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SUPREME COURT  
STATE OF WASHINGTON  
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No. 100817-1

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SUPREME COURT OF THE STATE OF WASHINGTON

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PETER BAWDEN,

Plaintiff-Appellant,

v.

SEATTLE PUBLIC SCHOOLS,

Defendant-Respondent,

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ANSWER TO PETITION FOR REVIEW

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## **I. IDENTITY OF RESPONDENT**

Seattle School District No. 1, informally referred to by appellant as Seattle Public Schools, is the respondent.

## **II. CITATION TO COURT OF APPEALS DECISION**

The Court of Appeals unpublished unanimous decision filed on January 31, 2022 is attached to *pro se* appellant Peter Bawden's petition for review as Appendix A-2 to A-7. The Court of Appeals March 9, 2022 order denying Mr. Bawden's motion for reconsideration is attached to the petition for review as Appendix A-8.

## **III. COUNTER-STATEMENT OF THE ISSUE PRESENTED FOR REVIEW**

Should Mr. Bawden's petition for discretionary Supreme Court review be denied because he fails to allege or show that any of the four grounds for accepting review set forth in RAP 13.4(b) are met?

Mr. Bawden's petition states the issue presented for review is whether the "Appellate Court Judge incorrectly stated

the complaint of the Appellant in the Judge's Opinion." *See* Petition for Review, p. 4.

#### **IV. STATEMENT OF THE CASE**

##### **A. Case Overview**

This case arises under RCW 28A.645.010, which gives courts appellate jurisdiction over local school officials' decisions. Appellant Peter Bawden was a teacher employed by respondent Seattle School District ("the District"). He claims an unfavorable job performance evaluation he received violated the District's internal policy prohibiting harassment, intimidation and bullying ("HIB"). Following administrative review, the District determined unfavorable performance evaluations do not constitute HIB under the District's policy.

On judicial review of this final administrative decision, the superior court affirmed the District's decision that Mr. Bawden's unfavorable performance evaluation did not violate the District's HIB policy. Prior to issuing its ruling, the superior court denied two motions to compel brought by Mr. Bawden

seeking to supplement the administrative record compiled by the District and certified to be correct pursuant to RCW 28A.645.020.

The Court of Appeals ruled that the superior court did not abuse its discretion when denying Mr. Bawden's motions to compel supplementation of the administrative record and correctly determined that Mr. Bawden failed to carry his burden to show the District acted contrary to law, or arbitrarily and capriciously, by deciding that his unfavorable job performance evaluation did not violate the District's policy against HIB.

### **B. Relevant Facts and Procedural History**

The Court of Appeals decision accurately describes the material facts and procedure below. For more detail, the District provides the following summary with citations to the administrative record.

On April 24, 2020, Mr. Bawden had a conference with the Franklin High School principal to discuss his 107-page annual job performance evaluation. *See* Transcript of Evidence ("TE")

filed with this Court, pp. 000527 - 000633.<sup>1</sup> The evaluation rated Mr. Bawden's performance as "basic" in three categories, and "proficient" in three other categories; he was not rated as "unsatisfactory" in any categories. *Id.* Mr. Bawden filed a written complaint on April 28, 2020 alleging the portions of his performance evaluation rating him as "basic" constituted HIB by his evaluator, the school principal. TE 000524 – 000526.

HIB complaints are governed by the District's Policy No. 5207 (TE 000799 – 000800) and Superintendent Procedure 5207SP (TE 000801 – 000805). The policy provides that statements or acts are considered to be HIB only if they physically harm someone, substantially interfere with the work environment, are so severe and pervasive they create a threatening work environment, or substantially disrupt the

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<sup>1</sup> The administrative record of challenged school district decisions is referred to in RCW 28A.645.020 as the "transcript of the evidence." The District thus uses that statutory designation, abbreviated as "TE" and cites to individual pages of the TE using the pagination found in the lower right corner of each page of the TE. The District's supplemental designation of Clerk's Papers resulted in the TE being filed in the Court of Appeals under Sub No. 11 (the initial TE certified by the District to be correct on August 28, 2020) and Sub No. 16 (the supplemental TE certified by the District to be correct on September 17, 2020).

orderly operation of the workplace. TE 000799.

Pursuant to the District's policy and procedure, Mr. Bawden's HIB complaint was first administratively reviewed by the District's Human Resources Manager for Labor and Employee Relations, Patrice Debe. TE 000634 – 000635.

Patrice Debe concluded as follows:

I conclude that each assertion you've made would not support a violation of the District's Harassment, Intimidation and Bullying Policy if proven true but instead supports reasonable actions expected of supervisors. Negative evaluation ratings or negative general feedback can be stressful and hard to hear, but that does not transform the comments or evaluative ratings into a HIB violation.

TE 000634.

As permitted by the District's policy and procedure, Mr. Bawden sought further review of this decision by appealing to the District's Chief Human Resources Officer, Dr. Clover Codd. TE 000636 – 000637. After an independent review, Dr. Codd concurred with Patrice Debe's conclusion in a final written decision dated July 13, 2020. TE 000638 – 000640.



Mr. Bawden was notified he could seek judicial review of Dr. Codd's final decision pursuant to chapter 28A.645 RCW. TE 000640. He timely filed a petition for judicial review on August 7, 2020 seeking review of Dr. Codd's decision that an unfavorable performance evaluation is not a prohibited form of HIB. *See* CP 1-7 (Mr. Bawden's Petition for Review, which identifies and attaches Dr. Codd's July 13, 2020 decision as the decision at issue on judicial review).

The District filed the certified Transcript of Evidence in this matter pursuant to RCW 28A.645.020 on August 31, 2020. *See* Sub No. 11 in the District's Supplemental Designation of Clerk's Papers. At Mr. Bawden's request, the District filed a supplemental certified Transcript of Evidence on September 18, 2020 that included a consulting teacher's notes regarding Mr. Bawden's performance evaluation, as well as several additional emails and attachments. *See* Sub No. 16 in the District's Supplemental Designation of Clerk's Papers.

On October 9, 2020, Mr. Bawden moved unsuccessfully

for an order compelling the District to further supplement the certified transcript of evidence. CP 43-46. Specifically, he sought an order compelling the District to certify that “exit tickets” the District had not retained as “artifacts” to his performance evaluation are correct and were relied upon by the District when making the challenged decision that he was not a victim of HIB. *See id.* He also sought to compel the District to certify as correct “curriculum materials” he claims the Office of the Superintendent of Public Instruction (“OSPI”) created. *See id.* Mr. Bawden attached both the “curriculum materials” and “exit tickets” to his petition for judicial review so they were already part of the record on judicial review. *See* CP 8-34.

Mr. Bawden’s first motion to compel was denied on October 23, 2020. CP 45-46. Mr. Bawden moved a second time to compel the District to supplement the record with the same materials he requested in his first motion to compel, which was denied on November 9, 2020. CP 48-51.

Nowhere in Patrice Debe’s or Dr. Codd’s respective

written decisions is there any indication either of them relied on the material Mr. Bawden sought to compel the District to certify as correct and as being related to the challenged decision that an unfavorable performance evaluation does not constitute HIB under the District's policy. *See* TE 000634 – 000635; 000638 – 000640; RP 14-15, 18-19.

Mr. Bawden and the District filed briefs on the merits before the judicial review hearing. CP 53-71. Following oral argument on January 29, 2021, the trial court, sitting in its appellate capacity, affirmed the District's decision that an unfavorable performance evaluation is not a prohibited form of HIB. CP 72; RP 7-20. On February 22, 2021, Mr. Bawden timely appealed the trial court's final ruling. CP 75-79.

The Court of Appeals affirmed the trial court's ruling in an unpublished opinion. *See* Petition for Review, at Appendix A-2 to A-7. The Court of Appeals denied Mr. Bawden's motion for reconsideration. *See id.*, at Appendix A-8.

## V. ARGUMENT

As a pro se litigant, Mr. Bawden is held to the same standard as an attorney and must comply with all procedural rules on appeal. *In re Marriage of Olsen*, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). Among these rules is RAP 13.4(c)(7), which requires appellants to provide “[a] direct and concise statement of the reason why review should be accepted under one or more of the tests established in section (b), with argument.” Arguments that are not supported by proper references to the record and citation to pertinent authority need not be considered. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

Mr. Bawden’s argument for why review should be accepted consists of one paragraph comprised of four sentences on page 12 of his petition for review, culminating with the following grammatically incorrect sentence: “The Petitioner’s argument why review should be accepted is that reading the Judges Opinion is apparent evidence that the facts and evidence

provided by the Petitioner were not considered when making the Judges ruling.”

This argument fails to address or show that Mr. Bawden’s petition meets any of the four tests established in RAP 13.4(b) for accepting discretionary Supreme Court review. Mr. Bawden does not claim, nor could he, that the Court of Appeals decision conflicts with any decisions of this Court or the Court of Appeals, or that any questions of constitutional law are involved. He also fails to claim or show his petition involves an issue of substantial public interest that should be determined by this Court. Therefore, Mr. Bawden’s petition for review should be denied.

Additionally, Mr. Bawden cites no cases or other authorities in support of his argument. Several of his factual allegations are not supported by citations to the record. The complete lack of any citations to pertinent legal authorities and frequent failures to properly cite the record below should also doom Mr. Bawden’s petition. *See id.*

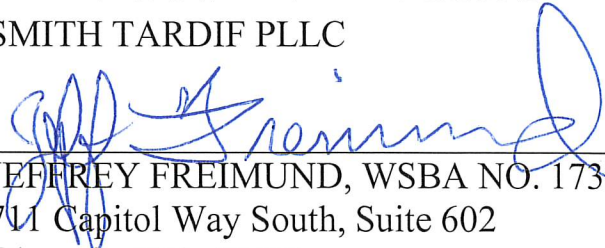
## VI. CONCLUSION

For the reasons set forth above, Mr. Bawden's petition for discretionary Supreme Court review should be denied. Mr. Bawden fails to show any of the tests set forth in RAP 13.4(b) are met.

The undersigned certifies this brief consists of 1,671 words in compliance with RAP 18.17(c)(10), permitting 5,000 words.

RESPECTFULLY SUBMITTED this 9th day of May, 2022.

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**CERTIFICATE OF SERVICE**

On said day below, I caused to be served true and correct copies of the Seattle School District's *Answer to Petition for Review* on the following individual in the manner indicated:

Peter Bawden  
16016 NE 26th St.  
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[peterbawden@hotmail.com](mailto:peterbawden@hotmail.com)

U.S. Mail Postage Prepaid  
 ABC/Legal Messenger  
 E-mailed per E-Service Agreement

I declare under penalty of perjury under the laws of the state of Washington and the United States that the foregoing is true and correct.

DATED this 9th day of May, 2022, at Olympia, Washington.

  
\_\_\_\_\_  
NATASHA CEPEDA

**FREIMUND TARDIF, PLLC**

**May 09, 2022 - 3:17 PM**

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