

POLICY NOTE

Was public education money used to fund the *McCleary* lawsuit?

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Key Findings

1. *The Network for Excellence in Washington Schools (NEWS) has paid attorneys' fees to fund the McCleary lawsuit from two primary sources of revenue.*
2. *About \$4 million has come from WEA union money drawn from teacher paychecks.*
3. *Washington's 30 largest school districts have contributed over half of a million dollars in public school funds to NEWS.*
4. *Interest groups stand to gain financially from the McCleary court decision.*
5. *Public school teachers and school districts have donated an extraordinary amount of money to the NEWS organization for the McCleary case, when the same money could have been used to provide "ample" funding for their students' education.*

Introduction

The Network for Excellence in Washington Schools (NEWS) is the organization that filed the *McCleary* lawsuit in King County in 2007 and funded the lawsuit as it was appealed to the state supreme court for review. This Policy Note reports on funds provided to the Network for Excellence in Washington Schools (NEWS) by the state's school districts and public-school teachers who are members of the Washington Education Association.

Who funded the McCleary lawsuit?

In *McCleary et al vs. The State of Washington*, the Network for Excellence in Washington Schools, an advocacy group, sued the people of Washington state claiming that the state had failed to fully fund basic education.¹ In January 2012, the Supreme Court held the state had failed to meet its constitutional duty to fund education, and maintained continuing jurisdiction over the case. The legislature responded in the 2013-15 state budget by increasing per student funding by about \$1,000 per student, raising funding to \$11,300 per student from all local, state and federal revenue sources, the highest amount in state history.

The *McCleary* court case has been used by political advocacy groups to argue for ever-increasing levels of spending in the current monopoly public education system. At the same time, these same groups have stoutly resisted fundamental reforms that would improve student learning and spend public resources more effectively. The political maneuvering and frequent citation of the *McCleary* case raises the question of who provided the funding for the lawsuit in the first place.

Based on Freedom of Information Act requests made to Washington's largest school districts by enrollment, this review shows the *McCleary* case was largely funded by public school teachers and the school districts themselves. The Network for Excellence in Washington Schools (NEWS) organization, "a statewide coalition of community groups, public school districts, and education organizations," has paid out several million dollars in attorney fees since the case was filed in 2007.

1 *McCleary, et.al. vs. The State of Washington*, Washington state Supreme Court, Case No. 84362-7, January 5, 2012, at www.courts.wa.gov/opinions/pdf/843627.opn.pdf.

Executives for the powerful Washington Education Association (WEA) union have twice imposed a special assessment drawn from teacher paychecks to help pay for the lawsuit. In Washington, public school teachers must pay dues or fees to the union each month as a condition of holding their job. Union executives say that any teacher who does not pay the union the required amount each month will be fired.

Union dues and fees are taken from teacher paychecks automatically each month. It is possible most teachers were not aware that union executives twice increased the amount of money they took to help pay legal bills related to the *McCleary* lawsuit.

The law firm which charged fees to the NEWS organization wrote off several thousand hours of their time in “pro bono” work. Still, the dollar figures paid by the school districts and public school teachers are staggering.

Findings

Washington Education Association:

As of October 14, 2014, WEA tax returns show the union sent checks of more than

- \$4 million to the Seattle Law firm of Foster Pepper.²
- In 2004, WEA union members were asked to pay \$1 a month for two years into a fund to support the lawsuit. With 63,000 K-12 teachers in the WEA, it can be estimated WEA raised a little more than \$1.5 million.³
- In 2012, WEA union members were asked to pay to another assessment of \$1 a month for six years that can be expected to raise \$5.1 million.⁴

School districts used public resources to fund the McCleary lawsuit:

- The 30 largest school districts in the state (10,000 to 20,000 students or more) contributed a total of \$563,990.⁵
- The nine largest school districts (20,000 students or more) contributed a total of \$308,423.00.
- The next largest 21 school districts (10,000 to 19,999 students) contributed a total of \$255,567.00.

2 “Teachers paid most of bill for *McCleary* case to fund schooling,” by Donna Blankenship, AP, *The Seattle Times*, October 14, 2014, at <http://www.seattletimes.com/seattle-news/teachers-paid-most-of-bill-for-mccleary-case-to-fund-schooling/>.

3 Ibid.

4 Ibid.

5 In July 2014, author asked the 30 largest school districts in Washington to disclose payments made to the NEWS organization.



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Notable Contributions

- Seattle School District contributed close to \$100,000 (\$98,323). This is about one third of the total contributions for the top nine school districts.⁶
- Vancouver School District contributed \$75,000, the second highest of the top 30 school districts.⁷
- Edmonds School District paid the third most out of the top 30 school districts by contributing \$50,000 to NEWS.⁸

Conclusion

The Network for Excellence in Washington Schools (NEWS) has paid attorneys' fees to fund the *McCleary* lawsuit from two primary sources of revenue. The largest source of revenue to date, about \$4 million, has come from WEA union money drawn from teacher paychecks. The second largest source has come from individual school districts using funds provided by taxpayers to educate students, not to pay attorneys' fees; Washington's 30 largest school districts have contributed over half of a million dollars in public school funds to NEWS.

These reports show how interest groups stood to gain financially from the *McCleary* court decision. These interests likely saw their contributions to *McCleary* lawyers as an "investment" that would pay off in the future, as the court helped create the political conditions for prompting the legislature to boost funding for the state's public education budget. Given that lawmakers have increased education spending by over \$2 billion since the court's 2012 ruling, this assumption has proven correct – the groups that help fund the *McCleary* lawsuit have directly benefitted from the decision and its political effects.

In addition, these public school teachers and school districts have donated an extraordinary amount of money to the NEWS organization for the *McCleary* case, when the same money could have been used to provide "ample" funding for their students' education.

6 Seattle Public Schools, Freedom of Information Act response, by email dated August 13, 2014 to author.

7 Vancouver Public Schools, Freedom of Information Act response, by email dated August 6, 2014 to author.

8 Edmonds School District, Freedom of Information Act response, by email dated August 14, 2014 to author.