

IN THE SUPREME COURT FOR THE STATE
OF WASHINGTON

MATHEW & STEPHANIE
McCLEARY, et al.,

Respondents/Cross-Appellants,

v.

STATE OF WASHINGTON,

Appellant/Cross-Respondent.

No. 84362-7

THE SCHOOL ALLIANCE'S
MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF

The School Alliance respectfully moves pursuant to RAP 10.1(e) and RAP 10.6 for leave to file an *amicus curiae* brief in this matter. In support of this motion, proposed *amicus* offers the following information:

I. IDENTITY AND INTEREST OF *AMICUS CURIAE*

The School Alliance (the “Alliance”) is a group of seven Washington school districts consisting of Bellevue School District No. 405, Everett Public School No. 2, Issaquah School District No. 411,

Lake Stevens School District No. 4, Lake Washington School District No. 414, Mercer Island School District No. 400, and Tahoma School District No. 409. The Alliance members provide appropriate special education services to qualified students and depend upon state K-12 education funding in order to provide basic education and special education services to Washington's school children residing in their districts. For many years, the State of Washington has underfunded basic education and special education for all Washington school children, requiring the Alliance members to use local levy funding intended for educational enhancements to "fill the gap" in state funding.

Although the Alliance appreciates the efforts and improvements to funding made since this Court first ruled in *McCleary* in 2012, the Legislature's current funding effort in Engrossed House Bill 2242 (EHB 2242) remains inadequate particularly with respect to special education funding and changes to local levy authority.

Four of the Alliance's members, **Everett Public Schools, Issaquah School District, Lake Washington School District, and Mercer Island School District**, were parties in *School Districts' Alliance for Adequate Funding of Special Education v. State of Washington*, 170 Wn.2d 599, 244 P.3d 1 (2010). They have been involved in issues of underfunding of special education and the use of levy funding for over a

decade and remain concerned that EHB 2242 does not resolve longstanding underfunding problems.

II. FAMILIARITY WITH ISSUES

The Alliance is familiar with the issues involved in this case and with the scope of argument presented by the parties. Counsel for the Alliance has reviewed the briefing of the parties and the Orders of this Court and will endeavor to avoid unnecessary duplication of arguments.

III. ISSUES TO BE ADDRESSED BY *AMICUS CURIAE*

The Alliance's proposed brief will address how the Legislature's efforts to comply with its Constitutional duty to adequately fund K-12 basic education through EHB 2242 fall short, because EHB 2242 fails to adequately fund special education. The Alliance will also address issues concerning the levy funding in EHB 2242.

IV. WHY *AMICUS CURIAE* BELIEVE ADDITIONAL ARGUMENT IS NECESSARY

The Court is considering whether EHB 2242 complies with the Legislature's Constitutional duty to adequately fund basic education in Washington. Basic education includes special education services. Additional argument is necessary to present the Court with information and data concerning the failure of EHB 2242 to adequately fund special education in Washington schools. For example, the Legislature's increase

in the cap on the number of students receiving special education services in a district that the state will fund does nothing for districts currently under the cap—they remain underfunded for the students they have. And changes to the conditions under which the “Safety Net” program helps fund high cost students does not solve the failure of the State to appropriate sufficient Safety Net funds to pay for the underfunding in special education.

Furthermore, the Alliance believes that it can provide information and argument related to the new levy system that will assist the Court in determining whether this aspect of EHB 2242 requires additional review.

As school districts in Washington, the Alliance members have unique insight into the on-the-ground impacts of education funding and budgeting. This insight will assist the Court in determining whether the measures the Legislature selected in EHB 2242 are sufficient to meet the Constitutional requirement that the State adequately fund basic education, including special education.

V. CONCLUSION

For the reasons stated above, the Alliance respectfully requests this Court’s permission to file an *amicus curiae* brief in this matter.

DATED this 18th day of August, 2017.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on Friday, August 18, 2017, I caused a copy of the foregoing THE SCHOOL ALLIANCE'S MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF to be delivered via E-Mail and U.S. Mail, postage pre-paid, to the attorneys of record listed below:

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I hereby certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Dated: August 18, 2017, at Seattle, Washington

Signature: s/Lori Moltz
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