



COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

FEDERAL WAY SCHOOL DISTRICT NO. 210, a municipal corporation; ED BARNEY; CYNTHIA BLACK; EVELYN CASTELLAR; GINGER CORNWELL; CHARLES HOFF; DAVID LARSON, individually and as guardian for ANDREW LARSON and JOSHUA LARSON; THOMAS MADDEN, individually and as guardian for BRYCE MADDEN; SHANNON RASMUSSEN; SANDRA RENGSTORFF, individually and as guardian for TAYLOR RENGSTORFF and KALI RENGSTORFF,

Plaintiffs,

v.

THE STATE OF WASHINGTON; CHRISTINE GREGOIRE, in her capacity as Governor of the State of Washington; TERRY BERGESON, in her capacity as Superintendent of Public Instruction; BRAD OWEN, in his capacity as President of the Senate and principal legislative authority of the State of Washington; FRANK CHOPP, in his capacity as Speaker of the House of Representatives and principal legislative authority of the State of Washington,

Defendants.

NO.

06-2-86840-1 INF

COMPLAINT FOR
DECLARATORY JUDGMENT

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I. INTRODUCTION

1.1 The children of Washington State have a right to an amply funded education. The Washington State Constitution requires that the state fulfill that right by establishing and funding a general and uniform system of public schools.

1.2 The state has failed to fund schools in a uniform or equitable manner. The state's basic education funding formula allocates different salary levels to each of the state's 296 school districts, creating millions of dollars in disparity between districts. The funding disparity does not reflect differences in geography, demographics, student population, cost of living, or any other educationally relevant variable.

1.3 By failing to amply fund all districts in an equitable manner, the state violates its paramount duty and the constitutional rights of Federal Way School District students and taxpayers.

II. PARTIES

2.1 Plaintiff Federal Way School District No. 210 is a quasi-municipal corporation organized under Title 28A RCW. The Federal Way School District provides education to approximately 22,400 students in kindergarten through the twelfth grade.

2.2 Plaintiff Ed Barney is a member of the Federal Way School District No. 210 Board of Directors and a taxpayer residing within the Federal Way School District.

2.3 Plaintiff Cynthia Black is the principal at Nautilus Elementary School in the Federal Way School District, the current president of the Association of Federal Way School

1 Principals, an employee of the Federal Way School District for twenty years, and a taxpayer
2 residing within the Federal Way School District.

3
4 2.4 Plaintiff Evelyn Castellar is a member of the Federal Way School District No.
5 210 Board of Directors and a taxpayer residing within the Federal Way School District.

6 2.5 Plaintiff Ginger Cornwell is a paraeducator at Valhalla Elementary School in the
7 Federal Way School District, the current vice president of Public School Employees of Federal
8 Way, an employee of the Federal Way School District for twenty-six years, and a taxpayer
9 residing within the Federal Way School District.

10
11 2.6 Plaintiff Charles Hoff is a member of the Federal Way School District No. 210
12 Board of Directors and a taxpayer residing within the Federal Way School District.

13 2.7 Plaintiff David Larson is a member of the Federal Way School District No. 210
14 Board of Directors and a taxpayer residing within the Federal Way School District. He is also
15 the parent and guardian of two student plaintiffs residing and attending public school within
16 the Federal Way School District: Andrew Larson, a tenth grade student at Todd Beamer High
17 School, and Joshua Larson, a seventh grade student at Illahee Middle School.

18
19 2.8 Plaintiff Thomas Madden is a member of the Federal Way School District No.
20 210 Board of Directors and a taxpayer residing within the Federal Way School District. He is
21 also the parent and guardian of plaintiff Bryce Madden, a ninth grade student residing within
22 the Federal Way School District and attending Todd Beamer High School.

1 2.9 Plaintiff Shannon Rasmussen is president of the Federal Way Education
2 Association. She has been a middle school teacher in the Federal Way School District for
3 twenty-one years, teaching English and Drama.
4

5 2.10 Plaintiff Sandra Rengstorff is the vice president of the Federal Way PTSA
6 Council and a taxpayer residing within the Federal Way School District. She is also the parent
7 and guardian of two student plaintiffs residing and attending public school within the Federal
8 Way School District: Taylor Rengstorff, a sixth grade student at Kilo Middle School, and Kali
9 Rengstorff, a fifth grade student at Valhalla Elementary School.
10

11 2.11 Defendant State of Washington, including both its legislative and executive
12 branches, is responsible for complying with the Washington State Constitution and the Laws of
13 Washington.
14

15 2.11 Defendant Christine Gregoire is the governor of the State of Washington. She
16 holds the executive power of the state. She is responsible for enforcing the laws of the state,
17 including the Washington State Constitution and the Laws of Washington.
18

19 2.12 Defendant Terry Bergeson is the Washington State Superintendent of Public
20 Instruction. Her duties are specified by law pursuant to Chapter 28A.300 RCW. She is
21 responsible for allocating funds to the state's 296 school districts.
22

23 2.13 Defendant Brad Owen is the president of the Washington State Senate.
24 Defendant Frank Chopp is the Speaker of the Washington State House of Representatives. Lt.
25 Governor Owen and Representative Chopp, along with the Legislature over which they preside,
26 possess the legislative power of the State under Article II of the Washington State Constitution.

1 The Legislature is responsible for establishing state law and appropriating state funds.
2 Specifically, the Legislature is responsible for amply funding the general and uniform system of
3 public schools mandated by the Washington State Constitution.
4

5 2.14 All persons named as defendants are named in their representative and official
6 capacities for the State of Washington. Additionally, they are named in their individual
7 capacities to the extent necessary to subject them to the jurisdiction of this Court.
8

9 III. JURISDICTION AND VENUE

10 3.1 This Court has original jurisdiction over this action for declaratory judgment
11 pursuant to RCW 2.08.010 and RCW 7.24.010.

12 3.2 Venue for this action against the State and officers of the State is proper in this
13 court pursuant to RCW 4.92.010.
14

15 IV. FACTUAL BACKGROUND

16 4.1 Plaintiffs reallege paragraphs 1.1 through 3.2.

17 A. The State's duty to amply fund a uniform system of schools.

18 4.2 As construed by the Washington State Supreme Court, Article IX, section 1 of
19 the Washington State Constitution gives the state's children the right to an amply funded
20 education.
21

22 4.3 Article IX, section 2 of the Washington State Constitution requires the
23 Legislature to establish a general and uniform system of public schools. The Washington State
24 Supreme Court has held that the right to an amply funded education must be achieved via this
25 uniform system.
26

1 4.4 The state's school funding system was first declared unconstitutional in 1977.
2
3 The Washington State Supreme Court upheld this ruling in 1978, finding that severe
4 inequities existed in the financial resources and educational opportunities afforded students in
5 different school districts. *Seattle School District No. 1 v. State*, 90 Wn. 2d 476, 585 P.2d 71
6 (1978). The Legislature acted in response to the trial court decision by passing the Basic
7 Education Act in an effort to define and fund a uniform system of basic education.

8
9 4.5 The school funding system established by the Basic Education Act does not
10 accomplish the constitutional imperatives of ample funding and uniformity. The funding
11 system authorizes and funds salary levels for classified employees, certificated administrative
12 employees and certificated instructional employees that are different for each of the state's 296
13 school districts. The salary level disparities lack any rational basis.

14
15 4.6 Every other year since 1977, the Legislature has reenacted these disparate salary
16 levels, perpetuating this lack of uniformity and failing to provide ample funding to all districts.

17 **B. The state school funding system**

18 4.7 School districts depend on state funding to operate. Across Washington, state
19 funding accounts for approximately seventy percent of school district general fund revenue.

20
21 4.8 The Legislature appropriates this money every other year in the state operating
22 budget. The Superintendent of Public Instruction ("Superintendent") then allocates this
23 funding to the state's school districts on an annual basis. The amount each school district
24 receives is referred to as the district's "basic education allocation."
25
26

1 4.9 The Superintendent bases each district's allocation on the number of students
2 enrolled. The Superintendent multiplies a district's enrollment by statutory ratios of staff to
3 students to determine the number of certificated instructional, certificated administrative, and
4 classified staff units the state will fund for that district.

6 4.10 The state funds at least forty-six units of certificated instructional staff per 1,000
7 students, with some variation according to grade level and enhancements for specialized
8 categories such as remote and necessary schools. The state also funds four units of
9 administrative staff and 16.67 units of classified staff per 1,000 students. The Superintendent
10 uses these staff units to allocate money to each district, but districts are free, once a certain
11 minimum instructional staff level is met, to determine the actual number and type of staff they
12 wish to hire with the money allocated to them.

14 4.11 The Legislature translates staff units into dollars with a table created by the
15 Legislative Evaluation and Accountability Program (LEAP), a legislative agency. The table is
16 currently known as LEAP Document 12E. Tables which served an identical purpose prior to
17 the 1999-2001 biennium had different names. LEAP Document 12E sets a base salary
18 allocation for each unit of certificated instructional, certificated administrative, and classified
19 staff in each of the state's 296 school districts. The Legislature adopts LEAP Document 12E
20 every other year as part of the state budget.

23 1. **Classified staff**

24 4.12 The state relies on LEAP Document 12E to allocate funding for classified staff
25 such as clerical employees, paraeducators, building and grounds crews, information technology
26

1 staff, security officers and business office employees. Each school district receives a flat LEAP
2 Document 12E salary allocation for each funded classified employee unit.

3
4 4.13 There are 279 different salary allocation levels for classified staff for the state's
5 296 school districts. The LEAP Document 12E salary allocations for 2006-07 for classified staff
6 range from a high of \$33,970 in the Seattle School District to a low of \$22,454 in the Damman
7 School District. The Seattle School District receives fifty-one percent more per classified staff
8 unit than the Damman School District.

9
10 4.14 The disparity in classified salary allocations is not based on any geographic,
11 demographic, student population, cost of living or other educationally relevant factor. The
12 relative funding levels for classified staff on LEAP Document 12E share no particular
13 relationship with the relative funding levels for certificated instructional staff or certificated
14 administrative staff.

15
16 4.15 In the 2006-07 school year, the Federal Way School District will receive \$28,834
17 per funded classified staff unit, which is \$143 less per unit than neighboring Kent School
18 District, \$343 less per unit than neighboring Highline School District, and \$426 less per unit
19 than neighboring Auburn School District.

20
21 4.16 When the Legislature first adopted the salary allocations for the 1977-78 school
22 year, it based them on the actual salary level in each district the prior school year under the
23 previous, unconstitutional, funding scheme. The Legislature attempted to phase-in an
24 equalization of the classified salary allocations between 1977 and 1985, and made some
25 progress. However, the Legislature soon abandoned that effort, leaving the funded classified
26

1 staff salaries in irrational disarray. During the last twenty years, the Legislature has granted
2 increases to the funded salaries for classified staff in a manner that simply maintains the
3 irrational differences in funding levels.
4

5 2. **School administrators**

6 4.17 The state also relies on LEAP Document 12E to allocate funding for certificated
7 school administrators, such as principals, superintendents and curriculum directors. School
8 districts receive a flat LEAP Document 12E salary allocation for each funded administrator
9 unit.
10

11 4.18 The funded salary levels for certificated administrators on LEAP Document 12E
12 include huge disparities between the top- and bottom-funded districts. Four districts are
13 assigned the top salary of \$77,974 in 2006-07, including the Skykomish School District.
14 Another twenty-three districts receive LEAP Document 12E's lowest administrative salary in
15 2006-07: \$46,485.
16

17 4.19 Among the bottom twenty-three districts is the Index School District, which
18 shares a border with the Skykomish district. The Index and Skykomish districts both serve
19 small student populations in the same rural area. They share similar demographics and costs of
20 living. Yet Skykomish receives sixty-eight percent more per funded unit for certificated
21 administrative salaries than Index does.
22

23 4.20 Most districts fall somewhere between the extremes of Index and Skykomish,
24 with extremely few allocations alike. Federal Way is close to the bottom, receiving \$50,361 per
25 certificated administrative staff unit in 2006-07. One of Federal Way's neighboring districts,
26

1 Kent, receives \$52,359. Another neighboring district, Auburn, receives \$53,244. A third,
2 Highline, receives \$57,698.

3
4 4.21 The disparity in administrative salary allocations is not based on any geographic,
5 demographic, student population, cost of living or other educationally relevant factor.

6 4.22 The relative funding levels for certificated administrative staff on LEAP
7 Document 12E share no particular relationship to the relative funding levels for certificated
8 instructional staff or classified staff. For example, although the Seattle School District receives
9 the highest base salary for classified staff, it is ranked 150th in funding levels for certificated
10 administrative staff at \$55,355 per funded unit in 2006-07.

11
12 4.23 The Legislature increased administrative salary allocations for the twenty-three
13 worst-funded districts in the state in 2005 to reach a specific minimum level (\$45,000 per
14 funded unit), but these districts still receive \$31,439 per funded unit less than the level the
15 Legislature has defined as “ample” for the four highest-funded districts in the state in 2006-07.
16 The relative differences for the other 269 districts in the state have remained in irrational
17 disarray for the last twenty years.

18
19 **3. Certificated instructional staff salaries**

20 4.24 The 2006-07 edition of LEAP Document 12E assigns 262 of 296 school districts
21 the same base salary allocation for certificated instructional staff, which includes teachers,
22 librarians, counselors and other non-supervisory staff in positions that require professional
23 educational certification (hereinafter referred to as “teachers”). LEAP Document 12E sets the
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1 2006-07 total base teacher salary allocation for the 262 majority districts, including Federal Way
2 School District, at \$31,386 (including funding for two Learning Improvement Days).

3
4 4.25 LEAP Document 12E sets the 2006-07 total base teacher salary allocation for the
5 Everett School District at \$33,377. Everett's teacher salary allocation is the highest on LEAP
6 Document 12E. Another thirty-three districts besides Everett receive teacher salary allocations
7 greater than the low of \$31,386 allocated to Federal Way and the majority of the state's school
8 districts.

9
10 4.26 To allocate teacher salary funding to individual districts, the state modifies the
11 LEAP Document 12E base salary numbers to reflect the experience and education of the
12 teaching staff in each district. Each teacher is assigned a multiplier that reflects his or her years
13 of recognized experience and advanced coursework he or she has completed. These multipliers
14 are averaged to obtain a "staff mix factor" for the district. The Superintendent multiplies each
15 district's LEAP Document 12E base teacher salary allocation by the district's staff mix factor to
16 obtain the salary allocation per funded staff unit for the district.

17
18 4.27 The staff mix factor widens the actual dollar gap in teacher funding between the
19 262 majority districts and the thirty-four advantaged districts. For example, the difference in
20 LEAP Document 12E base salaries for the Everett and Federal Way School Districts is \$1,991.
21 After applying the budgeted 2006-07 staff mix factor, however, the actual dollar difference is
22 nearly \$3,000 per year for each funded unit.

23
24 4.28 State law prohibits school districts from paying their teachers as a group an
25 average salary that exceeds the district's average salary allocation. RCW 28A.400.200. Thus,
26

1 the thirty-four districts that have higher LEAP Document 12E base salaries are advantaged in at
2 least two ways. First, they receive more state revenue per funded teacher unit. Second, their
3 higher salary allocation translates to a higher salary cap.
4

5 4.29 The thirty-four districts that retain an advantage do not share common sizes,
6 locations, or demographics. They are small and large, urban and rural, scattered across the
7 state. They include Seattle School District, serving 43,322 full time equivalent students in the
8 state's largest urban area, and Loon Lake School District, serving 187 full time equivalent
9 students in rural Stevens County. The advantaged districts also include suburban districts
10 similar in size to Federal Way School District, such as the Puyallup and Lake Washington
11 school districts.
12

13 **C. The effects of LEAP Document 12E**

14 4.30 If the state allocated school funding in a uniform manner, assigning the same
15 salary level allocation to all school districts that the Legislature has determined to be ample for
16 the most advantaged district in each of the three basic education staff formulas, the Federal
17 Way School District would receive approximately \$7 million in additional state funding for the
18 2006-07 school year solely from these three funding formulas.
19

20 4.31 The teacher, administrative and classified staff funding formulas described above
21 also have a ripple effect on other basic education funding. For example, special education
22 reimbursements and salary-related benefit reimbursements are calculated as a percentage of the
23 teacher, administrative and classified staff funding formulas. In 2006-07, the Federal Way
24 School District will receive almost \$1 million less in employee benefit funding and \$1 million
25
26

1 less in special education funding than it would receive if it had been assigned LEAP Document
2 12E base salary levels that the Legislature has determined to be ample for other school districts.
3

4 4.32 The LEAP Document 12E disparities also impact the ability of school districts to
5 levy additional funding for non-basic education items because maintenance and operations
6 levies are capped at a percentage of the district's state and federal funding. The staff funding
7 formulas described above are the largest drivers of state and federal funding for each school
8 district. The levy capacity of the taxpayers of the Federal Way School District is lowered by
9 approximately \$2.5 million because of the irrational disparities on LEAP Document 12E.
10

11 4.33 The additional state funding provided by a rational, constitutional basic
12 education funding formula could be used to increase teacher, administrator and classified staff
13 salaries, better enabling Federal Way to recruit high-quality candidates to serve the District's
14 students. This money could also be used to reduce class sizes, expand course offerings,
15 purchase instructional materials, or otherwise improve basic education in the Federal Way
16 School District.
17

18 4.34 Because the LEAP Document 12E salary level for certificated instructional staff
19 also acts as a cap on the base salaries for teachers in each school district, the inequity in funded
20 salary levels has a direct negative impact on the current income and future retirement benefits
21 of all Federal Way School District teachers.
22

23 V. CLAIMS FOR RELIEF

24 5.1 Plaintiffs reallege paragraphs 1.1 through 4.42.
25
26

1 **A. First cause of action: Ample funding**

2 5.2 Article IX, section 1 of the Washington State Constitution provides the
3 following:
4

5 It is the paramount duty of the state to make ample provision for the education
6 of all children residing within its borders, without distinction or preference on
account of race, color, caste, or sex.

7 According to the Washington State Supreme Court, this provision gives the state's children a
8 corresponding right to be provided with an amply funded education. *Seattle School Dist. No. 1 v.*
9 *State of Washington*, 90 Wn.2d 476, 513, 585 P.2d 71 (1978).
10

11 5.3 By assigning salary allocations in an arbitrary and irrational manner, the current
12 state funding system does not amply provide for the education of children in all districts.

13 5.4 The state violates Article IX, section 1 of the Washington State Constitution by
14 failing to amply fund education in all school districts, including the Federal Way School
15 District.
16

17 **B. Second cause of action: Constitutional uniformity**

18 5.5 Article IX, section 2 of the Washington State Constitution requires the
19 Legislature to provide for a general and uniform system of public schools.

20 5.6 By its use of the disparate LEAP Document 12E base salaries, the Legislature
21 does not allocate school funding in a uniform manner.
22

23 5.7 The Legislature violates Article IX, section 2 by failing to fund schools in a
24 uniform manner.
25
26

1 **C. Third cause of action: Equal protection**

2 5.8 The LEAP Document 12E salary classifications deprive students in underfunded
3 districts, including Federal Way, of their fundamental right to an education. The salary
4 allocations place Federal Way students in a disadvantaged class.

5
6 5.9 The state lacks any legitimate purpose for the inequalities in its funding formula.

7 5.10 This violates the rights of students in the Federal Way School District to equal
8 protection under 42 U.S.C. § 1983 and the fourteenth amendment to the United States
9 Constitution.

10
11 **D. Fourth cause of action: Privileges and immunities**

12 5.11 Article I, section 12 of the Washington State Constitution protects against state
13 actions that grant privileges to a minority of citizens, to the detriment of the majority.

14 5.12 The state school funding system, via LEAP Document 12E, privileges a minority
15 of school districts by giving them substantially more funding.

16
17 5.13 The state funding system violates the rights of Federal Way School District
18 students under Article I, section 12 of the Washington State Constitution.

19 **E. Fifth cause of action: Substantive due process**

20 5.14 The state bases its funding formula on the arbitrary and capricious salary
21 allocations in LEAP Document 12E.

22
23 5.15 These salary allocations disadvantage students in the Federal Way School
24 District, depriving them of their fundamental right to a uniform and amply funded basic
25 education.

26

1 5.12 This deprivation violates students' rights to due process under 42 U.S.C.
2 § 1983, the fifth and fourteenth amendments to the United States Constitution, and Article I,
3 section 3 of the Washington State Constitution.
4

5 VI. RELIEF REQUESTED

6 Plaintiffs respectfully request the following relief from this Court:

7 6.1 A declaratory judgment that the current LEAP Document 12E base salary
8 allocations violate Defendants' constitutional obligations to amply provide for the education of
9 Washington students; to establish a general and uniform system of public schools; to provide
10 Federal Way students with equal protection under the law; to refrain from bestowing privileges
11 upon a select class to the detriment of the majority; and to provide Federal Way students with
12 substantive due process.
13

14 6.2 Reasonable attorneys' fees and costs pursuant to statute and recognized grounds
15 of equity; and
16

17 6.3 Such further legal and equitable relief as this Court deems just and proper.

18 RESPECTFULLY SUBMITTED this 20th day of November, 2006.

19
20 DIONNE & RORICK

21 *Lester Porter, Jr.*

22 By: Lester "Buzz" Porter, Jr., WSBA #23194
23 Kathleen J. Haggard, WSBA #29305
24 Lynette Meachum, WSBA #37180
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