

G. Defendant Submits No Plan Or Steady Progress For ESHB 2261's "Highly Capable Program"

"The current system isn't designed well for those kinds of kids,... it bores them and they don't learn very much, and they oftentimes more often than you would expect turn out to be the kids who drop out."

Basic Education Finance Task Force member Senator Fred Jarrett's trial court testimony explaining why the Task Force explicitly included a "fairly robust program" for gifted/advanced students¹¹⁴

1. The "Highly Capable Program" Finish Line.

This Court's January 2012 decision expressly recognized that "ESHB 2261 broadened the instructional program of basic education by specifically adding ... the program for highly capable students."¹¹⁵

The State has accordingly issued regulations requiring school districts to implement highly capable K-12 programs beginning this biennium.¹¹⁶

¹¹⁴ CP 4406:5-4407:22 (trial court designation of Jarrett Deposition).

¹¹⁵ McCleary, 173 Wn.2d at 506; again at 526n.22 ("ESHB 2261 expanded the program of basic education to include ... the highly capable program").

¹¹⁶ E.g., WAC 392-170-012 ("For highly capable students, access to accelerated learning and enhanced instruction is access to a basic education"); WAC 392-170-030 (requiring school districts to submit a highly capable program report to the State every year); WAC 392-170-078 (mandating that "a continuum of services shall be provided to the student [in the district's highly capable program] from K-12"); WAC 392-170-090 (requiring annual end of year reports to State); WAC 392-170-095 (highly capable program recordkeeping requirement).

2. The State's Highly Capable Program "Plan" & "Progress".

(a) *The State's "Detailed Plan".*

The State's 2013 filing does not submit any plan or any periodic benchmarks for full funding of the highly capable program added by ESHB 2261.

Instead, defendant completely disregards the "detailed plan" requirement in the Supreme Court Order.¹¹⁷

(b) *The State's "Progress".*

The State's 2013 filing does not claim any progress towards funding the highly capable program added by ESHB 2261.¹¹⁸

No progress is not the *steady*, *real*, and *measurable* progress this Court Ordered.¹¹⁹

¹¹⁷ *Supra Part II.B of this filing; cf. supra footnote 24.*

¹¹⁸ *Although Appendix D of the State's 2013 filing implies prototypical school ratios have 2.16 hours of "additional time" for Highly Capable, the State's filing does not claim it provided any funding for such "additional time". (That's because there was none. When the State did a funding-neutral translation of its pre-ESHB 2261 funding formula into a prototypical school model, the State simply used 2.16 hours to account for what its pre-ESHB 2261 formula paid for.) On a similar accounting classification note, while some State budget summaries list a \$149,000 "increase" for highly capable funding, that's because they simply take \$149,000 of the "full-day kindergarten" amount claimed by the State's court filing and account for it under a "highly capable" budget classification instead.*

¹¹⁹ *Supra Part II.C of this filing; cf. supra footnotes 26 & 27.*