

FILED
SUPREME COURT
STATE OF WASHINGTON
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NO. 1040822

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

From Court of Appeals No. 868462 – Div I

M.G., SAMANTHA GERLACH and SUZANNE GERLACH,

Appellants,

v.

BAINBRIDGE ISLAND SCHOOL DISTRICT #303, a
municipal corporation; WASHINGTON STATE HOSA, a non-
profit corporation, NASZYA BRADSHAW an individual,
ELEANOR WILSON an individual AND DOES 1-100.,

Respondents.

RESPONDENT WASHINGTON STATE HOSA'S
ANSWER TO PETITIONERS' SUPPLEMENT TO
THE PETITION FOR REVIEW

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I. ANSWER

Washington State HOSA hereby opposes Petitioners' request to supplement the record. Petitioners are seeking to supplement the record to add "additional authorities and evidence." Petitioners fail to cite any rule of appellate procedure under which they allege their general petition falls, leaving the parties to again have to make assumptions and best guesses regarding Petitioners' bases. The only reference Petitioners made was to RAP 9.11 which they only reference in a heading above the section on the Appendixes. As this Court has stated that the briefing will be treated as motion to supplement, HOSA will address the various rules of appellate procedure that may be applicable. Petitioners failed to meet the requirements to supplement the record as set forth in RAP 9.10, 9.11, and 10.8.

The record before the Court was not insufficient in any way as to prevent the Court from making a decision on the merits of the issues presented for review. All the issues related to the dismissal of HOSA have been fully briefed at the trial court and appellate levels. RAP 9.10 permits a party to supplement the record where "the record is not sufficiently complete to permit a decision on the merits of the issues presented for review." Where such condition is met, RAP 9.10 thereby allows the party to supplement with additional clerk's papers and exhibits or correction and/or supplementation of the report of proceedings. Accompanying the supplement, there must be a designation of clerk's papers or a statement of arrangements. The additional information Petitioners provided in Petitioners' Additional Authorities and Evidence to the Washington State Supreme Court do not relate to any fact at issue in the present appeal. In fact, the additional information appears to relate entirely to another matter which involves a public records request made to the Bainbridge School District. Further, none of the technical procedural elements of RAP 9.10 have been met by Petitioners.

Petitioners similarly fail to meet the requirements of RAP 9.11. RAP 9.11 permits the appellate court to request additional evidence on the merits of the case. Here, the Court never requested Petitioners file any such additional evidence. Even if this requirement could be ignored, which it should not, none of the alleged additional evidence Petitioners supplied relates in any way to the merits of this case. The additional “facts” that Petitioners are trying to introduce are letters they provided to the Court regarding an unrelated public records appeal and a comment regarding judges’ children. Neither “fact” has any bearing on this litigation. Petitioners’ mere conclusory statements that the COA is unfairly prejudiced against them is not supported by any facts before this Court. None of the subsections of RAP 9.11(a)(1)–(6) are applicable to the information Petitioners seek to add to the record.

Even if this Court permitted entry of these “additional authorities and evidence” into the record of the Petition for Review, the information provided in Petitioners’ briefing is irrelevant and does not change any of HOSA’s arguments provided in Washington State HOSA’s Response to Petitioner for Review, filed on May 27, 2025. First, Petitioners do not actually cite to any additional authorities. As the Court can see, Petitioners do not provide any citations to any case law that has been issued since the filing of its original Petition for Review. In fact, there are no citations to any cases regardless of publication date. Since no new authorities were provided, the requirements for RAP 10.8 have not been met by Petitioners.

Second, the “new evidence” that Petitioners refer to are unrelated to the present Petition. This new evidence is drawn from a public records act issue brought by Petitioners against Bainbridge School District. Appendix A of Petitioners’ Additional Authorities and Evidence to the Washington State

Supreme Court is a June 23, 2025 letter from Attorney Gerlach to the Court of Appeals regarding a decision on redactions to and production of documents in response to a public records request. Appendix B is a July 21, 2025 letter from Attorney Gerlach to the Court of Appeals regarding a hearing date for the issue addressed in Appendix A. Appendix C is an August 18, 2025 letter from Attorney Gerlach to the Court of Appeals regarding the same issue outlined in Appendix B. These documents are clearly outside the scope of review being sought in the present litigation. Gerlach's arguments are therefore irrelevant to issues currently before this Court and should not be considered.

For the foregoing reasons, Washington State HOSA respectfully requests this Court deny Petitioners' motion to supplement the petition for review.

I certify that this brief contains 771 words, in compliance with RAP 18.17(c)(10).

DATED this 27th day of August, 2025.

NORTHCRAFT BIGBY DANIELS PC

/s/ Aaron D. Bigby

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Attorney for Respondent
Washington State HOSA

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2025, I electronically filed the foregoing with the Clerk of the Court using the E-Filing system which will send notification of such filing to the registered email address(es) for the following parties:

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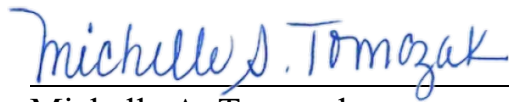
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DATED this 27th day of August, 2025, in Woodburn, Oregon.



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Transmittal Information

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