

Court must reconsider charter-schools ruling

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Cristina Marcalow teaches a sixth-grade humanities class at Excel Public Charter School in Kent on Tuesday. (Ellen M. Banner/The Seattle Times)

The Washington Supreme Court should reconsider its ruling that the state's charter school law is unconstitutional.

By [Seattle Times editorial board](#)

The Seattle Times

THE state Supreme Court should heed requests to reconsider its ruling that Washington's fledgling charter schools violate the state constitution.

The timing of the ruling — about 11 months after hearing arguments and after charter school classes commenced — was perplexing, but its repercussions are serious. More than 1,200 students are enrolled in the state's nine charter schools, eight of which are starting their first year. In 2012, voters approved Initiative 1240 to authorize publicly funded charter schools that give higher priority to serving at-risk kids. Charters have greater flexibility to respond to students' needs, something the traditional system does not provide or encourage enough of.

The high court's 6-3 ruling, announced after 4 p.m. on the Friday before Labor Day, ruined the holiday weekend for many students, parents and charter-school educators.

The majority ruled that all state money for education must go to "common schools," traditional K-12 public schools. None of it could go to any other school, because they are not overseen by elected boards, making the initiative unconstitutional and threatening the state's charter schools.

But lawyers and policymakers think that all-or-nothing rationale portends bad consequences for other types of education programs. Among them are the relatively new tribal compact schools, and Running Start or direct-funded vocational programs, which allow high-school students to take community-college classes.

The solution to this vexing funding problem, and to charter schools' legality, can be found in the court's minority opinion by Justice Mary Fairhurst. Joined by justices Steven C. González and Sheryl Gordon McCloud, Fairhurst argued that, while the state has some funds restricted to support only "common schools," the majority of state education money — 72 percent — is not restricted. The minority opinion points out how much the state's education financing system has changed since the precedent the majority opinion cited.

And it's about to change even more. In a separate matter, the Legislature is working to overhaul the state's outdated system of depending too much on local levies to pay for basic education. The result is a woefully inequitable education in districts across the state. Under order from the state Supreme Court to correct that imbalance, lawmakers are working to flesh out levy reform and make other changes to ensure equity.

The Washington State Charter Schools Association says it will ask the Supreme Court to reconsider its decision.

Fortunately, for those affected students and their families, the Charter Schools Association announced it would find money from donors to pay for the schools' first year of operations. That development is good news but should not take the pressure off the court to reconsider.

Failing a different court outcome, the Legislature should act to find a way to ensure Washington's charter schools continue.

Those students at the state's first charter schools deserve it — and so do all those who come after.

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