

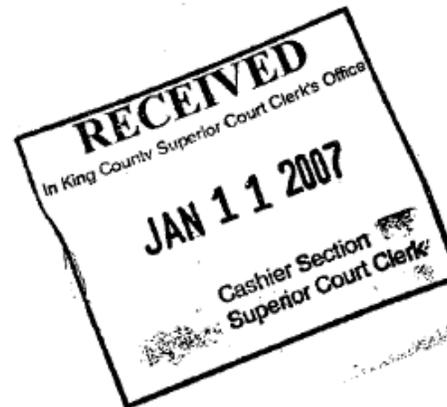


The McCleary Decision

- its 11 year history
- its current context in 2018
- its future significance to local students & schools

(in 20 minutes or less)

➤ 11 year history



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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MATHEW & STEPHANIE MCCLEARY, on their own behalf and on behalf of KELSEY & CARTER MCCLEARY, their two children in Washington's public schools; ROBERT & PATTY VENEMA, on their own behalf and on behalf of HALIE & ROBBIE VENEMA, their two children in Washington's public schools; and NETWORK FOR EXCELLENCE IN WASHINGTON SCHOOLS ("NEWS"), a state-wide coalition of community groups, public school districts, and education organizations,

Petitioners,

v.

STATE OF WASHINGTON,

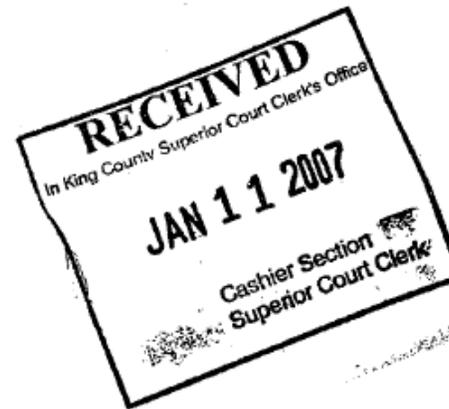
Respondent.

No. **07-2-02323-2** SEA

PETITION FOR DECLARATORY
JUDGMENT ENFORCING OUR
CONSTITUTION

The above petitioners allege as follows against the respondent State of Washington:

➤ 11 year history



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6 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

7
8 **MATHEW & STEPHANIE MCCLEARY, on their own**
9 **behalf and on behalf of KELSEY & CARTER**
10 **MCCLEARY, their two children in Washington's**
11 **public schools; ROBERT & PATTY VENEMA, on their**
12 **own behalf and on behalf of HALIE & ROBBIE**
13 **VENEMA, their two children in Washington's public**
14 **schools; and NETWORK FOR EXCELLENCE IN**
15 **WASHINGTON SCHOOLS ("NEWS"), a state-wide**
16 **coalition of community groups, public school**
17 **districts, and education organizations,**

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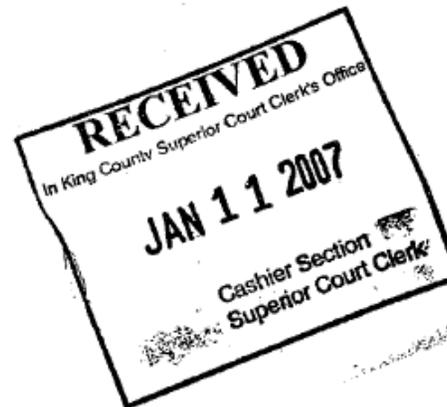
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No. **07-2-02323-2 SEA**

PETITION FOR DECLARATORY
JUDGMENT ENFORCING OUR
CONSTITUTION

The above petitioners allege as follows against the respondent State of Washington:

➤ 11 year history



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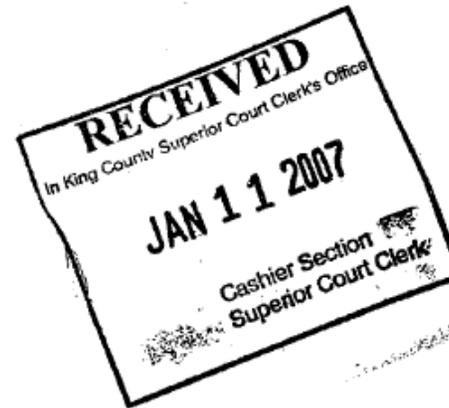
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v.

STATE OF WASHINGTON,

Respondent.

No. 07-2-02323-2 SEA

PETITION FOR DECLARATORY
JUDGMENT ENFORCING OUR
CONSTITUTION

The above petitioners allege as follows against the respondent State of Washington:



11 year history

RECEIVED
In King County Superior Court Clerk's Office
JAN 11 2007

FILED
FEB 24 2009
BY MAICVLS/SLA

THE SUPREME COURT OF WASHINGTON FOR KING COUNTY

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

NO. 84362-7
ENBANC
Filed January 5, 2012

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, on their own behalf and on behalf of HALEY and CARTER MCCLARY, their two children in Washington's public schools; ROBERT and PATTY VENEZIA, on their own behalf and on behalf of HALEY and ROBERT VENEZIA, their two children in Washington's public schools; and NETWORK FOR EXCELLENCE IN WASHINGTON SCHOOLS ("NEWS"), a statewide coalition of community groups, public school districts, and education organizations, Petitioners, v. STATE OF WASHINGTON, Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

NO. 84362-7
ENBANC
Filed January 5, 2012

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

ORDER TO SHOW CAUSE
No. 84362-7
King County No. 07-2-02322-2 SEA
Filed
Washington State Supreme Court
JUN 12 2009
Ronald B. Carpenter
Chief

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

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THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

NO. 84362-7
ORDER
King County No. 07-2-02322-2 SEA
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THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

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THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

FILED
NOV 15 2009
Washington State Supreme Court
King County No. 07-2-02322-2 SEA

THE SUPREME COURT OF WASHINGTON

MATHEW & STEPHANIE MCCLARY, et al., Respondents/Cross-Appellants, v. STATE OF WASHINGTON, Appellant/Cross-Respondent.

Washington State Constitution

Article IX, section 1

IT IS THE
PARAMOUNT DUTY OF THE STATE
TO MAKE AMPLE PROVISION FOR
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS....

Washington State Constitution
Article IX, section 1

IT IS THE
PARAMOUNT DUTY OF THE STATE
TO MAKE AMPLE PROVISION FOR
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS....

“the State **must** amply provide for the education of
all Washington children as the State’s first and highest priority
before any other State programs or operations.”

McCleary, 173 Wn.2d at 520 (underlines added).

Washington State Constitution

Article IX, section 1

IT IS THE
PARAMOUNT DUTY OF THE STATE
TO MAKE AMPLE PROVISION FOR
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS....

**“considerably more
than just adequate or merely sufficient.”**

McCleary, 173 Wn.2d at 484 (underline added).

Washington State Constitution

Article IX, section 1

IT IS THE
PARAMOUNT DUTY OF THE STATE
TO MAKE AMPLE PROVISION FOR
THE **BASIC**
EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS....

“the basic knowledge and skills needed to compete in today’s economy and meaningfully participate in this state’s democracy”

McCleary, 173 Wn.2d at 483 & 522-526.

Legislature defined “basic education” in ESHB 1209 (RCW 28A.150.210):

- (1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;
- (2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;
- (3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and
- (4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

McCleary v. State, 173 Wn.2d at 523 & n.20.

TO MAKE AMPLE PROVISION FOR
BASIC
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS...

“the basic knowledge and skills needed to compete in today’s economy and meaningfully participate in this state’s democracy”

McCleary, 173 Wn.2d at 483 & 522-526.

Legislature defined “basic education” in ESHB 1209 (RCW 28A.150.210):

- (1) **plus the Essential Academic Learning Requirements (EALRs)**
- (2) 1- reading
- (2) 2- math
- (2) 3- science
- (3) 4- writing
- (3) 5- communication
- (4) 6- social studies
- (4) 7- the arts
- (4) 8- health & fitness
- (4) 9- educational technology

McCleary v. State, 173 Wn.2d at 523 & n.20.

TO MAKE AMPLE PROVISION FOR
BASIC
THE **EDUCATION** OF ALL CHILDREN
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“the basic knowledge and skills needed to compete in today’s economy and meaningfully participate in this state’s democracy”

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Legislature defined “basic education” in ESHB 1209 (RCW 28A.150.210):

(1) **plus the Essential Academic Learning Requirements (EALRs)**

(2) 1- reading

(2) 2- r ...

(3) 3- s **and defined the State’s “basic education program”:**

(3) 4- v (1) To/from school transportation

(2) *Materials, Supplies, & Operating Costs (MSOCs)*

(4) 5- c (3) Full-Day Kindergarten

(4) K-3 class size = 17

(4) 6- s (5) Special education

(6) Remediation for struggling students (*LAP*)

(4) 7- t (7) Transitional Bilingual Education (*TBIP or ELL*)

(8) Highly capable student instruction

(4) 8- h (9) 24 credit graduation requirement (*Core 24*)

(4) 9- e (10) Salaries that attract & retain competent teachers, administrators, & staff to implement all the above

McCleary, 173 Wn.2d at 496-499, 505-506, 509-510, 526, 533-535, 545 [see Plaintiffs’ 2017 Post Budget Filing at 7-8].

TO MAKE AMPLE PROVISION FOR
BASIC
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS...

“the basic knowledge and skills needed to compete in today’s economy and meaningfully participate in this state’s democracy”

McCleary, 173 Wn.2d at 483 & 522-526.

Washington State Constitution
Article IX, section 1

IT IS THE
PARAMOUNT DUTY OF THE STATE
TO MAKE AMPLE PROVISION FOR
THE EDUCATION OF ALL CHILDREN
RESIDING WITHIN ITS BORDERS....

“each and every child”
“No child is excluded.”

McCleary, 173 Wn.2d at 520 (underlines added).

**“Article IX, section 1
confers on children in
Washington a positive
constitutional right to an
amply funded education”**

McCleary v. State, 173 Wn.2d at 483

... this Constitutional Right has a critical Civil Rights foundation:

- “Education ... plays a critical civil rights role in promoting equality in our democracy.”
- “amply provided, free public education operates as the great equalizer in our democracy, equipping citizens born into underprivileged segments of our society with the tools they need to compete on a level playing field with citizens born into wealth or privilege.”
- “Education...is the number one civil right of the 21st century. There is no excuse for accepting failure”

... but the State's public school funding failed:

“The State has failed to meet its duty under article IX, section 1 by consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program.”

McCleary, 173 Wn.2d at 547 (underline added)

“If the State's funding formulas provide only a portion of what it actually costs a school to pay its teachers, get kids to school, and keep the lights on, then the legislature cannot maintain that it is fully funding basic education through its funding formulas.”

McCleary, 173 Wn.2d at 532 (underline added)

→ ***NEW SCHOOL FUNDING FORMULAS***

But the State admitted to the Supreme Court last year that it fell \$1 billion short of funding its new salary formula by the Court's September 1, 2018 compliance deadline

November 2017 McCleary Order at 41 & 43.

→ **PART ONE OF THE
NOVEMBER 2017 McCLeary ORDER:**

***Provide school districts
the missing \$1 billion to
fully fund the State's
new salary formula for the
2018-19 school year.***

November 2017 McCLeary Order at 43-44.

➤ **Current context in 2018**

- ***April 9: State files compliance report in court***
- ***20 days later: Plaintiffs file response to State report***
- ***10 days later: State files reply to Plaintiffs' response***
- ***also in April: Amicus briefs filed***

Then ...

the Supreme Court decides if the State complied

November 2017 McCleary Order at 44-45.

➤ **Future significance**

→ ***PART TWO OF THE
NOVEMBER 2017 McCLeary ORDER:***

***“At this point,
the court is willing to allow
the State’s program to operate
and let experience be the judge
of whether it proves adequate.”***

November 2017 McCLeary Order at 37.

TEN COMPONENTS OF THE STATE'S BASIC EDUCATION "PROGRAM"

- Pupil transportation to & from school
- School Materials, Supplies, and Operating Costs *[MSOCs]*
- Full Day Kindergarten for all kids
- K-3 class sizes of 17 kids in all schools
- Special education for students with disabilities
- Supplemental instruction for struggling students *[LAP]*
- Transitional bilingual instruction for English language learners *[TBIP or ELL]*
- Enhanced instruction for highly capable students
- 24 credit high school graduation requirement *[Core 24]*
- Pay that attracts & retains competent teachers, administrators, & staff to implement all of the above.

McCleary, 173 Wn.2d at 496-499, 505-506, 509-510, 526, 533-535, 545 [detailed in Plaintiffs' 2017 Post-Budget Filing at 7-8 [available at <https://www.courts.wa.gov/content/publicUpload/McCleary/McClearyPlaintiffFiling.pdf>].

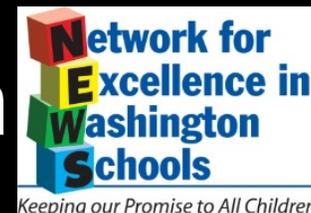
→ The experience of public schools this upcoming year will be the test for whether the State's increased funding actually provides the ample funding for all children that the Supreme Court ordered for the State's basic education program:

- Pupil transportation to & from school
- School Materials, Supplies, and Operating Costs *[MSOCs]*
- Full Day Kindergarten for all kids
- K-3 class sizes of 17 kids in all schools
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→ The experience of public schools this upcoming year will be the test for whether the State's increased funding actually provides the ample funding for all children that the Supreme Court ordered for the State's basic education program:

- ? Pupil transportation to & from school
- ? School Materials, Supplies, and Operating Costs [MSOCs]
- ? Full Day Kindergarten for all kids
- ? K-3 class sizes of 17 kids in all schools
- ? Special education for students with disabilities
- ? Supplemental instruction for struggling students [LAP]
- ? Transitional bilingual instruction for English language learners [TBIP or ELL]
- ? Enhanced instruction for highly capable students
- ? 24 credit high school graduation requirement [Core 24]
- ? Pay that attracts & retains competent teachers, administrators, & staff to implement all of the above.

McCleary v. State background information



Trial Court's February 2010 final judgment against the State:

<http://waschooexcellence.org/the-mccleary-case/the-trial/>

Daily summaries of the trial:

<http://waschooexcellence.org/the-mccleary-case/the-trial/daily-trial-reports/>

Supreme Court Briefs, etc.:

http://www.courts.wa.gov/appellate_trial_courts/SupremeCourt/?fa=supremecourt.McCleary_Education

Supreme Court's 2012, 2013, 2014, 2015, 2016, & 2017 Rulings:

<http://waschooexcellence.org/the-mccleary-case/the-supreme-court/>