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WASA Statement on Supt. Dorn Request

Request for attorney general legal opinion could create a misleading impression

OLYMPIA — The Washington Association of School Administrators (WASA) is concerned an opinion requested by State School Superintendent Randy Dorn of State Attorney General Bob Ferguson could create the impression of wrong-doing by school district leaders.

Earlier today, Dorn sent a letter to Ferguson requesting his legal opinion to the following question:

Do school district boards of directors have the authority to use local excess levy funding to pay compensation to district employees-including certificated teachers, administrative personnel, and classified staff--for services that are a part of the program of basic education established under RCW 28A.150.200 through RCW 28A.150.290?

“While this question may have legal merit within the context of the McCleary decision, it is somewhat akin to blaming the victim for allowing the crime to be perpetrated against them,” said Bill Keim, WASA executive director. “Regardless of the AG’s opinion, this is a problem the Legislature has created over the past three decades, and it’s a problem that only they can fix.”

The Supreme Court was pretty clear in defining the game played by the Legislature in how they defined basic education, Keim said, citing directly from the McCleary decision:

The State points to the Basic Education Act, which declared from its inception that “[b]asic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to” the funding formulas... As the trial court found, this would mean that “full funding is whatever the Legislature says it is,” CP at 2805 (FF 180), thus allowing the State to maintain the appearance of fully funding the basic education program even though appropriations bear little resemblance to the actual level of resources needed to provide a “basic education.” (pg. 60)

The Court also identified salaries as one of the specific areas underfunded by the Legislature:

Substantial evidence at trial also showed that the State consistently underfunded staff salaries and benefits. Testimony revealed that the State allocation for salaries and benefits fell far short of the actual cost of recruiting and retaining competent teachers, administrators, and staff. (pg. 64)

In their ruling, the Court cried foul on this way of defining basic education, Keim said. Until that time, however, it was the law that governed school fiscal operations. Any costs beyond this legislative definition of basic education have for decades been viewed as enhancements to that program and therefore fair for local levies to support. The one exception is the area of teacher salaries because districts were prohibited by RCW 28A.150.410 from enhancing the state salary allocation for teachers.

“The Legislature ‘fixed’ that problem by allowing extra teacher pay for additional time, responsibilities, incentives, or innovations or TRI. With such a broad definition of this salary enhancement, it’s no wonder that this became the avenue for school districts to pay the true cost of recruiting and retaining qualified teachers,” said Keim. “It should also be noted that with administrative and classified salary allocations, there has never been a limitation on local enhancement, in part because they were so laughably out of touch with the market rate for such positions.

“Our concern is that by even raising this question one could be left with the impression that school districts have somehow been cheating in their use of local levies. Nothing could be farther from the truth,” added Keim. “For decades, school superintendents and boards of directors have worked with the very difficult state underfunding hand they were dealt. They have used local levies to provide legally authorized enhancements to basic education as defined by the Legislature.”

The Supreme Court’s McCleary ruling calls for a massive change in how the state funds public education, Keim concluded.

“Until the Legislature steps up to its funding responsibility, however, there should be no curtailment of the historic role local levies have played to fund our schools.”

About the Washington Association of School Administrators (WASA):

WASA (www.wasa-oly.org) is a non-profit organization committed to the development of quality education through professional leadership. Members benefit from a supportive community of professional leaders working to provide insightful, valuable training, support, and resources. WASA also strives to sustain a positive impact on legislative and community leaders. Membership is open to education administrators in Washington state.

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