

EVERETT SCHOOL DISTRICT NO. 2

RESOLUTION NO. 813

A RESOLUTION of the Board of Directors of Everett School District No. 2 ("District") authorizing the Superintendent of the District to: (1) retain special counsel; (2) file a civil lawsuit against the State of Washington for failing to meet its constitutional obligation to fully fund the costs of the District's program to provide special education services; and (3) enter into an Interlocal Agreement for the purposes of working collaboratively with other school districts on issues related to the State funding of special education and associated issues.

WHEREAS, Everett School District No. 2 is charged by State and federal law with providing a program of specially designed instruction and related services ("special education services") for all children ages three through twenty-one with a qualifying disability residing within the territorial boundaries of the District or otherwise legally entitled to such services as required by state and federal law; and

WHEREAS, the Washington State Constitution obligates the State of Washington to fully fund "basic education" programs for the students of this State; and

WHEREAS, our State court system has determined that special education programs are a part of basic education; and

WHEREAS, the State is obligated to fully fund the costs of providing special education services to all of the State's special education students; and

WHEREAS, the State's current special education funding system does not fully fund the costs of providing special education services to all of the District's special education students; and

WHEREAS, because of the State's failure to fully fund the costs of special education services, the District was forced to spend at least \$2.3 million in FY 2002-03 (as reported on the F-196 form) in local levy funds to make up for the shortfall in State special education funding; and

WHEREAS, because of the State's failure to fully fund the costs of special education services, school districts statewide spent at least \$101 million in FY 2002-03 (as reported on the F-196 forms) in local levy funds to make up for the shortfall in State special education funding; and

WHEREAS, the State Constitution restricts the use of local levy funds to paying for the costs of "enrichment programs;" and

WHEREAS, the local levy funds the District spends on special education services are not available to fund enrichment programs as required by the State Constitution; and

WHEREAS, all students of the District will benefit if the State meets its constitutional obligation to fully fund the cost of providing special education services; and

WHEREAS, the State has for many years failed to meet its constitutional obligation to fully fund the cost of providing special education services; and

WHEREAS, the State has not remedied its failure to fully fund the cost of special education services through the legislative process; and

WHEREAS, the Washington State Supreme Court has held that it is a proper function of the judiciary to interpret, construe, and enforce the State Constitution; and

WHEREAS, the Board of Directors recognizes it has proper standing to bring suit against the State to seek a judicial remedy for the State's failure to fulfill its constitutional duty to fully fund the costs of providing special education services for all qualified special education students.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors of Everett School District No. 2, Snohomish County, Washington, pursuant to its statutory authority to retain legal counsel, does hereby authorize the Superintendent of Everett School District No. 2 to employ the firm of Preston Gates & Ellis as special counsel to the District in connection with this matter.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Board of Directors of Everett School District No. 2, Snohomish County, Washington, does hereby authorize the Superintendent of Everett School District No. 2 to file a civil lawsuit against the State of Washington and all necessary and related Parties seeking all appropriate relief resulting from the State's failure to fully fund the costs of providing special education services for all children with qualifying disabilities served by Everett School District No. 2.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Board of Directors of Everett School District No. 2, Snohomish County, Washington, does hereby authorize the Superintendent of Everett School District No. 2 to enter into an Interlocal Agreement in accordance with the Interlocal Cooperation Act, Chapter 39.34 RCW, for the purposes of implementing this resolution by working collaboratively with other school districts on issues related to the State's funding of special education programs and associated issues.

ADOPTED by the Board of Directors of Everett School District No. 2, Snohomish County, Washington, at an open public meeting thereof, held on the 14th day of September, 2004, the following Directors being present and voting:

EVERETT SCHOOL DISTRICT NO. 2

BY: Kristi Duties
President
Paul F. Smith
Sue Cooper

ATTEST

Carol Whithead
Superintendent and Secretary to
The Board of Directors