

No. 94269-2

SUPREME COURT OF THE STATE OF WASHINGTON

King County Superior Court, State of Washington
Cause No. 16-2-18527-4 SEA

EL CENTRO DE LA RAZA, a Washington non-profit corporation; LEAGUE OF WOMEN VOTERS OF WASHINGTON, a Washington non-profit corporation; WASHINGTON ASSOCIATION OF SCHOOL ADMINISTRATORS, a Washington non-profit corporation; WASHINGTON EDUCATION ASSOCIATION, a Washington non-profit corporation; INTERNATIONAL UNION OF OPERATING ENGINEERS 609; AEROSPACE MACHINISTS UNION, IAM & AW DL 751; WASHINGTON STATE LABOR COUNCIL, AFL-CIO; UNITED FOOD AND COMMERCIAL WORKERS UNION 21; WASHINGTON FEDERATION OF STATE EMPLOYEES; AMERICAN FEDERATION OF TEACHERS WASHINGTON; TEAMSTERS JOINT COUNCIL NO. 28; WAYNE AU, PH.D, on his own behalf and on behalf of his minor child; PAT BRAMAN, on her own behalf; and DONNA BOYER, on her own behalf and on behalf of her minor children,

Appellants,

vs.

STATE OF WASHINGTON

Respondent.

BRIEF OF AMICUS CURIAE WASHINGTON ROUNDTABLE
IN SUPPORT OF RESPONDENT AND INTERVENOR-RESPONDENTS

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I. INTRODUCTION

The Washington Constitution requires a general and uniform public school system that can adequately prepare children to meet the needs of modern society. The fruits of an educated population reflect the wisdom of this constitutional requirement: socioeconomic mobility increases, communities strengthen, businesses prosper, public resources expand, incarceration rates drop, and civic involvement increases.

Charter public schools are one of multiple educational options for students and their families that the State adopted to better meet its educational obligations under the Constitution. Charter public schools improve educational outcomes, including graduation and college attendance rates, which in turn benefit society as a whole and help counteract systemic inequities. This is particularly true regarding populations historically underserved by traditional educational offerings. Charter public schools are a vital facet of the State's continuing effort to satisfy its duty to provide sufficient educational opportunities to "*all* children residing within its borders, without distinction or preference on account of race, color, caste, or sex."

II. IDENTITY AND INTEREST OF AMICUS

Washington Roundtable (the "Roundtable") is a nonprofit organization composed of senior executives of private sector employers in

Washington State. The Roundtable works to advance public policy initiatives that promote economic vitality and opportunity, such as improving education outcomes. The Roundtable focuses considerable effort toward creating a highly skilled workforce and supports charter public schools as a vehicle to improve overall education and increase economic opportunity in Washington. Accordingly, the Roundtable has a strong interest in the outcome of this litigation.

III. STATEMENT OF THE CASE

Amicus adopts Respondent's and Intervenor-Respondents' Statements of the Case to the extent relevant for this amicus brief.

IV. ARGUMENT

A. **Charter Public Schools Help Washington Meet its Constitutional Obligation to Provide an Education for *All of Washington's Children.***

Washington must maintain a general and uniform system of public schools that provides Washington's children with an opportunity for an adequate education. WASH. CONST. art. IX, §§ 1&2. This educational system is not, and cannot be, static. *See McCleary v. State*, 173 Wn.2d 477, 526 (2012) (education policy is not "etched in constitutional stone."). Rather, this Court has long recognized that the Legislature must provide "educational opportunities needed in the *contemporary setting* to equip our children for their role as citizens and as potential competitors in

today's market as well as in the market place of ideas.” *Seattle Sch. Dist. No. 1 of King Cty. v. State*, 90 Wn. 2d 476, 517 (1978) (emphasis added). Failure to adapt will leave children behind, causing unjust and possibly irreparable harm, not just to those individual children as they transition to adulthood, but to their families, communities, and society as a whole.

The Legislature has repeatedly added new programs to Washington’s public education system, such as Running Start and tribal compact schools, as part of its obligation to provide an appropriate and adequate education. Charter public schools are an additional, innovative option for Washington families and have a track record of improved educational outcomes. For example, one study that examined charter public high schools found that charter public school students’ educational gains are “remarkably persistent” and translated to increased pass rates on high school graduation exams, increased SAT scores, and a “doubling [of] the likelihood that a student sits for an AP exam.”¹ These results translate to further educational achievement; charter public school students are 7-

¹ Joshua D. Angrist et al., *Stand and Deliver: The Effects of Boston’s Charter High Schools on College Preparation, Entry, and Choice* at 2, National Bureau of Economic Research Working Paper 19275 (2013), available at: <http://www.nber.org/papers/w19275> (last visited Sept. 23, 2017)

15% more likely to earn a high school diploma than traditional school students, and 8-10% more likely to attend college.²

Charter public school educational gains are particularly striking among those students historically underserved by traditional public educational offerings -- students of color, English language learners, those with special needs, and children from low-income families.³ One study that examined urban charter public schools in twenty-one states and the District of Columbia from 2006 to 2012 found that learning gains in reading and math are significantly larger for “Black, Hispanic, low-income, and special education students.”⁴ These gains compounded when students are members of more than one underserved group. For example, students who are “both low-income and Black or Hispanic, or who are

² Kevin Booker et al., *The Effects of Charter High Schools on Educational Attainment*, *Journal of Labor Economics* Vol. 29, no. 2 (2011) (charter public school students 7-15% more likely to earn a diploma than traditional school students, 8-10% more likely to attend college).

³ E.g. Washington Office of Superintendent of Public Instruction, *Washington State Report Card, MSP/HSPE (2015-2016)*, available at <http://reportcard.ospi.k12.wa.us/wasITrend.aspx?domain=MSPHSPE&groupLevel=District&schoolId=1&reportLevel=State&yrs=2015-16&year=2015-16&gradeLevelId=5&waslCategory=18&chartType=1> (last visited Sept. 23, 2017) (students identified as low-income, Hispanic, Black, or special education meet science, reading, and math standards at significantly lower rates than the general Washington student population).

⁴ Center for Research on Education Outcomes, *Urban Charter School Study Report on 41 Regions* at v, Stanford University, (2015), available at: <https://urbancharters.stanford.edu/download/Urban%20Charter%20School%20Study%20Report%20on%2041%20Regions.pdf> (last visited Sept. 21, 2017).

both Hispanic and English Language Learners” gained the equivalent of “months” of additional learning per year.⁵

Educational programs within the public school system that help close the educational gap with these underserved communities help satisfy the State’s obligation to provide an adequate education for “*all* children residing within its borders, without distinction or preference on account of race, color, caste, or sex.” WASH. CONST. art. IX, § 1 (emphasis added). Charter public schools further do not detract from the overall educational achievement of local communities. Rather, evidence suggests that charter public schools may have the opposite effect and improve the educational outcomes of neighboring traditional public schools.⁶

Charter public schools are an effective educational offering that increase the number of students who graduate high school and attend college. In so doing, charter public schools help the State meet its constitutional obligation to provide the opportunity for an adequate education to all children. At the same time, charter public schools improve the economic well-being of individuals and the health (economic and otherwise) of society as a whole.

⁵ *Id.* at v-vi.

⁶ Brian P. Gill, *The Effect of Charter Schools on Students in Traditional Public Schools: A Review of the Evidence*, EducationNext (Nov. 2, 2016), available at: <http://educationnext.org/the-effect-of-charter-schools-on-students-in-traditional-public-schools-a-review-of-the-evidence/> (last visited Sept. 21, 2017).

B. Improved Educational Outcomes Improve Students' Economic Potential and Mobility.

The economic advantages and opportunities students gain by virtue of graduating from high school and attaining post-secondary education degree are clear. Graduating from high school provides a student with immediate economic benefits – a high school graduate earns, on average, approximately 40% more than those without a high school diploma.⁷ Students that earn a post-secondary credential (defined as an industry certification, two-year, four-year or graduate degree) earn on average \$960,000 more in their lifetime than the average high school graduate.⁸

The individual empowerment and opportunity for economic mobility associated with increased education is difficult to overstate. Children from families with incomes in the bottom quintile – a population underserved by traditional public school offerings – have only a 14%

⁷ The U.S. Department of the Treasury, *The Economics of Higher Education: A Report Prepared by the Department of the Treasury With the Department of Education* (Dec. 2012) at 13, available at: https://www.treasury.gov/connect/blog/Documents/20121212_Economics%20of%20Higher%20Ed_vFINAL.pdf (last visited Sept. 21, 2017) (“Treasury Report”). See also Deb Came et al., *Graduation and Dropout Statistics Annual Report*, Wash. Office of Superintendent of Pub. Instruction (May 2017) Appendix J, Exhibit 2, available at: <http://www.k12.wa.us/LegisGov/2017documents/2017-05-GraduationAndDropoutStatistics.pdf> (last visited Sept. 21, 2017) (“OSPI Report”) (graduating high school yields average additional lifetime earnings of over \$275,000, reduced to present value).

⁸ Washington Roundtable, The Boston Consulting Group, & Partnership For Learning, *Pathways to Great Jobs in Washington State*, at 11, available at: http://www.waroundtable.com/wp-content/uploads/2017/03/WKWJ_FINAL_Report.pdf (last visited Sept. 28, 2017) (“Pathways to Great Jobs in Washington”). College graduates are also more likely to be employed than those who are less educated. Treasury Report (footnote 7, above) at 13.

chance of moving into the top two quintiles as an adult.⁹ But if those same children have a college degree, their upward mobility odds nearly triple.¹⁰ By increasing graduation and college attendance rates, especially among populations underserved by the traditional educational apparatus, charter public schools provide a powerful tool to improve the educational and future economic well-being of Washington's children.

C. Improved Education Outcomes Generate Substantial Social Benefits.

The benefits of improved educational outcomes associated with charter public schools, particularly among underserved students and their families, extend beyond individual educational achievement and socioeconomic mobility. The public welfare and private business sector likewise benefit from educational advances, including through a strengthened economy, decreased economic and non-economic costs associated with the criminal justice system, and an increase in civic involvement.

1. Increased education improves the economy as a whole.

As economic health of individuals within the State increases, the State likewise reaps significant gains in the form of additional tax revenue and other cost savings. A high school graduate pays on average \$140,460

⁹ Treasury Report (footnote 7, above), at 16.

¹⁰ *Id.*

more in state taxes over his or her lifetime than non-high school graduates.¹¹ Conversely, increased graduation rates lower public expenses through decreased criminal activity,¹² decreased use of publicly-funded health care programs,¹³ and lower instances of using other forms of public assistance.¹⁴ One study estimated that “[t]he average high school dropout will cost taxpayers over \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and imposed incarceration costs relative to an average high school graduate,” and will, over his or her lifetime, make a “negative net fiscal contribution.”¹⁵

Better education is also linked to healthier behavior, which results in longer and healthier lives for the individual and lower costs for society. Lower mortality rates and longer life expectancies are closely correlated with higher levels of educational attainment.¹⁶ Likewise, “[l]ower

¹¹ OSPI Report (footnote 7, above), Appendix J, Exhibit 2.

¹² *Id.* (“Graduating from high school is also associated with less crime.”).

¹³ One study showed that, in 2015, only 38% of workers without a high school diploma were covered under an employer-sponsored health plan, compared to 54% for high school graduates, and 70% for those with advanced degrees. Jennifer Ma et al, *Education Pays 2016: The Benefits of Higher Education for Individuals and Society* (2016) at 32, available at: <https://trends.collegeboard.org/sites/default/files/education-pays-2016-full-report.pdf> (last visited Sept. 21, 2017) (“Ma Report”).

¹⁴ *Id.* at 35.

¹⁵ A. Sum et al., *The Consequences of Dropping Out of High School*, Center for Labor Market Studies, Northeastern University (2009), available at: https://www.prisonpolicy.org/scans/The_Consequences_of_Dropping_Out_of_High_School.pdf (last visited Sept. 21, 2017) (“Sum Report”).

¹⁶ Robert A. Hummer & Elaine M. Hernandez, *The Effect of Educational Attainment on Adult Mortality in the United States*, *Population Bulletin*, Vol. 68, no. 1 (June 2013), available at: <http://www.prb.org/pdf13/us-education-mortality.pdf> (last visited Sept. 21, 2017).

education is highly correlated with unhealthy lifestyles.”¹⁷ For example, individuals who hold a bachelor’s degree or higher are less likely to smoke or be overweight, and are more likely to exercise regularly than those with less education.¹⁸ These increased health risks engender greater social costs, and those with less education are more likely to use publicly-funded health care programs.¹⁹

The educational health of the local population is also critically important to meeting the needs of local industry. One economic forecast that considered the five year period from when the current Charter Schools Act passed in 2016 anticipated 740,000 new job openings in Washington, outpacing the national growth projection by three fold.²⁰ Many of those job openings are high paying and demand an advanced education.²¹ A well-educated workforce helps local businesses fill necessary positions, control recruiting costs, and remain competitive, which in turn helps attract and retain well-compensated employment opportunities for Washington residents.

¹⁷ McKinsey & Co., *The Economic Impact of the Achievement Gap in America’s Schools*, (Apr. 2009) at 19, available at: <http://mckinseysociety.com/the-economic-impact-of-the-achievement-gap-in-americas-schools/> (last visited Sept. 21, 2017) (“McKinsey Report”).

¹⁸ Ma Report (footnote 13, above) at 36-38.

¹⁹ McKinsey Report (footnote 17, above) at 19-20; *see also* note 12, above.

²⁰ Pathways to Great Jobs in Washington (footnote 8, above) at 3.

²¹ *Id.*

2. Increased education decreases involvement in the criminal justice system and its attendant costs on society.

Education levels negatively correlate to rates of incarceration. Approximately 64% of the nation's inmates and probationers did not receive a high school diploma.²² High school dropouts are between five and eight times more likely to be institutionalized than high school graduates nationally.²³ Some research suggests the disparity is a trend getting worse with more recent cohorts. For example, a 2009 study by Northeastern University found that, among 16-24 year olds, high school dropouts were *sixty-three times* more likely to be incarcerated than those of the same age group with a bachelor's degree.²⁴ Disproportionate incarceration rates are acutely felt by the African American community in particular, a population also underserved by the traditional educational system. In Washington, African Americans are approximately five and a half times more likely to be incarcerated than Caucasians.²⁵

²² Caroline Wolf Harlow, *Education and Correctional Populations*, Bureau of Justice Statistics, Special Report (Apr. 2003) at 1, available at: <https://www.bjs.gov/content/pub/pdf/ecp.pdf> (last visited Sept. 21, 2017).

²³ John M. Bridgeland, et al., *The Silent Epidemic: Perspectives of High School Dropouts*, Civic Enterprises (Mar. 2006) at 2, available at: <http://files.eric.ed.gov/fulltext/ED513444.pdf> (last visited Sept. 21, 2017); McKinsey Report (footnote 17, above) at 19 ("The less educated a person is, the likelier that person is to end up behind bars. A high school dropout is five to eight times more likely to be incarcerated than a college graduate.").

²⁴ Sum Report (footnote 15, above) at 8.

²⁵ Ashley Nellis, Ph.D., *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, The Sentencing Project, Table 1 (June 14, 2016), available at:

The social cost of increased crime is staggering. Washington spends over \$630 million on prisons annually, and the cost per inmate exceeds \$37,000.²⁶ Beyond pure economics, the psychological toll on those who are incarcerated, and the disruption to their family units, social circles, and future job prospects, exacts immeasurable harm. For each student who graduates high school – and charter public schools will increase this number – economic and societal costs decrease.

3. Increased education leads to improved civil engagement.

As this Court noted, the State through education must “equip our children for their role as citizens and as potential competitors in today’s market as well as in the market place of ideas.” *Seattle Sch. Dist.*, 90 Wn. 2d at 517. Voting is a cherished civil privilege and duty. Yet in the 2008 national election, only 39% of high school dropouts voted, compared with 55% of high school graduates and 77% of those with a bachelor’s degree.²⁷ The education/voter turnout disparity worsened in the 2016

<http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons> (last visited Sept. 21, 2017). Amicus does not suggest what specific role education plays in the incarceration rates of any particular community, other than to note the strong potential for increased education and socioeconomic standing to decrease involvement in the criminal justice system.

²⁶ Chris Main & Ram Subramanian, *The Price of Prisons: Examining State Spending Trends, 2010-2015*, Vera Institute on Justice (May 2017), available at: <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends> (last visited Sept. 21, 2017).

²⁷ Richard J. Coley & Andrew Sum, *Fault Lines in Our Democracy: Civic Knowledge, Voting Behavior, and Civic Engagement in the United States*, April 2012, at 13, available

national election: the voting rate of those with no high school diploma dropped to 31%, compared to 49% of those with high school degrees, 69% of those with college experience, and 85% of those with post-graduate degrees.²⁸ This is not a recent phenomenon; lower educational levels correlate with reduced voter participation, and this gap has widened over the past several decades.²⁹ Likewise, multiple studies have found that those who attain higher education levels, particularly post-secondary education, are significantly more likely to engage in community service and volunteer work.³⁰

V. CONCLUSION

Washington must provide a general and uniform system of public schools that permits *all* children to receive an education sufficient for the needs of modern society. Charter public schools help satisfy this requirement. As educational outcomes for Washington's children improve, the individual students' lives improve, as do the fortunes of their families, communities, and society as a whole. The Washington Roundtable

at: https://www.ets.org/s/research/19386/rsc/pdf/18719_fault_lines_report.pdf (last visited Sept. 21, 2017).

²⁸ The United States Elections Project, *Voter Turnout Demographics*, available at: <http://www.electproject.org/home/voter-turnout/demographics> (last visited Sept. 22, 2017).

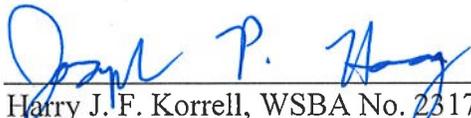
²⁹ *Id.* at 15.

³⁰ *E.g. id.* at 21 (“[A]dults with master’s or higher degrees were five to six times more likely to do perform volunteer work as their peers with no high school diploma.”); Ma Report (footnote 13, above) at 40 (among people over the age of 25, those with a bachelor’s degree or higher are nearly five times more likely to perform volunteer work than those without a high school diploma).

respectfully requests that the Court allow charter public schools to
continue as an educational option for Washington's students and families.

RESPECTFULLY SUBMITTED this 2nd day of October, 2017.

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