No. 100039-1

**SUPREME COURT**
**FOR THE STATE OF WASHINGTON**

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ANTONIO HILL and ISAIAH IFANSE,

Petitioners,

vs.

WASHINGTON INTERSCHOLASTIC ACTIVITIES ASSOCIATION, a Washington non-profit Corporation,

Respondent.

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# RESPONDENT WASHINGTON INTERSCHOLASTIC ACTIVITIES ASSOCIATION'S ANSWER TO PETITION FOR REVIEW

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## I. INTRODUCTION

In 2015, the Washington Interscholastic Activities Association ("WIAA"), which regulates school athletics in Washington, conducted an investigation of suspected rule violations by Bellevue High School's ("BHS") football program, including regarding rules prohibiting athletes from using false addresses to gain eligibility and being offered or accepting benefits like free or reduced rent. The catalyst for that investigation was a *Seattle Times* article that reported specific instances of BHS football players using false address information and receiving rent assistance, private school tuition, or cash.

During the investigation, WIAA's investigators interviewed nine Bellevue High School students, including Petitioners Isaiah Ifanse and Antonio Hill, both then-BHS football players. The investigators asked Ifanse, Hill, and the other students questions about when they moved to Bellevue, where they lived, and if anyone had subsidized their living

expenses or athletic training—questions central to the allegations under investigation. Following the investigation, Bellevue School District ("BSD") admitted a number of violations and was sanctioned by WIAA.

Ifanse and Hill, who are African-American, sued WIAA for racial discrimination, claiming that the questions the investigators asked them were offensive and racially charged. The superior court dismissed Ifanse's and Hill's claims on summary judgment, and the Court of Appeals affirmed, holding that Ifanse and Hill failed to provide any evidence that WIAA's investigators treated them differently from other students because of their race.

Ifanse and Hill now seek review by this Court. They fail, however, to articulate any issues that meet the baseline criteria necessary for this Court to accept review under Rule of Appellate Procedure 13.4(b). Moreover, the Court of Appeals correctly affirmed the trial court's dismissal of Petitioners' claims in a

well-reasoned opinion based on well-settled law. WIAA therefore asks this Court to deny review.

## II. STATEMENT OF ISSUES

1. Have Petitioners asserted a cognizable basis for Supreme Court review under the limited criteria set forth in RAP 13.4(b)?
2. Did the Court of Appeals properly dismiss Petitioners' discrimination claims on summary judgment?

## III. CONTINGENT CROSS-PETITION STATEMENT OF THE ISSUES

If review is accepted, WIAA requests that the Court consider whether WIAA is immune from Petitioners' claims under RCW 4.24.510.

## IV. STATEMENT OF THE CASE

### A. The Investigation

In 2015, WIAA initiated an investigation into alleged athletics rule violations by BHS's football program, including: (1) residency requirements (which require athletes to live within their school's geographic boundaries and prevent the use of false

address information to gain athletic eligibility), and (2) a recruiting ban that prevents athletes from receiving or being offered special inducements, such as reduced tuition, room and board, or free or reduced rent. CP 2203, 2206-2223, 2282, 2316, 2338, 2582-85. WIAA retained two highly experienced outside investigators with decades each of investigative experience as federal prosecutors and in private practice, where they conducted multiple investigations for school districts. CP 2282-83, 2571-72, 2683-84. During the six-month investigation, the investigators interviewed more than 100 witnesses and reviewed extensive records. CP 2572, 2684.

### B. The List of Transfer Students and Requests for Interviews.

The investigators believed that students who relocated to Bellevue before attending BHS were most likely to have knowledge about potential recruiting and/or the use of false addresses. Therefore, they asked BSD for a list of transfer students. CP 2573, 2684-2685. When BSD refused to provide this information, the investigators created their own list of

potential transfer students, based not on race but instead on information they had gathered from a variety of sources, including *Seattle Times* articles, correspondence and tips received from third parties, and witness interviews. CP 2573, 2684-2685, 2589-91. The investigators provided the list to BHS, but BHS never provided any information or corrections to the list. CP 2573, 2589-91.

The investigators requested interviews with Ifanse and Hill because they had information suggesting that each had relocated to Bellevue before attending BHS and may have been involved in the rule violations at issue. CP 2573-75, 2685-86; *see also* CP 2691-2695, 2592-2594, 2596, 2597-2614, 2691-2716, 2615-17.

For example, the investigators received an anonymous tip letter suggesting that wealthy BHS football boosters were providing housing or false addresses for Ifanse and other players (a form of prohibited recruiting). CP 2685, 2573, 2691-2695. The investigators also received information, including from Hill's

brother's former football coach, indicating that Ifanse and Hill were living in Bellevue without their parents. CP 2573-74, 2685-86, 2592-2617, 2702, 2712-16.

Based on the information they had gathered, the investigators interviewed nine BHS students, including Ifanse, Hill and, Eron Kross (a former plaintiff in this lawsuit, who is Caucasian). Of the nine students interviewed, five were African-American and four were Caucasian. CP 2572-2573, 2577-78, 2682. Ifanse's, Hill's, and Kross's parents all consented to the interviews. CP 1541-42, 1696, 1743-45, 1754-55.

### C. The Interviews

Ifanse's and Hill's brief interviews took place on February 9 and 10, 2016. A parent of each petitioner and the BHS Athletic Director attended. CP 1432-33, 1908. The investigators asked Ifanse and Hill (and Kross) about (i) his family's decision to relocate to Bellevue; (ii) his family's address and living arrangements in Bellevue; (iii) his mother's occupation; and (iv) other BHS football players who relocated to Bellevue. CP 2575-

2576, 2686-2687, 2621-2638**,** 2204, 2226-2232, 2236-2239, 2717-2722, 2264-2277, 1433, 1483-84. The investigators asked about those topics to determine whether there had been recruiting or false address violations. CP 2575-77, 2686-88.

In addition to Kross, the investigators also interviewed three other Caucasian students, asking them, like Hill, Ifanse, and Kross, questions related to the student's background, address, and transfer to BHS. The investigators asked two of the Caucasian students how their families paid for athletic training, and covered topics with Caucasian students that may be subjectively perceived as "sensitive," including medical conditions and a rumored incident involving marijuana. CP 2576-2577, 2639-2647, 2687-88, 2723-2725. Similarly, the investigators interviewed the father of a Caucasian BHS football player, asking about his family's living arrangements, his occupation, and whether his family received any financial assistance. CP 2685, 2696-2702. The investigators also asked other witnesses, including an African-American witness,

whether that Caucasian family received financial assistance. CP 2577, 2655-2680, 2687-2688, 2726-2732. In addition, the investigators frequently asked witnesses about Caucasian students' potential involvement in WIAA rules violations. CP 2577, 2688. As with questions posed to Petitioners, the investigators asked those questions of and about Caucasian players because they were relevant to potential recruiting and false address violations. CP 2577, 2688.

### D. The Report and Findings

In March 2016, the investigators provided a written report to BSD detailing their findings, including regarding recruiting and false addresses. CP 2283, 2406-2484. BSD then self-reported various violations to WIAA, resulting in sanctions. CP 2283.

### E. Petitioners' Lawsuit and Appeal

In 2017, Hill, Ifanse, and Kross filed an action against BSD and WIAA, alleging that WIAA's and BSD's negligence in connection with the investigation caused them emotional

distress. CP 1251-1253. Hill and Ifanse also alleged that WIAA and BSD discriminated against them on the basis of race, citing both the Washington Law Against Discrimination ("WLAD") (specifically, RCW 49.60.030) and various statutes in RCW Ch. 28A.640 as the bases for their discrimination claim. CP 1252.

WIAA moved for summary judgment, arguing that Hill's, Ifanse's, and Kross's claims were barred by RCW 4.24.510 immunity and that, in any event, the negligence and discrimination claims failed as a matter of law. CP 1268-1297. In November 2018, the superior court dismissed BSD as a defendant and granted summary judgment for WIAA on the negligence claims but denied summary judgment on Hill's and Ifanse's discrimination claims against WIAA. CP 774-776, 1959-60. The trial court also denied an affirmative defense asserted by WIAA that it was immune under RCW 4.24.510. CP 774-76.

Later, and immediately prior to a trial scheduled in this case, the superior court, *sua sponte*, dismissed Hill's and Ifanse's

WLAD claims against WIAA, holding that WIAA was not a place of public accommodation. CP 970, RP 255. The court continued the trial and invited further summary judgment briefing on the sole remaining claims under RCW 28A. *Id.* WIAA then moved for summary judgment on the remaining RCW 28A claims, arguing that no cause of action for damages existed against it under RCW 28A, and that regardless, there was no evidence of discrimination based on race. CP 2167-2202. The trial court agreed and granted WIAA's motion on both grounds. CP 1228-1229; RP 282-83.

Hill, Ifanse, and Kross appealed. The Court of Appeals, reviewing *de novo*, affirmed the summary judgment dismissal of their claims against WIAA in an unpublished decision. On the discrimination claims, the Court held that Hill and Ifanse had failed to meet their burden of presenting evidence of disparate treatment based on race, a necessary element of their claim for discrimination under either the WLAD or RCW 28A. *Hill v. Washington Interscholastic Activities Ass'n,* 17 Wn. App. 2d

1043, 2021 WL 1854332, *6-8, n.21 (May 5, 2021). The Court determined that the record showed the investigators asked similar questions of all students, and that there was no evidence that race was a substantially motivating factor for the investigators' conduct. *Id.* In light of this holding, the Court did not reach WIAA's argument that no private cause of action existed against it under RCW 28A, nor whether WIAA could be considered a place of public accommodation under the WLAD. *Id*., n.21. The Court of Appeals also affirmed the superior court's dismissal of WIAA's RCW 4.25.510 immunity defense. *Id*., *3-4.

Ifanse and Hill now seek review of the dismissal of their discrimination claims. If the Court accepts review, WIAA asks that the Court also accept review of the Court of Appeals' dismissal of its RCW 4.24.510 immunity defense, which would provide an alternate basis for dismissal of Petitioners' claims.

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## V. ARGUMENT AND CITATION TO AUTHORITY

### A. There Are No Grounds for Review Under RAP 13.4(b).

Under RAP 13.4(b), a petition for review will **only** be accepted by the Supreme Court:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
>
> (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
>
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
>
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b) (emphasis added).

Ifanse and Hill have not identified any conflict between the Court of Appeals' decision and a Supreme Court decision or another decision of the Court of Appeals. Nor does this case involve questions of constitutional law. Therefore, RAP 13.4(b)(1)-(3) do not provide grounds for review. Nor is review

warranted under RAP 13.4(b)(4), because the petition does not involve "an issue of substantial public interest that should be determined by the Supreme Court."

1. WIAA is governed by the WLAD.

Ifanse and Hill contend that there "is no law in Washington as to whether the WIAA, which controls interscholastic activities for over 800 public and private schools in the state of Washington can discriminate in their actions." Pet. at 9. Read generously, they may be contending that their petition therefore involves an issue of substantial public interest. But they entirely misstate the law. WIAA is subject to the WLAD just like any other entity in Washington and has never claimed otherwise. *See, e.g.*, CP 1896; WIAA's Response to Appellants' Opening Brief at 3. For instance, WIAA could not engage in discriminatory employment practices without violating the WLAD.

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2. There is no substantial public interest involved in determining whether WIAA was acting as a place of public accommodation under the unique facts of this case.

Petitioners also argue that the Court should accept review to determine whether WIAA is a place of public accommodation, which is one of the required elements of a claim for discrimination in public accommodation under the WLAD. *See Floeting v. Grp. Health Coop.*, 192 Wn.2d 848, 853, 434 P.3d 39 (2019). Pet. at 1, 9, 10. Again, read generously, Petitioners may be contending that a "substantial public interest" is at issue. The Court, however, should decline this suggestion as a basis for accepting review.

At the outset, Petitioners' petition should be rejected, because they failed to raise this issue in their briefing to the Court of Appeals, and, in oral argument before the trial court, expressly denied that they were pursuing a claim for discrimination in a place of public accommodation. *See* RP 57-58 ("And so the context that I'm arguing clearly applies otherwise is the place of public accommodation. That is not relevant here.");

*Buchsieb/Danard, Inc. v. Skagit Cty.*, 99 Wn.2d 577, 581, 663 P.2d 487 (1983) ("We continue to adhere to our rule that, except as to issues of manifest error affecting a constitutional right, issues not raised at the trial court or the Court of Appeals cannot be raised for the first time before the Supreme Court.").

Moreover, whether a defendant is a place of public accommodation is generally a question of fact. *See Fell v. Spokane Transit Auth.*, 128 Wn. 2d 618, 639, 911 P.2d 1319 (1996). Whether an entity is a place of public accommodation also is a context-specific question, because an entity can be a place of public accommodation in one context but not another. *See Kral v. King Cty*., No. C10-1360-MAT, 2012 WL 726901, at *17–18 (W.D. Wash. Mar. 6, 2012) (holding that neither King County nor the Washington Association of Sheriffs and Chiefs of Police operated places of public accommodation "in relation to the specific claim at issue in this case," which was failure to provide accommodations to a deaf person for electronic home monitoring).

Here, the trial court held as a matter of law that WIAA was not a place of public accommodation in the context of Petitioners' claims and dismissed their WLAD claims on that basis. CP 970, RP 255. The Court of Appeals did not reach that issue, recognizing that Petitioners' claims would fail regardless, based on their inability to establish the third and fourth elements—*i.e.*, that "(3) the defendant discriminated against the plaintiff when it did not treat the plaintiff in a manner comparable to the treatment it provides to persons outside that class," and "(4) the plaintiff's protected status was a substantial factor that caused the discrimination." *See Floeting,* 192 Wn.2d at 853; *Hill,* 2021 WL 1854332 at *8, n.21. In other words, the trial court and the Court of Appeals applied the WLAD to WIAA just as they would have to any other entity in Washington, and the courts' rulings are unique to the facts of this case — and not a matter of substantial public interest.[1]

[1] Petitioners also raised both RCW 28A.640.040 and RCW 28A.600.200 as the statutory bases for their claims. While the

3. There is no substantial public interest inherently involved in discrimination claims.

Ifanse and Hill also argue that this Court should accept review because discrimination based on race is a "public interest issue." Pet. at 10. But the mere fact that the case involves allegations of discrimination on the basis of race is not sufficient, alone, to justify review under RAP 13.4(b), or review would be warranted in any case involving alleged discrimination.

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Court of Appeals did not reach this issue, the trial court held that these statutes did not create a cause of action against WIAA for alleged race discrimination, either individually or stitching them together in a patchwork way. Because the WLAD governs WIAA to the same extent as any other entity in Washington, the question of whether a discrimination cause of action for civil damages exists against WIAA under these other, rarely-litigated statutes is not an issue of substantial public interest. Further, to the extent more clarity regarding the interplay between these statutes, their applicability to non-school entities like WIAA, and the availability of a discrimination cause of action under them is desirable, it would be more appropriate for the legislature to weigh in and clarify its intentions. *See* RAP 13.4(b)(4) (providing that the Supreme Court will accept review only if "the petition involves an issue of substantial public interest that should be determined by the Supreme Court") (emphasis added); *Bain v. Metro. Mortg. Grp., Inc.*, 175 Wn.2d 83, 109, 285 P.3d 34 (2012) ("The legislature, not this court, is in the best position to assess policy considerations.").

Instead, this Court has indicated that "[a] decision that has the potential to affect a number of proceedings in the lower courts may warrant review as an issue of substantial public interest if review will avoid unnecessary litigation and confusion on a common issue." *In re Flippo*, 185 Wn.2d 1032, 380 P.3d 413, 413-14 (2016). That is not the case here. The Court of Appeals decided this case based on well-established law: to avoid summary judgment, Ifanse and Hill were required to produce evidence from which a reasonable jury could find both that WIAA did not treat them "in a manner comparable to the treatment it provides to persons outside that class," and that their "protected trait was a substantial factor motivating [WIAA's]" conduct. *Hill*, 2021 WL 1854332 at *6 (citing *Floeting*, 192 Wn.2d at 853-54, and *Scrivener v. Clark Coll.*, 181 Wn.2d 439, 445, 334 P.3d 541 (2014)). They failed to meet this burden. As discussed in more detail below, the Court's decision was correct.

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### B. The Superior Court and Court of Appeals Correctly Dismissed Ifanse's and Hill's Discrimination Claims.

As the Court of Appeals correctly held, Petitioners failed to provide evidence of disparate treatment based on race. This is essential to their discrimination claims, whether based on the WLAD or RCW 28A.

Petitioners focus heavily on the list of potential transfer students created by WIAA's investigators, arguing that the investigators intentionally created it based on race. This argument is misplaced.

First, and most importantly, the list is not evidence of disparate treatment, without which Petitioners' claims fail. Ifanse and Hill conceded below that their claim is not based on being asked for an interview, but rather on the investigators' alleged treatment during their interviews. *Hill*, 2021 WL 1854332, *7; RP 33:3-6. Further, WIAA provided undisputed evidence about why the investigators asked to interview Ifanse and Hill—not because of race, but because of information they had gathered

from sources suggesting that Ifanse and Hill would have first-hand knowledge relevant to the allegations being investigated. CP 2573-75, 2685-86; *see also* CP 2691-2695, 2592-2594, 2596, 2597-2614, 2691-2716, 2615-17.

Nor is the list evidence of a discriminatory motive. As the Court of Appeals recognized, Petitioners' arguments are based entirely on unsupported assertions and inadmissible evidence. *Hill*, 2021 WL 1854332 at *7 ("Hill and Ifanse offer no evidence that the investigators compiled the initial list of transfer students or requested interviews based on race."). The only *admissible* evidence in the record about the list is WIAA's evidence about how and why the investigators created the list—not based on race, but based on educated guesses about who was a transfer student, in light of the fact that BSD would not provide that information. CP 2573, 2684-2685, 2589-91. Based on this undisputed evidence, the list is not evidence that the investigators harbored any racial bias or intent to discriminate.

Petitioners also argue that the Court of Appeals overlooked evidence of discrimination. Pet. at 12-16. Contrary to their assertion, however, the appellate court did not "ignor[e] the content of the interviews," but carefully considered the record and concluded that "the investigators asked all of the players similar questions about the same topics regardless of race," that there was no evidence that "race was a substantial factor motivating the investigators to ask" questions, and that "Hill and Ifanse produced no evidence in support of their allegation that the investigators were disproportionately rude and aggressive to them because of their race." *Hill*, 2021 WL 1854332 at *7-8.

Petitioners argue that "discrimination . . . can also include the timing, manner, tone, body language, eye contact, and subtleties that may not come through in just written questions." Pet. at 12-13. But there is no evidence in the record of such differences in treatment by the investigators. Petitioners' only admissible comparator evidence was the deposition testimony of former plaintiff Kross, who is Caucasian, and who

also alleged that the investigators were too aggressive with him. CP 2278-79. Petitioners submitted no evidence from the other three white students the investigators interviewed. On the other hand, WIAA's undisputed evidence showed that the investigators asked Kross and those students, like Ifanse and Hill, questions related to their living arrangements, the payment of certain expenses, and other "sensitive" or socioeconomically related questions. *See supra* at 8-10. Relatedly, the investigators frequently asked witnesses questions *about* Caucasian students' living arrangements, payment of certain expenses, and potential involvement in WIAA rules violations. *See supra* at 9-10. To the extent there were minor differences in the questions the investigators asked each student, WIAA provided evidence of legitimate, non-discriminatory reasons explaining the differences, just as the Court of Appeals recognized (e.g., the investigators had learned that Hill's mother was absent from the state of Washington, which prompted legitimate questions about her contacts with her son). *Hill*, 2021 WL 1854332 at *7.

Moreover, *de minimis* differences in wording or demeanor would not constitute actionable discrimination. The test for discrimination in a public accommodation case is objective:

> [I]t is not enough that some hasty, chance or inadvertent word or action may offend or even make one feel unwelcome. … Rather, the test is objective and requires a finding of a particularized kind of treatment, consciously motivated or based upon the person's race or color.

*Evergreen Sch. Dist. No. 114 v. Washington State Human Rights Comm'n, on Behalf of Johnson*, 39 Wn. App. 763, 772-73, 695 P.2d 999 (1985), *opinion modified on denial of reconsideration* (Mar. 11, 1985) (holding that teacher's isolated racially insensitive comment did not constitute discrimination); *see also Floeting*, 192 Wn.2d at 858 ("stress[ing]" that plaintiffs asserting discrimination in public accommodation must show more than "mere rhetoric that is subjectively offensive"). In other words, even if there were evidence of subtle differences in the way the investigators engaged with students during their

interviews, which there is not, such differences would not rise to the level of actionable discrimination.

In addition, Petitioners' suggestion that even if words "have a legitimate purpose" they can be racially discriminatory misstates the law. Pet. at 11, 12. To prove discrimination under the WLAD, a plaintiff must show both disparate treatment and that the disparate treatment *was motivated by the plaintiff's protected status*; that is, that the protected status was a "substantial factor" that caused the discrimination. *Floeting*, 192 Wn. 2d at 853–54. To avoid summary judgment, Ifanse and Hill were required to produce evidence from which a reasonable jury could find that their "protected trait was a substantial factor motivating" WIAA's conduct. *Hill*, 2021 WL 1854332 at *6. They failed to meet this burden, and their claims were properly dismissed.

Because the Court of Appeals' decision was sound, and, further, because no grounds for review under RAP 13.4(b) exist,

this Court should decline to accept Petitioners' request for review.

### C. WIAA is Entitled to Immunity Under RCW 4.24.510.

If review is accepted, WIAA requests that the Court consider whether WIAA is entitled to RCW 4.24.510 immunity. Under RCW 4.24.510 ("Section 510"), a "person who communicates a complaint or information to any branch or agency of … local government … is immune from civil liability for claims based upon the communication to the agency or organization regarding any matter reasonably of concern to that [local governmental entity]."

WIAA is a "person" entitled to protection under Section 510, as recognized by the Court of Appeals. *See Hill*, 2021 WL 1854332 at 3 n.10 (citing *Leishman v. Ogden Murphy Wallace, PLLC*, 196 Wn.2d 898, 479 P.3d 688 (2021) (holding that a nongovernmental organization or corporation is a "person" under Section 510 because it has free speech rights). Further, the investigative report WIAA provided to BSD was a

communication regarding a matter reasonably of concern to BSD, a local government entity.

The only remaining question is whether Ifanse's and Hill's claims are "based upon" that communication. The Court of Appeals held that they are not, but that was error. Under *Dang v. Ehredt*, 95 Wn. App. 670, 977 P.2d 29 (1999), and *Leishman,* allegations that "stem from" the covered communication, such as a "cause of action based on the method of arriving at the content of the communication," are "based upon" the communication. *See Dang*, 95 Wn. App. at 683-84; *see also Leishman*, 196 Wn.2d at 910-11. Thus, in *Dang*, the defendant bank was immune from plaintiff's claims stemming from the bank's retention of her driver's license and attempt to keep her in the bank while it called the police to report suspected counterfeiting (the covered communication), not just from claims stemming from the call to the police itself (such as defamation). *Dang,* 95 Wn. App. at 681-82, 685. And in *Leishman*, the defendant law firm was immune from plaintiff's claims stemming not only from its investigative

report to the plaintiff's employer following a workplace investigation (the covered communication), but also from claims stemming from the law firm's "conduct during the investigation." *Leishman*, 196 Wn.2d at 910-11. The *Leishman* Court held that the plaintiff's claims regarding the defendant's "conduct during the investigation [were] the starting point or foundation of the communication to the government agency," and the complaint was "based upon" that communication. *Id*. at 911.

Here, as in *Leishman*, Petitioners' claims are based on the conduct of an investigation leading to a covered communication and are therefore "based upon" the communication; like the defendant in *Leishman*, WIAA is immune from Petitioners' claims under Section 510.

## VI. CONCLUSION

WIAA requests that the Court decline Petitioners' request for review. However, if the Court accepts review, WIAA

requests that the Court also consider whether WIAA is entitled to immunity under RCW 4.24.510.

I certify that this response contains 4,313 words in accordance with RAP 18.17(c)(10).

RESPECTFULLY SUBMITTED this 15th day of September, 2021.

**CALFO EAKES LLP**

By */s/Angelo J. Calfo*
Angelo J. Calfo, WSBA #27079

*Attorneys for Respondent*
*Washington Interscholastic Activities Association*

## CERTIFICATE OF SERVICE

I, Lixi Aylin Colmenero, certify and state as follows:

1. I am a resident of the State of Washington; I am over the age of 18 years and not a party of the within entitled cause. I am employed by the law firm of Calfo Eakes LLP, whose address is 1301 Second Avenue, Suite 2800, Seattle, WA 98101.

2. I caused to be served upon counsel of record at the addresses and in the manner described below, on September 15, 2021, the foregoing document.

| | | |
|---|---|---|
| **SMYTHE & JONES PLLC**<br>Marianne K. Jones, WSBA #21034<br>Jordan E. Jones, WSBA #52951<br>11819 NE 34th Street<br>Bellevue, WA 98005<br>(425) 576-8899 \| Phone<br>Email: mkj@smythejones.com<br>jej@smythejones.com | [ ]<br>[ ]<br>[ ]<br>[ ]<br>[X]<br>[X] | U.S. Mail<br>Legal Messenger<br>Federal Express<br>Via Facsimile<br>Via E-mail<br>Via E-File |

*Counsel for Appellants*

I hereby declare under penalty of perjury and the laws of the State of Washington that the foregoing is true and correct.

///

DATED at Seattle, Washington, this 15th day of September, 2021.

*s/Lixi Aylin Colmenero*
Lixi Aylin Colmenero

# CALFO EAKES LLP

## September 15, 2021 - 12:34 PM

## Transmittal Information

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