or sit down and confess it was only kidding when it assured Washington schoolchildren that this Court would vigilantly protect them from the government’s violation of their constitutional rights.”

Superintendent of Public Instruction Randy Dorn filed his own brief asking the court to order the Legislature back into session to finish the job.

“The Legislature deserves credit for the steps it has taken. But they are too small for the task at hand,” Dorn wrote.

While lawmakers [agreed to spend an additional \\$1.3 billion for K-12 education](#) over the next two years, they didn’t change Washington’s unconstitutional reliance on local property taxes to pay the costs of a basic education.

The Legislature is required to fix both problems under the court’s 2012 McCleary decision, which found that lawmakers don’t give school districts nearly enough money to cover those costs, which is their first duty under the state’s constitution.

School districts have passed local levies to make up the difference, leading to an uneven education system because wealthier districts can raise more money than poorer ones.

John Higgins: 206-464-3145 or jhiggins@seattletimes.com; on Twitter: [@jhigginsST](https://twitter.com/jhigginsST).