

# DORAN DECISION 1983

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

10 SEATTLE SCHOOL DISTRICT NO. 1, )  
11 et al., ) NO. 81-2-1713-1  
12 )  
13 Petitioners ) DECLARATORY JUDGMENT  
14 )  
15 v. )  
16 )  
17 STATE OF WASHINGTON, et al., )  
18 )  
19 Respondents )  
20 \_\_\_\_\_ )

24           THIS MATTER having come on for trial on November 1, 1982,  
25 before the Court sitting without a jury; the presentation of  
26 evidence having been completed on December 22, 1982; and the Court  
27 having reviewed the briefs and heard argument of counsel for all  
28 parties, having made an Oral Opinion dated April 29, 1983, and  
29 having entered Findings of Fact and Conclusions of Law, hereby  
30 declares as follows:

37  
38 (1) The educational programs established by the Legislature  
39 as necessary to meet the current needs of the children of this  
40 State pursuant to Article IX, Sections 1 and 2, of the Washington  
41 Constitution, are found in a series of laws, including:

45  
46 (a) the Basic Education Act of 1977 ("BEA");

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- (b) the Education For All Act of 1971;
- (c) the Transitional Bilingual Instruction Act of 1979; ;
- (d) the Remediation Assistance Act of 1979.

25 (3) Under existing state law, the Legislature must fully fund  
26 the minimum staff ratios set forth in the BEA, salaries necessary  
27 to assure local school districts the ability to hire and retain  
28 competent staff, and necessary related costs such as substitute  
29 staff, the costs of any sick leave cash-out program that the  
30 Legislature requires school districts to offer their employees, and  
31 appropriate NERC factors.

39 (4) Because regular program staff ratios and non-employee  
40 related cost ("NERC") funding are insufficient for the vocational  
41 program of education, funding of that program should include  
42 appropriate recognition of increased staff and NERC factors in  
43 addition to those in the regular program.

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1 (5) The across-the-board funding reduction found in Chapter  
2 Laws of 1982, 2d Ex. Sess.; the reduction in transportation fundi  
3 and delay in compensation increase funding found in Chapter 14,  
4 Laws of 1981, 2d Ex. Sess.; the cancellation of compensation incr  
5 funding found in Chapter 50, Laws of 1982, 1st Ex. Sess.; and the  
6 staff mix lid found in Section 87(3)(b) of Chapter 340, Laws of 1  
7 are unconstitutional.

14  
15       (6) The educational programs necessary to meet the current n-  
16 of the State's school children under Article IX, §§ 1 and 2, of the  
17 State Constitution must be funded by the Legislature as the State  
18 first priority, before any statutory programs are funded. Once the  
19 Legislature fully funds such programs, including a necessary trans-  
20 portation program at 100% or as close thereto as is reasonably  
21 possible, the Legislature cannot thereafter reduce the funding for  
22 those programs below the established constitutional minimums or  
23 directly or indirectly affect the school districts' ability to  
24 provide the necessary programs to all of their students without  
25 resort to excess levies.

37 (7) Whatever system the Legislature selects for determining  
38 salary and necessary salary increase funding, it must establish  
39 those levels and any governing rules affecting school district  
40 employee compensation in advance, so that the local school district  
41 boards of directors may properly consider the issues relating to  
42 employee compensation at the time they are required to finally ado-

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1       their annual budgets. Where school districts execute collective  
2       bargaining agreements with their employees strictly in accordance  
3       with state law and the salary levels fixed by the Legislature in  
4       the appropriations act, the Legislature is bound to provide suffic:  
5       funding to the school districts to allow them to meet their  
6       contractual obligations.

7  
8       (8) During the 1981-82 and 1982-83 school years, the State di  
9       not satisfy its duty to fully fund the regular program of educatio  
10      the vocational educational program, the special education program  
11      for handicapped children, pupil transportation, the transitional  
12      bilingual program, or the remediation assistance program.

13      (9) By July 1, 1984, the Legislature must define and provide  
14      full funding for pupil transportation, which will include trans-  
15      portation to and from school for students for whom such transporta  
16      tion is necessary for them to attend their assigned schools.

17      (10) The Legislature must fully fund a special education  
18      program for handicapped children that is sufficient to provide tho  
19      children an appropriate education at public expense. Special  
20      education programs for handicapped children are required under the  
21      Constitution, and must be included as part of the state system of  
22      basic education and fully funded pursuant to Article IX, §§ 1 and  
23      independently of the intent of the Legislature as determined by th  
24      BEA and related state education laws. In order to satisfy the  
25      requirement of full funding, sufficient funds must be provided and

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27      DECLARATORY  
28      JUDGMENT-4

1 distributed in a manner that is based as closely as reasonably  
2 practicable on the actual cost of the special educational needs  
3 identified in the properly formulated individualized educational  
4 programs of all handicapped students pursuant to state law and  
5 sufficient to insure each school district's ability to comply with  
6 all of the rights, procedures, and substantive requirements con-  
7 tained in the special education laws.  
8

9 (11) By July 1, 1984, the Legislature must define and provide  
10 full funding for the transitional bilingual and remediation  
11 assistance programs necessary to meet the requirements of the  
12 governing statutes.  
13

14 (12) A block grant may not be used to fund programs, such as  
15 the transitional bilingual, remediation assistance, and special  
16 education programs, that the Legislature has determined to be  
17 necessary to meet the current needs of the state's school children  
18 and thus brought within the scope of the state's constitutional  
19 obligations under Article IX, Section 1.  
20

21 (13) The Court will not grant a writ of mandamus in this case.  
22

23 (14) Petitioners will recover their <sup>statutory</sup> costs in the following  
24 areas: full funding of BEA as to staff levels, reliance salary  
25 districts, and NERCs; need for and funding of substitute staff  
26 and the vocational, transportation, handicapped, transitional  
27 bilingual, remediation programs. Respondents will recover their  
28 <sup>statutory</sup> costs in the following areas: full funding of grandfather salary  
29

30 DECLARATORY  
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1 districts; need for and funding of extracurricular and gifted  
2 programs and enrollment decline, large and urban district and  
3 deferred maintenance costs.  
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5  
6 DATED this 21 day of August, 1983.  
7

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10 151 Doran  
11  
12 Judge Robert J. Doran

13 Declaratory Judgment Approved  
14 and Presented by:  
15

16 SEATTLE SCHOOL DISTRICT NO. 1

17 By Michael W. Hoge  
18 Michael W. Hoge  
19 General Counsel  
20 Lead Counsel for Petitioners

KENNETH O. EIKENBERRY

21 By Malacny R. Murphy  
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26 SEATTLE SCHOOL DISTRICT NO. 1

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35 Camden M. Hall, P.S.  
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37 BELLEVUE SCHOOL DISTRICT NO. 405  
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41 Sandra M. Driscoll  
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44 John J. Keough  
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47 DECLARATORY  
48 JUDGMENT-6

1 WASHINGTON EDUCATION ASSOCIATION  
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3 By Geoffrey August  
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DEclaratory  
JUDGMENT-7

1 HOWARD C. POWERS  
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6 Counsel for Washington State  
7 Special Education Coalition

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DECLARATORY  
JUDGMENT-8

DORAN 1988  
DECISION

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
2 IN AND FOR THE COUNTY OF THURSTON

FILED

22 1988

SUPERIOR COURT CLERK  
THURSTON COUNTY CLERK

3 CAUSE NO. 85-2-00543-8

4 DECLARATORY JUDGMENT

5 WASHINGTON STATE SPECIAL EDUCATION COALITION, Petitioner,  
6 vs. STATE OF WASHINGTON, et al., Respondents.

7  
8 THIS MATTER having come on for trial on December 3, 1986,  
9 before the Court sitting without a jury; the trial having been  
10 completed on December 18, 1986, and the Court having reviewed the  
11 briefs and heard argument of counsel, having made an Oral Opinion  
12 dated October 29, 1987, and having entered Findings of Fact and  
13 Conclusions of Law, hereby declares as follows:

14 1. The handicap program funding allocation formula  
15 contained in LEAP Document 8 Revised, referred to in Engrossed  
16 Substitute Senate Bill 4762, Section 505, Chapter 312, Laws of  
17 1986 and, in particular, the SLD "E" component thereof,  
18 distributes funds to school districts in a manner which reduces  
19 the per capita allocation based upon eligible student population  
20 which exceeds four percent of the district's total school  
21 population without making some provision for districts that can  
22 establish underfunding:

23 A. Fails to distribute funds to school districts in a  
24 manner which reflects the actual distribution by level of severity  
25 and number of all handicapped and, particularly, specific learning

disabled students eligible for the handicapped education;

B. Is inconsistent with the requirement of the State Education for All Act, Chapter 28A.13 RCW, that funding for the handicapped program be provided on an excess cost basis;

C. Fails to satisfy to some extent the full funding requirement of Article IX, Sections 1 and 2, as determined by this Court in School Funding II that fully sufficient funds be provided and distributed in a manner that is based as closely as reasonably practicable on the actual cost of the special educational needs identified in the properly formulated individualized educational programs of all handicapped students pursuant to state law and sufficient to ensure each school district's ability to comply with all of the rights, procedures, and substantive requirements contained in the special education laws.

2. The Legislature may, but is not constitutionally required to, include the total costs for the handicapped program in a single formula.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

ROBERT J. DORAN

JUDGE ROBERT J. DORAN  
Thurston County Superior Court

DECLARATORY JUDGMENT -2-

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2 Declaratory Judgment approved for  
3 presentation by:  
4

5 Howard C. Powers  
6 HOWARD C. POWERS  
7 Attorney for Petitioner

8 KENNETH O. EIKENBERRY  
9 Attorney General

10 Robert E. Patterson  
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26 DECLARATORY JUDGMENT -3-  
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