

HeraldNet

Everett, Washington

Published: Saturday, August 15, 2015, 12:01 a.m.

A detailed look at the court's mandate to fully fund education



Mark Mulligan / Herald file, Oct. 6

Fifth-grader Kayla Wilder raises her hand for help from technology teacher Deborah Wrobel at Woodside Elementary School late last year. Overcrowding in the school has made it necessary to dismantle the school's computer lab. Instead of students going to the lab, computers are brought to their classes. The McCleary decision found the state has not adequately funded education and must come up with a plan to do so.

By Donna Gordon Blankinship
Associated Press

SEATTLE — Washington state is being fined \$100,000 a day by the state Supreme Court because justices say lawmakers have failed to adequately pay to educate the state's 1 million school children.

Lawmakers have allocated billions of dollars toward public schools, but critics say that's not enough to meet the requirements in the state Constitution that education be the Legislature's "paramount duty."

Washington isn't the first state to go to court over money for public schools, but there are some unique elements of the lawsuit known as the McCleary case and the way Washington pays for public schools.

How is Washington unique?

In many states, education is a local concern, paid for with local tax money and supplemented for fairness and equity with state dollars. In Washington, education is a state focus, paid for with state taxes and supplemented with local taxes. Washington's Constitution makes public schools the main job of the state, implying that everything else, from prisons to roads to universities, is extra. In Washington, the state sets a teacher salary schedule, but contracts are negotiated locally, so teacher pay is not really uniform because local dollars are used to supplement the state salary schedule.

What did the McCleary decision say?

The Washington Supreme Court decided in 2012 that state funding for education is not adequate, equitable or ample. The justices said the state was relying too much on local dollars to make up for an inadequate state budget for education. Overreliance on local dollars makes the inequity worse because school districts with higher property values can raise more money more easily. The court gave the Legislature until 2018 to fix the problems and demanded yearly progress reports showing lawmakers were making substantial infusions of cash to fix the problem while creating a plan for finishing the work by the 2017-18 school year.

It's not 2018, so why issue sanctions now?

The court and the lawyer representing the McCleary plaintiffs don't think the Legislature has made enough progress and say they haven't seen evidence of a plan for finishing the work. They are apparently worried that the Legislature will keep throwing its collective hands up in the air and saying, adequate school funding is a good idea but we can't find the money to finish the work.

So now what?

No one's sure. On Monday, Gov. Jay Inslee will meet with House and Senate leaders from both political parties to try to figure it out. Inslee can call lawmakers into special session and they would have up to 30 days to approve a plan for the court. Some lawmakers want that to happen immediately. Others want to wait until it's clear there is agreement between the chambers on a plan to submit to the court.

Is \$100,000 a day enough to light a fire?

No one knows for sure, but it is a tiny percentage of the state budget, which totals \$38 billion for the next two years. During the legislative session that ended in mid-July after several special sessions, lawmakers added \$1.3 billion to the two-year state education budget. It would take more than 30 years for the fines to add up to another \$1.3 billion. And most lawmakers and education officials agree it will take a lot more than that to fulfill the requirements of the McCleary decision. So, even though the court has urged Gov. Jay Inslee to call another special session, lawmakers who are good at math might feel comfortable waiting until the Legislature reconvenes in January. Meanwhile, the court order says the penalty dollars will be set aside in a special education fund.

Where is the money coming from and how will it be paid?

To be sure, it's all taxpayers' money. With the fine the court is effectively is forcing more tax dollars into public schools as required in the McCleary case. But \$100,000 checks won't be deposited every day into the public schools account. Generally speaking money can't be spent willy nilly without an appropriation from lawmakers. It appears — and this issue is still getting studied — lawmakers will need to pass a bill listing the final amount of the fine and direct that amount to be paid. That bill would need to say if the money is coming out of reserves or some other account.

What else could the court have done?

The court could have rewritten the state budget itself and found the money for education by cutting other programs. One state Supreme Court justice suggested during a hearing on the McCleary case they could easily find enough money for education by eliminating all state tax exemptions, such as the special deals lawmakers have made to keep Boeing Co. happily building airplanes in Washington. They could turn off the lights, heat and air conditioning in the Statehouse until lawmakers come to agreement. They could shut down public schools or threaten to do so like New Jersey's Supreme Court did in 1976 after lawmakers failed to put enough money into education. That resulted in the adoption of a state income tax.

Who are the McClearys?

Stephanie McCleary was 13 in 1978 when the Washington Supreme Court decided the state was not fulfilling its duty to children by forcing school districts to use local dollars to make up for the money the districts weren't getting from the state. More than 30 years later, the Chimacum, Washington, mom, her husband and her two school-age children agreed to be named plaintiffs to help a coalition of school districts, teachers, parents and education and community groups sue the state over the same school funding issues. They joined the lawsuit in 2007 and now in 2015, Kelsey McCleary is in college and her brother, Carter, is in high school, expecting to graduate in 2017.

Herald reporter Jerry Cornfield contributed to this story.

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