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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

EL CENTRO DE LA RAZA, a Washington non-profit corporation; LEAGUE OF WOMEN VOTERS OF WASHINGTON, a Washington non-profit corporation; WASHINGTON ASSOCIATION OF SCHOOL ADMINISTRATORS, a Washington non-profit corporation; WASHINGTON EDUCATION ASSOCIATION, a Washington non-profit corporation; INTERNATIONAL UNION OF OPERATING ENGINEERS 609; AEROSPACE MACHINISTS UNION DL 751; WASHINGTON STATE LABOR COUNCIL, AFL-CIO; UNITED FOOD AND COMMERCIAL WORKERS UNION; WASHINGTON FEDERATION OF STATE EMPLOYEES; AMERICAN FEDERATION OF TEACHERS WASHINGTON; TEAMSTERS JOINT COUNCIL No. 28; WAYNE AU, PH.D., on his own behalf; PAT BRAMAN, on her own behalf; DONNA BOYER, on her own behalf and on behalf of her minor children; and SARAH LUCAS, on her own behalf and on behalf of her minor children,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

Case No. 16-2-18527-4 SEA

**MOTION TO INTERVENE AS  
INTERVENOR-DEFENDANTS  
(MOTION TO DISMISS LODGED)**

1 Concerned parents and students, charter public schools, a charter public school  
2 management organization, and the Washington State Charter Schools Association (collectively,  
3 “Intervenors”) move to intervene in this case to protect their interests in the uninterrupted, high-  
4 quality education that charter public schools provide them and the community. Charter public  
5 school students and their parents, the charter public schools themselves, and the organizations  
6 that help charter public schools launch and navigate the charter authorization process, are the  
7 individuals and organizations most directly impacted by the Court’s resolution of this case. Each  
8 of them has a right to intervene in this case pursuant to CR 24(a), and each respectfully asks the  
9 Court to grant this motion. Alternatively, the Court should exercise its broad discretion and  
10 permit Intervenors to intervene pursuant to CR 24(b).

11 **I. EVIDENCE**

12 Intervenors rely on the declarations of (1) students and parents, (2) charter public schools,  
13 (3) a charter school management organization, and (4) the Washington State Charter Schools  
14 Association, filed concurrently herewith in a compendium.<sup>1</sup> Intervenors also rely on the  
15 pleadings and records on file with the Court.

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17 \_\_\_\_\_  
18 <sup>1</sup> Students and Parents: Declaration of Roland D. Bradley, on his own behalf and on behalf of Benjamin M.  
19 Bradley; Declaration of Gustavo Alejandro Cueva, on his own behalf and on behalf of Tatiana Karina Cueva;  
20 Declaration of Genevieve Fiorino, on her own behalf and on behalf of Tyler Fiorino and Dylan Fiorino; Declaration  
21 of Natalie Hester; Declaration of Delanas D. Johnson, on his own behalf and on behalf of Jalen Johnson; Declaration  
22 of Gahyun “Sunny” Lee, on her own behalf and on behalf of Wonoh and Yulan Suk; Declaration of Jennifer Diane  
23 Lee, on her own behalf and on behalf of Angelina L. (“Angie”) Lee; Declaration of Heidi A.R. Mitchell and Scott D.  
24 Mitchell, on their own behalf and on behalf of James D. Mitchell; Declaration of Eduardo Pacheco, on his own  
25 behalf and on behalf of Ava Pacheco; Declaration of Darcelina Jean Soloria, on her own behalf, and on behalf of  
26 Kai Soloria; Declaration of Crystal Swaffer, on her own behalf and on behalf of Tristen Swaffer and Asher Swaffer;  
27 and Declaration of Shirline Shirrell Wilson, on her own behalf and on behalf of Miles Ivory Wilson.

28 Charter Public Schools: Declaration of Daniel Calzaretta, on behalf of Innovation Schools; Declaration of Travis  
Franklin, on behalf of Spokane International Academy; Declaration of Kristina Howard, on behalf of Excel Public  
Charter School; Declaration of Dr. Thelma A. Jackson, on behalf of SOAR Academy; Declaration of Brenda  
McDonald, on behalf of Pride Prep Public Charter School; Declaration of Margaret O’Sullivan, on behalf of Rainier  
Prep.

Charter School Management Organization: Declaration of Brianna Dusseault, on behalf of Green Dot Public  
Schools Washington.

Washington State Charter Schools Association: Declaration of Thomas Franta, on behalf of Washington State  
Charter Schools Association.

1 **II. FACTS**

2 **A. The Student and Parent Intervenors**

3 The student and parent Intervenors are a diverse group. They have different racial,  
4 ethnic, and economic backgrounds. They live in different parts of Washington State. Some  
5 students have special needs. One parent has a daughter who currently attends a non-charter  
6 school, but he and his wife hope to place their child in a charter public school in an area currently  
7 lacking any charter public school options. *See* Decl. of Eduardo Pacheco. And before parent  
8 Natalie Hester’s daughter began attending Summit Sierra charter public school, she struggled in  
9 math to the point her teachers felt they had done all they could do. *See* Decl. of Natalie Hester,  
10 ¶¶ 4-5. In a charter public school setting, she is thriving and looks forward to school every day.  
11 *See id.*, ¶¶ 6-7. Ms. Hester worries if the Charter Public Schools Act is struck down, her  
12 daughter will lose this option that has so greatly benefited her daughter. *See id.* ¶14. Despite  
13 their different stories, however, all Intervenors are united in their conviction SB 6194 (the  
14 “Charter Public Schools Act” or “Act”) provides and protects the option for parents to send their  
15 children to public schools with high-quality, relevant, individualized, and culturally competent  
16 educational experiences. They also recognize if the Charter Public Schools Act is struck down,  
17 they will lose a choice that may represent a child’s best option for learning.

18 **B. The Charter Public School Intervenors**

19 The charter public school Intervenors are located in different parts of Washington State.  
20 They serve different communities with different needs and, under the Charter Public Schools  
21 Act, have the flexibility to tailor the educational experiences they offer students, on top of the  
22 basic educational experience all charter public schools provide. For example, Pride Prep founder  
23 and CEO Brenda McDonald worries that if the Charter Public Schools Act is struck down, there  
24 will be no more funding for the approximately 150 students who are thriving in Pride Prep’s  
25 project-based learning environment, many of whom also have individualized education programs  
26 to account for their special learning needs. *See generally* Decl. of Brenda McDonald. And Head  
27 of School for the Spokane International Academy notes that without the Charter Public Schools  
28

1 Act, the greater Spokane community would lose the only school with a global focus that  
2 emphasizes cultural understanding and empathy in all aspects of its instructional method. Decl.  
3 of Travis Franklin, ¶¶ 3-4. Without the Charter Public Schools Act, the charter public school  
4 Intervenor’s child- and community-oriented missions cannot be fulfilled. Indeed, it is certain  
5 that many will shutter or, at the very least, struggle to survive yet another attack on their  
6 existence.

7 **C. Charter Public School Support Organizations**

8 The Washington State Charter Schools Association (“WA Charters”) serves the public by  
9 providing accurate information about charter public schools and adding choice to children’s and  
10 their parent’s experiences with Washington State basic public education. WA Charters’ interests  
11 are similar to the interests of the charter public schools, and that organization will be similarly  
12 affected by the Court’s resolution of this case. WA Charters also provides a broader perspective,  
13 because it works to open charter public schools and ensure they continue operating effectively  
14 and efficiently.

15 **III. ARGUMENT**

16 **A. Intervenors are Entitled to Intervene Under CR 24(a)(2).**

17 Under CR 24(a)(2), the Court must allow Intervenor’s to intervene if: (1) their motion is  
18 timely; (2) they claim an interest which is the subject of the action; (3) they are so situated that  
19 deciding the case in Intervenor’s absence may, as a practical matter, impair or impede their  
20 ability to protect their interest; and (4) existing parties do not adequately protect Intervenor’s  
21 interest. *See* CR 24; *Spokane Cty. v. State*, 136 Wn.2d 644, 649, 966 P.2d 305 (1998).  
22 Intervenor’s meet all four criteria.

23 **1. Factor 1: Intervenor’s motion is timely.**

24 Intervenor’s timely filed their Motion to Intervene on or before the deadline for Defendant  
25 State of Washington’s answer in this matter. Intervention at this point would not unduly delay,  
26 prejudice, or create a hardship for the existing parties. *See Loveless v. Yantis*, 82 Wn.2d 754,  
27 759, 513 P.2d 1023 (1973). Thus, Intervenor’s motion is timely.

1           **2. Factors 2 and 3: Intervenors claim interests that are the subjects of this**  
2           **action, and their absence will impair or impede their ability to protect those**  
3           **interests.**

4           Intervenors claim several interests that are subjects of this action, including investment  
5 in, commitment to, and enrollment at charter public schools. These interests comprehend those  
6 protected by law and are direct and immediate, such that Intervenors stand to gain or lose by this  
7 Court’s judgment. *See Westerman v. Cary*, 125 Wn.2d 277, 303, 892 P.2d 1067 (1994).  
8 “Interest” under CR 24 must be interpreted broadly, and requires the Court to balance  
9 (1) Intervenors’ concerns for protecting their stakes; (2) the parties’ control of their lawsuit; and  
10 (3) the case’s efficient resolution. *See Dioxin/Organochlorine Ctr. v. Dep’t of Ecology*, 119  
11 Wn.2d 761, 779 n.65, 837 P.2d 1007 (1992). Intervenors’ intervention will not wrest the parties’  
12 control of the lawsuit from them, but it will allow Intervenors to protect what they have at stake  
13 here, and intervention will efficiently resolve the case by having the main stakeholders in one  
14 action presenting the spectrum of arguments that this case invites.

15           **a. This suit threatens to impair the Intervenor students’ and parents’**  
16           **interests in educational options that best fit their needs.**

17           When it comes to the question under CR 24(a)(2) whether disposition of this case “may  
18 as a practical matter impair or impede the person’s ability to protect” their interests, no one is  
19 closer to the heart of that inquiry than charter public school students and parents. And while the  
20 Attorney General has an interest in defending the constitutionality of any duly-enacted  
21 Washington statute, the interests of students and their parents go well beyond the constitutional  
22 inquiry.

23           The straight line from Plaintiffs’ requested relief to the impact on charter public school  
24 students and their parents is simple: (1) charter public schools are funded pursuant to the Charter  
25 Public Schools Act; (2) Plaintiffs ask this Court to declare that Act unconstitutional and enjoin  
26 its operation; (3) if the Court grants Plaintiffs’ requested relief, charter public schools will no  
27 longer be funded; and (4) if charter public schools are no longer funded under the Charter Public  
28 Schools Act, then the students and their parents may no longer have access to education options

1 that work for them. No one is better situated and more directly answers the call of the question  
2 presented under CR 24(a)(2) for intervention as of right than these students and their parents.

3           **b. This suit threatens to impair the intervenor organization’s interests in**  
4           **promoting, establishing, and operating charter public schools.**

5           The intervenor charter public schools and WA Charters are uniquely familiar with the  
6 law’s legislative history and intent. They operate charter schools and engage with existing  
7 charter public schools, programs, and educational experts across the nation. They invest  
8 significant resources in charter public schools, providing services and support once the schools  
9 open. It follows that Intervenor organizations have significant and unique involvement in charter  
10 public schools, which is an interest that this suit would directly and adversely affect if Plaintiffs’  
11 requested relief were granted. Indeed, enjoining charter public schools’ operation would gut the  
12 intervenor organizations’ investments in charter public schools and effectively end the  
13 organizations’ public interest missions in Washington.

14           **3. Factor 4: As the existing party, the State cannot adequately represent**  
15           **Intervenors’ interests.**

16           While the State serves a vital function as defender of this duly enacted legislation, it  
17 cannot adequately represent Intervenors’ unique interests as the organizations and individuals  
18 directly involved in charter public schools. Under CR 24(a)(2), only a minimal showing need be  
19 made that existing parties may not adequately represent potential intervenors’ interests. *See*  
20 *Columbia Gorge Audubon Soc’y v. Klickitat Cty.*, 98 Wn. App. 618, 629, 989 P.2d 1260 (1999).  
21 “The relevant questions are: [1] Will the [State] *undoubtedly* make *all* the [Intervenors’]  
22 arguments? . . . [2] Will the [Movants] more effectively articulate any aspect of its interest?” *Id.*  
23 at 630. In considering those questions, “it is not necessary that the intervenor’s interest be in  
24 direct conflict with those of the existing parties.” *Id.* To the contrary, “[i]t is only necessary that  
25 the interest may not be adequately articulated and addressed.” *Id.* Will the State undoubtedly  
26 make all the Intervenors’ arguments on the merits or otherwise? *Id.* Here, there is no such  
27 guarantee. Intervenors have more vital interests at stake even than upholding the

1 constitutionality of duly enacted legislation. Intervenors seek to promote, establish, and attend  
2 charter public schools. Intervenors’ unique perspectives mold the presentation and defense of  
3 their unique interests.

4 Intervenors meet CR 24(a)(2)’s adequacy of representation prong. “When in doubt,  
5 intervention should be granted.” *Columbia Gorge*, 98 Wn. App. at 630 (citation omitted).  
6 Because Intervenors are the very organizations and individuals with the most at stake, there is no  
7 doubt they are best situated to represent their particular interests in the Charter Public Schools  
8 Act.

9 **B. Alternatively, the Court Should Permit Intervention Under CR 24(b)(2).**

10 While the Court should grant Intervenors’ requested relief as of right, the Court at a  
11 minimum should exercise its broad discretion under CR 24(b)(2) and allow intervention in this  
12 case. Permissive intervention is allowed under CR 24(b)(2) where a non-party’s claim or  
13 defense and the main action have a question of law or fact in common. In the main action,  
14 Plaintiffs ask this Court to declare the Charter Schools Act unconstitutional and enjoin its  
15 operation. As organizations and individuals who create, staff, operate, attend, or are parents of  
16 those attending, charter schools, Intervenors will urge the Court to uphold the Charter School  
17 Act’s constitutionality and not to close their schools. While “exact parallelism between the  
18 original action and the intervention action is not required,” *State ex rel. Keeler v. Port of*  
19 *Peninsula*, 89 Wn.2d 764, 767, 575 P.2d 713 (1978), it is difficult to imagine more parallel and  
20 opposite interests than parties that seek to shutter charter schools and intervenors who seek to  
21 keep them open.

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1 **IV. CONCLUSION**

2 Because Movants satisfy CR 24’s criteria for intervention as of right, the Court should  
3 grant this motion. Alternatively, the Court should exercise its discretion and permit Intervenors  
4 to intervene.

5 Dated: August 23, 2016

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