

Charter-school ruling stands, except for one footnote

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Charter-school supporters had asked the court to rethink its decision, hoping to preserve the publicly funded but privately run schools.

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The Washington State Supreme Court denied several motions to reconsider its [Sept. 4 decision](#) that the state's charter-school law is unconstitutional, which means the ruling is expected to become final on Dec. 14.

Charter-school supporters had asked the court to rethink its decision, in one of their efforts to preserve the publicly funded but privately run schools in this state.

Attorney General Bob Ferguson [was among those asking for reconsideration](#). As part of that, he wanted the court to remove a footnote that he said unnecessarily raised questions about other educational programs the state funds, such as Running Start.

In that footnote, the justices argued that charter schools violated the state's constitutional requirement to provide "a general and uniform system of public schools" because charter schools aren't governed by elected boards.

The court agreed without further explanation to remove that footnote, but otherwise its decision stands.

The court split 5-4 on the order denying reconsideration, though the dissenting justices agreed the footnote should be removed

Ferguson argued that the provision potentially endangered a wide range of public-school programs that are not controlled by school boards. He cited, for example, Running Start, which allows high-school students to earn both high-school and college

credit by taking classes at state community colleges. That program is run by trustees appointed by the governor.

“While the court declined to revisit its holding regarding charter-school funding, it is now up to the Legislature to decide whether to adopt a different mechanism to fund charter schools,” Ferguson said Thursday.

State Sen. Steve Litzow, R-Mercer Island, said he will keep pushing for such a fix.

Hugh Spitzer, who teaches state constitutional law at the University of Washington, said it’s difficult to tell what the court’s intentions are in removing the footnote, but he sees at least two possibilities.

The court may simply have agreed with Ferguson that it could lead to unintended consequences and wasn’t necessary to invalidate the voter-approved law.

But there’s another possibility, which may give charter supporters a glimmer of hope: That the Legislature could fund something that retains some of the independence of a charter school but within a school system, rather than privately operated by a nonprofit.

“The court might be providing a little more flexibility or wiggle room in how a charter-school system could be developed,” Spitzer said.

The decision came on a day when a group of charter-school parents, students and advocates held a rally outside the state Capitol calling on lawmakers to find a way to keep charter schools open.

Later in the day, advocates testified before a legislative committee hearing about why the schools were important to them.

Nine charter schools are now operating in the state with an estimated enrollment of around 1,200 students, mostly in the Seattle-Tacoma area.

[Those schools have been receiving state funding](#), pending a final decision.

The state's teachers union praised the Supreme Court for upholding its charter-school ruling and called on the Legislature to focus on complying with the court's separate, 2012 McCleary school-funding decision.

This story, originally published on Thursday, Nov. 19, has been corrected. The court split 5-4 on the order denying reconsideration, not 6-3.

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