

**“State funding is not ample,  
it is not stable, and it  
is not dependable.”**

— King County Superior Court Judge John Erlick, in a landmark ruling that Washington state  
has failed its constitutional duty to fully fund basic education for all students

## THE ‘NEWS’ COURT RULING

- A huge victory for Washington students
- WEA members helped make it happen





# A huge victory for students, parents and educators

## What is the 'NEWS' court ruling?

On Feb. 4, King County Superior Court Judge John P. Erlick ruled the state of Washington to be in violation of its constitutionally mandated “paramount duty” to fully fund basic education for all children. The court ruling followed a six-week trial that concluded in October. The trial included hundreds of documents and testimony from some 60 witnesses, including several school superintendents.

In his ruling, Judge Erlick was frank and unambiguous, concluding that the Legislature’s constitutional duty is to fund basic education *first* and to do it *now*. “...this Court is left with no doubt that under the State’s current financing system the State is failing in its constitutional duty...” Judge Erlick said. He ruled that the word “paramount” in Article IX, Section 1 of the Constitution, means “preeminent,” “supreme” and “more important” than all others. K-12 education is “...the State’s first and highest priority before any other State programs or operations.”

## What role did WEA play in this victory for Washington students?

The lawsuit was brought by the McCleary family of Jefferson County, the Venema family of Snohomish County and the Network for Excellence in Washington Schools (NEWS), a coalition of more than 75 school districts, statewide civic organizations and community groups, education associations, parents and teachers, including the WEA, the Washington State PTA, and the League of Women Voters.

WEA helped lead efforts to establish the coalition as part of a long-term strategy to provide our students with the world-class education they deserve. Delegates at the 2004 WEA Representative Assembly voted to commit resources to the effort.

Plagued with a long-outdated state funding system that fails to fully fund even the basic elements of a

high quality 21st century education, NEWS turned to the courts to order the state of Washington to live up to its “paramount” constitutional duty to make “ample” provision for the education of all Washington public school students. **The result is a tremendous victory for students, parents and educators in every community across our state.**

## What does the ruling mean for public schools and students?

The court ordered the state to determine the actual costs of providing all students with the knowledge and skills set forth in the state’s high academic standards, and to fully fund that actual cost with stable and dependable state sources.

During the trial, plaintiffs contended that the state’s current “basic education funding” only barely manages to cover the costs of classroom teaching and teaching materials, requiring local school districts to rely on levies to pay for other necessities such as bus transportation, technology, safety, principals, utilities, new facilities and more. In most school districts, the state’s current basic education funding covers half or less of what it actually costs to operate the public schools.

**The court agreed definitively: “State funding is not ample, it is not stable, and it is not dependable.”**

In addition to reconfirming that the state constitution means exactly what it says — and declaring the state in violation of that standard — the court also firmly established that “basic education” is *not* whatever funding formula lawmakers might choose to adopt during each legislative session, but the “basic knowledge and skills needed to compete in today’s economy and meaningfully participate in this State’s democracy.”

“This definition will help ensure that school funding is focused on student achievement, not arbitrary calculations based on whatever the Legislature feels like spending on K-12 education from year to year,”

said NEWS President Mike Blair, superintendent of the Chimacum School District on the Olympic Peninsula. The implications of the ruling affect every public school student in Washington — in fact, every household in the state that depends on a strong economy and contributing citizens. “Everyone in our state will benefit when we finally have a public school system that is funded amply and can provide a world-class education to all students,” Blair said.

### **How does the ruling affect last year’s education reform legislation?**

Judge Erlick addressed that legislation directly, by rejecting the state’s contention that House Bill 2261, passed by the 2009 Legislature, was a sufficient response to today’s school funding problems. The timeline established in the bill for fully funding basic education stretches to 2018 — far too long to wait

for the state to meet its constitutional responsibilities. The state “cannot avoid the question of whether it is currently complying with its legal duty under Article IX, Section 1 by stating its intent to correct a legal violation sometime in the future,” said Judge Erlick. The Court ruled that Washington’s education funding inequities demand action *now*.

### **What happens next?**

Now it’s up to the state to act on the Court ruling. WEA has urged all stakeholders — legislators, the governor, education advocates — to work together for immediate and decisive action on school funding.

You can help by urging them to “keep the promise” of fully funding our schools — by supporting new revenue sources in the current legislative session.

Go to [www.WashingtonEA.org](http://www.WashingtonEA.org) for the latest news.

## **— Key points of the landmark court ruling —**

- **Affirms “paramount” duty of state to fund basic education**
- **Finds state in violation of that duty**
- **Orders Legislature to determine actual costs of providing Washington’s students with the skills and knowledge they need to succeed**
- **Directs state to act without delay to fully fund education with stable, dependable sources**





# No ifs, ands or buts: Excerpts from Judge Erlick's ruling

## On the state's paramount duty to fund basic education

It makes sense that Article IX mandates, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders ..." "A well-educated population is the foundation of our democracy, our economy, and the American dream." "Education also operates as the great equalizer in our democracy, equipping citizens born into the underprivileged segments of our society with the tools they need to compete on a level playing field with citizens born into wealth or privilege." The state's education duty is the *only* duty that is its *paramount* duty.

## On the definition of basic education

"The word 'education' in Article IX is substantive. It means the basic knowledge and skills needed to compete in today's economy and meaningfully participate in our State's democracy."

## On the state's failure to fulfill its paramount duty

On the question of whether the state is complying with its constitutional duty under Article IX, the answer is "no." "Thirty years have passed since our State Supreme Court directed the State to provide stable and dependable funding for basic education. The State has made progress toward this Constitutional obligation, but remains out of compliance. State funding is not ample, it is not stable, and it is not dependable. Local school districts continue to rely on non-State resources to supplement State funding for a basic program of education." "The State's arithmetic equations (program 'funding formulas') produce far less than the resources actually required to amply provide for the education of all children residing within this State's borders."

## On the consequences of empty funding promises

"...the State has passed legislation, it has ordered countless studies, it has commissioned a multiplicity of reports. And yet there remains one harsh reality — it has not, and is not, amply and fully funding basic education." "Society will ultimately pay for these students. The State will pay for their education now, or society will pay for them later through unemployment, welfare, or incarceration." The State cannot avoid its constitutional violation by stating its intent to comply some time in the future. A defendant's intent to stop breaking the law in the future does not negate the fact that the defendant is breaking the law now. "Recent legislation addresses, but does not resolve, the perennial underfunding of basic education." Without funding, reform legislation is an empty promise. Last year's education reform legislation, "ESHB 2261 does not require future Legislatures — or governors — to do anything. Rather, the legislation is the expressed intent of a current Legislature as to what future Legislatures should or might do."

## On what the state must do now

The state, through its legislative and executive bodies, must fulfill their Article IX mandate. "...the Legislature must proceed with real and measurable progress to (1) establish the actual cost of amply providing all Washington children with the education mandated by this court's interpretation of Article IX, and (2) establish how the State will fully fund that actual cost with stable and dependable State sources." The state must provide stable and dependable funding for such costs — and that funding must be based as "closely as reasonably practicable" on actual costs.









## **In the news: Coverage of the landmark court ruling**

# **School funding gets an F; judge calls for action**

— The Seattle Times 2/4/10

**Judge holds Legislature to the promise  
of education funding reform**

— The Star, (Grand Coulee), 2/5/10

# **Judge: state must determine new way to fund education**

— Sammamish Review, 2/17/10

**Ruling underscores school districts' need for levies**

— Yakima Herald-Republic, 2/8/10

**Governor calls for new taxes to reform basic education**

— KING 5 News Up Front, 2/12/10

## **Ruling on education funding should be game-changer for legislators**

— The News Tribune, 2/7/10

**Court prompts an overdue conversation  
about education funding**

— The Seattle Times, 2/12/10

# **In Our View: Prioritize Education**

— The Columbian, 2/5/10



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## **Learn more about the court decision...**

**washingtonea.org**

Get the latest on the court ruling and what  
it means for our students and schools

**waschoolexcellence.org**

Learn about the coalition that asked the court to  
order the state to live up to its paramount duty

## **...then take action for Washington's schools**

**ourvoicewashingtonea.org**

Take action at the WEA members' advocacy headquarters,  
and make sure legislators and the governor hear our voice

**protectwashingtonschools.org**

Send friends and family to this public site where they can  
take action to support students and public schools