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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

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.

No.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

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I. INTRODUCTION

1. In *League of Women Voters v. State*, 184 Wn.2d 393, 405, 355 P.3d 1131 (2015), the Washington Supreme Court ruled that Initiative 1240’s (“I-1240’s”) privately operated charter school system violated the Washington Constitution and struck down the measure in its entirety. In particular, the Court held that charter schools are not common schools within the meaning of article IX because, *inter alia*, “charter schools under I-1240 are run by an appointed board or nonprofit organization and thus are not subject to local voter control[.]” The Court further held that I-1240 unconstitutionally diverts restricted common school moneys to charter schools. *Id.* at 408-10.

2. The legislature passed Engrossed Second Substitute Senate Bill 6194, Laws of 2016, ch. 241 (“Charter School Act” or “Act”), in response to *League of Women Voters* to continue the unconstitutional diversion of public funds to charter schools established under I-1240 and to authorize the creation of 40 additional charter schools over the next five years. The Charter School Act essentially reenacts I-1240’s private charter school system. Under the Act, charter schools continue to be run by and responsible to non-profit companies and non-elected boards and, thus, are not accountable to taxpayers who provide funding for charter schools. Likewise, the Act continues the unconstitutional diversion of public funds to charter schools.

3. Additionally, with respect to the charter schools that commenced operations for the 2015-16 school year, charter schools continued to receive public funds after *League of Women Voters* in violation of the Constitution by allegedly operating as Alternative Learning Experiences, or “ALEs,” even though these charter schools do not

1 qualify as ALEs under the requirements of chapter 28A.232 RCW. Moreover, under the
2 Charter School Act, the charter schools operating as ALEs may be converted back to
3 publicly funded charter schools.

4 4. The Washington Supreme Court already has determined, in *McCleary v.*
5 *State*, 173 Wn.2d 477, 539, 269 P.3d 227 (2012) and subsequent orders, that the State is
6 failing to satisfy its paramount duty to make ample provision for public education and has
7 ordered the legislature to fully fund basic educational programs by 2018. In August 2015,
8 the Court held the legislature in contempt after it repeatedly failed to provide a plan to
9 comply fully by the 2018 deadline. The Charter School Act interferes with the state's
10 progress toward compliance by diverting common school funds to private non-profits in
11 violation of the Constitution.
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13 5. Like I-1240, the Charter School Act is another unconstitutional effort to
14 create an alternative school system to the common schools system that serves the same
15 population as common schools and is funded on the exact same basis as common schools.
16 Because the Charter School Act does not resolve the constitutional defects identified by
17 the Supreme Court in *League of Women Voters*, impedes the State's ability to fund public
18 education as required by *McCleary*, and otherwise violates rights as outlined below,
19 Plaintiffs seek declaratory and injunctive relief against the State to declare the Charter
20 School Act unconstitutional, to prevent its implementation, and to prevent the
21 unconstitutional and unlawful diversion of public funds to charter schools through their
22 operation as ALEs.
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1 **II. PARTIES**

2 6. Plaintiff El Centro de la Raza (“ECDLR”) is a Washington non-profit
3 corporation that advocates on behalf of the Latino community. ECDLR’s principal place
4 of business is in Seattle, Washington. Through civic involvement, grassroots organizing,
5 and political and social activism, ECDLR seeks to ensure that every child in the state is
6 offered an equal and adequate education. ECDLR works and has members throughout the
7 state. ECDLR’s members include taxpayers who are parents of students in the State’s
8 public school system, teachers, and other school employees. For example, Alex Bautista
9 has worked for and with ECDLR for many years. Mr. Bautista’s two children attend
10 Seattle Public Schools in King County^[A1], Washington. Mr. Bautista also has worked
11 with and at public schools in King County for more than 15 years, including working at
12 Denny International Middle School, Chief Sealth International High School, Ballard High
13 School, and the Seattle World School. ECDLR represents Mr. Bautista’s and its other
14 supporters’ desire to create a stronger public education system in the state through its
15 advocacy and lobbying, including by its participation in this action. The Charter School
16 Act harms ECDLR and its members because the law unconstitutionally spends state funds
17 that are restricted to benefit the State’s common schools and creates separate educational
18 systems that provide unequal educations, rather than strengthening the existing public
19 school system.
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23 7. Plaintiff the League of Women Voters of Washington (“League”) is a
24 statewide, nonprofit, nonpartisan organization that encourages informed and active
25 participation of citizens in government and influences public policy through education and

1 advocacy. The League's principal place of business is in Seattle, Washington. Founded
2 in 1920, the League includes 20 local chapters throughout the state and has developed a
3 reputation for thorough study and building consensus before taking action. Among other
4 activities, the League promotes and lobbies for legislation and policy that is consistent
5 with the Washington Constitution and that furthers the League's goals and the interests of
6 its members. The League's members include taxpayer citizens who are committed to a
7 representative government that maintains an equitable and flexible taxation system. The
8 Charter School Act harms the League and its members because it is an unconstitutional
9 act and because it deprives them of their right to elect representatives to oversee the
10 spending of their taxes on public education. The League seeks to prevent the further
11 expenditure of taxpayer money to implement the unconstitutional Charter School Act.
12

13
14 8. Plaintiff Washington Association of School Administrators ("WASA") is
15 an organization open to all professional school administrators. WASA is a Washington
16 non-profit organization, with its principal place of business located in Olympia,
17 Washington, and has more than 1,600 taxpayer members across the state. WASA is
18 committed to leadership in providing equity and excellence in student learning;
19 developing competent, ethical, and visionary educational leaders; and promoting
20 community and legislative support for education. WASA has adopted several goals and
21 action steps to advance the interests of its members, including to "in a unified, persistent
22 voice hold the Legislature accountable for delivering on the State's 'paramount duty' to
23 provide ample funding for all K-12 children consistent with the Supreme Court's
24 *McCleary* ruling." WASA further represents its members' interests in creating a stronger
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1 public education system in the state through its advocacy and lobbying, including by its
2 participation in this action. The Charter School Act harms WASA and its members by
3 diverting already deficient funds away from the common school system to charter schools
4 and by undermining collective bargaining through improperly adopted restrictions on
5 collective bargaining and bargaining units.
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7 9. Plaintiff Washington Education Association (“WEA”) is a Washington
8 non-profit corporation that represents the interests of its approximately 89,000 taxpayer
9 members across the state. WEA’s principal place of business is in Federal Way,
10 Washington. WEA’s mission is to advance the professional interests of its members in
11 order to make public education the best it can be for students, staff, and communities.
12 WEA’s goal is to build confidence in public education and increase support for the State’s
13 public school system. WEA works and has members throughout the state. WEA
14 members include state public school teachers and other staff members, as well as parents
15 of students in the State’s public school system. WEA represents its members’ interests in
16 creating a stronger public education system in the state through its advocacy and lobbying,
17 including by its participation in this action. The Charter School Act harms WEA and its
18 members by diverting already deficient funds away from the common school system to
19 charter schools and by undermining collective bargaining through improperly adopted
20 restrictions on collective bargaining and bargaining units.
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23 10. Plaintiff Wayne Au, Ph.D., is an educator and education advocate who
24 focuses on issues of educational equity, curriculum theory, educational policy, and social
25 justice. Dr. Au resides in Seattle, King County, Washington. He has a Ph.D. in

1 Curriculum & Instruction from the University of Wisconsin, Madison, with a major in
2 Curriculum Theory and minor in Education Policy Studies. He earned his B.A. and
3 Masters in Teaching from the Evergreen State College and is a graduate of Garfield High
4 School in Seattle. He previously taught social studies and language arts at Garfield High
5 School and taught at Middle College High School, a high school for dropout recovery, in
6 the Seattle School District. Dr. Au has conducted extensive research regarding and
7 analysis of the performance of charter schools and their failure to provide an equal
8 education to students from a variety of backgrounds. Dr. Au is a Washington taxpayer
9 who has a strong interest in ensuring that Washington maintains a strong and well-funded
10 public education for students of diverse backgrounds. The Charter School Act harms Dr.
11 Au's efforts because the Act creates a separate and unequal charter school system, rather
12 than strengthening the existing public school system, and unconstitutionally expends state
13 funds that are restricted to benefit the State's common schools.
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16 11. Plaintiff Pat Braman is a taxpayer residing in Mercer Island, King County,
17 Washington. Ms. Braman worked as a Mercer Island High School English teacher and
18 department chair for nearly thirty years, and served on the Mercer Island School Board
19 from 2003 to 2015^[A2]. As a school board member, Ms. Braman helped oversee the
20 expenditure of state funds on public schools in her district to make sure such funds are
21 spent appropriately. Ms. Braman has a strong interest in ensuring that the State provides
22 adequate funding for public schools in the Mercer Island School District. The Charter
23 School Act harms Ms. Braman's efforts because it unconstitutionally diverts funds from
24 the already underfunded State's public schools to charter schools. Additionally, the Act
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1 unconstitutionally expends state funds that are restricted to benefit the State's common
2 schools, without public oversight over how those funds are spent.

3 12. Plaintiff Donna Boyer is a taxpayer residing in Spokane, Spokane County,
4 Washington, who brings this action on her own behalf and as legal guardian of her two
5 minor children. At the time of this suit's filing, Ms. Boyer's two children are registered at
6 Spokane Public Schools in Spokane County, WA. Ms. Boyer has a strong interest in
7 ensuring that Washington maintains a strong and well-funded public education system for
8 her children. The Charter School Act harms Ms. Boyer and her children because it
9 unconstitutionally diverts funds from the State's already underfunded public schools to
10 charter schools and unconstitutionally expends state funds that are restricted to benefit the
11 State's common schools.
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13 13. Plaintiff International Union of Operating Engineers 609 ("IUOE") is the
14 collective bargaining unit for classified employees of the Seattle School District in
15 custodial, environmental, grounds, nutrition, and safety and security services. IOUE has
16 over 700 members in 100 facilities in and around Seattle. IOUE's members include
17 Washington taxpayers who are parents of students in the State's public school system.
18 Organized in 1941, IUOE has been actively involved in advocating for and collectively
19 bargaining on behalf of classified employees in the Seattle School District since 1968.
20 The Charter School Act harms IUOE and its members by diverting already deficient funds
21 away from the common school system to charter schools and by undermining collective
22 bargaining through improperly adopted restrictions on collective bargaining and
23 bargaining units.
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1 14. Plaintiff International Association of Machinists and Aerospace Workers,
2 AFL-CIO District 751 (“IAM”) represents the 45,000 active, retired, and laid-off workers
3 at The Boeing Company. IAM’s members are Washington taxpayers and include parents
4 of students in the State’s public school system. IAM advocates on behalf of its members
5 to advance the interests of all working people and families, including by protecting
6 collective bargaining rights and creating a stronger public education system in the state.
7 IAM also has a strong interest in ensuring a well-educated workforce in Washington. The
8 Charter School Act harms IAM and its members by diverting already deficient funds away
9 from the common school system to charter schools and by undermining collective
10 bargaining through improperly adopted restrictions on collective bargaining and
11 bargaining units.
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13 15. Plaintiff Washington State Labor Council, AFL-CIO (“WSLC”) is a
14 voluntary coalition of union locals and councils that are affiliated with the American
15 Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”), as well as
16 some unions affiliated with the Solidarity Charter program or the AFL-CIO/NEA Labor
17 Solidarity Partnership. More than 600 unions are affiliated with WSLC, representing
18 more than 400,000 taxpayer members working in Washington State. These members
19 include parents of students in the State’s public school system. The WSLC is the largest
20 labor organization in the state of Washington and is the only organization representing all
21 AFL-CIO unions in the state. WSLC provides legislative advocacy, communications and
22 media relations, and assistance with organizing campaigns to affiliated unions and their
23 members on issues affecting all working people and families, including protecting
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1 collective bargaining rights and creating a stronger public education system in the state.
2 The Charter School Act harms WSLC and its members by diverting already deficient
3 funds away from the common school system to charter schools and by undermining
4 collective bargaining through improperly adopted restrictions on collective bargaining and
5 bargaining units.
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7 16. Plaintiff United Food and Commercial Workers Union (“UFCW”) is the
8 largest private-sector union in Washington, with over 44,000 taxpayer members working
9 in grocery store, retail, health care, and other industry jobs, including school district
10 employees. UFCW and its members engage in advocacy on issues affecting all working
11 families, including by protecting collective bargaining rights and creating a stronger
12 public education system in the state. The Charter School Act harms UFCW and its
13 members by diverting already deficient funds away from the common school system to
14 charter schools and by undermining collective bargaining through improperly adopted
15 restrictions on collective bargaining and bargaining units.
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17 17. Plaintiff Washington Federation of State Employees (“WFSE”) is Council
18 28 of the American Federation of State, County and Municipal Employees, the largest
19 public employees’ union in the United States with more than 1.7 million members.
20 WASA’s members are Washington taxpayers and include parents of students in the
21 State’s public school system. WFSE and its members engage in advocacy on issues
22 affecting all working families, including by protecting collective bargaining rights and
23 creating a stronger public education system in the state. The Charter School Act harms
24 WFSE and its members by diverting already deficient funds away from the common
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1 school system to charter schools and by undermining collective bargaining through
2 improperly adopted restrictions on collective bargaining and bargaining units.

3 18. Plaintiff American Federation of Teachers Washington (“AFT-WA”) is a
4 state federation affiliated with the American Federation of Teachers, AFL-CIO. AFT-WA
5 represents 6,400 taxpayer members, including faculty and professional staff from
6 community and technical colleges and classified employees from pre-K through 12
7 institutions. AFT-WA also jointly represents professors at Eastern, Central, and Western
8 Washington universities and Evergreen College with the Washington Education
9 Association. AFT-WA advocates on behalf of its members to promote workplace fairness
10 and social justice, to protect collective bargaining rights, and to build a stronger public
11 education system in the state. The Charter School Act harms AFT-WA and its members
12 by diverting already deficient funds away from the common school system to charter
13 schools and by undermining collective bargaining through improperly adopted restrictions
14 on collective bargaining and bargaining units.

17 19. Plaintiff Teamsters Joint Council No. 28 (“Council No. 28”) empowers and
18 supports local unions and their members across Washington, Alaska, and northern Idaho.
19 Local affiliates of Council No. 28 represent public school bus drivers. Council No. 28’s
20 members include Washington taxpayers who are parents of students in the State’s public
21 school system. Through organizing, education, and political action, Council No. 28 works
22 to expand the rights, wages, and benefits for working families, including by protecting
23 collective bargaining rights and creating stronger public education systems in the
24 communities in which its members reside. The Charter School Act harms Council No. 28
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1 and its members by diverting already deficient funds away from the common school
2 system to charter schools and by undermining collective bargaining through improperly
3 adopted restrictions on collective bargaining and bargaining units.

4 20. Defendant is the State of Washington.

5 **III. JURISDICTION AND VENUE**

6 21. This Court has jurisdiction over this matter pursuant to chapter 2.08 RCW,
7 chapter 7.24 RCW, and chapter 7.40 RCW.

8 22. Venue is proper in this Court pursuant to RCW 4.92.010 because the
9 residence or principal place of business of one or more of the Plaintiffs is in King County,
10 Washington.

11 **IV. STANDING**

12 23. Plaintiffs have standing to challenge the constitutionality of the Charter
13 School Act as taxpayers or representatives of taxpayers. The individual Plaintiffs are and
14 the organizational Plaintiffs' members include taxpayers who reside and own real property
15 within the state and are registered voters in school districts throughout the state. The Act
16 has resulted in the unconstitutional expenditure of state funds. A significant amount of
17 public funds were diverted to charter schools under I-1240, including student allocations
18 and administrative costs. Worse, funds continued to be disbursed to charter schools after
19 the Court struck down I-1240 in its entirety. Under the Supplemental Operating Budget
20 enacted by the legislature earlier this year, the state will divert more than \$19.4 million to
21 charter schools during fiscal year 2015-2017. Such unconstitutional expenditures will
22 continue until the Act is declared unconstitutional and its further implementation enjoined.
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1 24. On May 27, 2016, Plaintiffs made a demand upon Attorney General Bob
2 Ferguson to investigate the constitutional violations arising from the Charter School Act
3 and initiate legal proceedings on behalf of all Washington taxpayers. A copy of this
4 demand is attached as Exhibit A. On June 17, 2016, Attorney General Ferguson declined
5 to investigate and initiate legal proceedings. A copy of Attorney General Ferguson’s
6 letter is attached as Exhibit B.

8 25. Plaintiffs also are harmed directly and individually by the unconstitutional
9 the Charter School Act. For example, Plaintiffs include parents of children who are
10 residents of the state, are enrolled in and attend common schools within the state, and are
11 impacted by the financial constraints imposed on the common school system by the Act.
12 The Act requires that state common school funds be diverted from the existing common
13 schools system to charter schools. The Act also creates additional administrative
14 functions and costs for the state board of education, the state superintendent of public
15 instruction (“Superintendent”), and school districts.

17 26. Plaintiffs seek to protect the interests relating to the education of children
18 across the state and, in particular, their judicially enforceable rights to have the State
19 amply provide them with an education and establish a general and uniform system of
20 public schools. These interests are within the zone of interests regulated by the Charter
21 School Act and protected by the provisions of the Constitution violated by this law as set
22 forth below.

24 27. This Court’s grant of declaratory and injunctive relief will redress directly
25 the harms caused to Plaintiffs by the Charter School Act.

1 members: nine members appointed by the Governor, the Senate, and the House of
2 Representatives; the Superintendent or the Superintendent's designee; and the Chair of the
3 State Board of Education ("Board") or the Chair's designee. *Id.*, § 107(3). The Act
4 provides that the nine appointed members must "have demonstrated an understanding of
5 and commitment to charter schooling as a strategy for strengthening public education."
6 *Id.*, § 107(4). At least one member must be a parent of a public school student. *Id.*,
7 § 107(3).
8

9 32. The Charter School Act directs the Board to enact rules governing the
10 annual application and approval process and timelines for school districts seeking
11 approval to be charter school authorizers, as provided in the act. *Id.*, § 109(1). The Act
12 also requires the Board to offer an opportunity for any party with whom it had entered into
13 a contract under I-1240 to execute a new contract with the Board with the same or
14 substantially the same terms and duration as in effect on December 1, 2015. *Id.*, §§
15 116(8), 140(3). Upon information and belief, the Board executed a new authorizing
16 contract with Spokane Public Schools on May 25, 2016.
17

18 33. Like I-1240, the Charter School Act provides that charter school
19 authorizers are responsible for soliciting and evaluating charter applications, approving
20 and denying applications, negotiating and executing charter contracts, monitoring
21 performance, and renewing contracts. Charter School Act, § 110(1). Charter school
22 authorizers may delegate these responsibilities to employees or contractors. *Id.*, § 110(2).
23 Additionally, the Act requires charter school authorizers to take "reasonable and necessary
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1 steps” to provide charter schools established under I-1240 with an opportunity to execute
2 new contracts with similar terms. *Id.*, § 116(8)(b).

3 34. Also like I-1240, the Charter School Act provides that authorizers may
4 revoke or decline to renew charter contracts only under certain specified circumstances
5 and only after providing notice, “a reasonable amount of time in which to prepare a
6 response,” a hearing, including documents and testimony, “a reasonable period for
7 deliberation”; and a final written determination. Charter School Act, § 120(1), (3).

9 35. The Commission administers the portion of the charter school system that
10 it authorizes. *Id.*, § 107(2). Although the Superintendent or the Superintendent’s designee
11 is a member of the Commission, the Commission is an “independent agency” and the
12 Superintendent does not have supervisory authority over the Commission or the charter
13 school system. *See id.*, § 107(3). The Charter School Act provides that the Commission
14 “shall reside within the office of the superintendent of public instruction for administrative
15 purposes only.” *Id.*, § 107(8).

17 36. The Charter School Act acknowledges that a “charter school” is
18 “[o]perated separately from the common school system as an alternative to traditional
19 common schools.” *Id.*, § 102(1)(b).

21 37. As in I-1240, authorized charter schools are governed by an appointed
22 charter school board. Charter School Act, § 101(6). The charter school board is a “board
23 of directors appointed or selected under the terms of a charter application to manage and
24 operate the charter school.” *Id.* The charter school board is responsible for, among other
25

1 things, hiring, managing, and discharging any charter school employee, and determining
2 the number of students a charter school may enroll. *Id.*, §§ 103, 105(4).

3 38. The Charter School Act requires school districts to “provide information to
4 parents and the general public about charter schools located within the district as an
5 enrollment option for students.” *Id.*, § 106(1).

6
7 39. The Charter School Act re-enacted in relevant part the provisions in I-1240
8 exempting charter schools from most of the laws and regulations applicable to public
9 school districts, including many of the Common School Provisions and provisions of the
10 basic education act. Charter School Act, § 104(2), (3). The Charter School Act requires
11 charter schools to comply only with certain specified local, state, and federal laws. For
12 example, charter schools must “[p]rovide a program of basic education that meets the
13 goals of RCW 28A.150.210, including instruction in the essential academic learning
14 requirements, and participate in the statewide student assessment system as developed
15 under RCW 28A.655.070[.]” Charter School Act, § 104(2)(b).

16
17 40. With the exception of those “specific state statutes and rules” identified in
18 the Charter School Act, § 104(2), and any “state statutes and rules made applicable to the
19 charter school in the school’s charter contract[,] . . . [c]harter schools are not subject to
20 and are exempt from all other state statutes and rules applicable to school districts and
21 school district boards of directors[.]” *Id.*, § 104(3).

22
23 41. Charter schools must “[p]rovide a program of basic education that meets
24 the goals of RCW 28A.150.210,” but charter schools are exempt from offering many
25 components of the education program outlined in the basic education act. *See* Charter

1 School Act, § 104. For example, charter schools are exempt from the “minimal
2 instructional requirements” for “basic education” set forth in RCW 28A.150.220.

3 42. The Charter School Act also exempts charter schools from a range of other
4 state statutes and rules applicable to school districts “in areas such as scheduling,
5 personnel, funding, and educational programs[.]” *Id.*, § 104(3).
6

7 43. The Charter School Act directs the legislature to appropriate certain
8 operational and construction funds to charter schools from the Washington Education
9 Pathways Fund, in an effort to sidestep the Court’s ruling in *League of Women Voters*.
10 Charter School Act, §§ 127, 128. The Act, however, does not change the substantive
11 effect of charter schools on restricted basic education funding. The Act specifically states
12 that the “legislature intends that state funding for charter schools be distributed equitably
13 with state funding provided for other public schools.” *Id.*, § 128(1). The Act did not
14 establish a new revenue source or eliminate any existing expenditures. Instead, as
15 confirmed by the legislative history, the legislature intends merely to move existing
16 moneys and/or existing programs between the general fund and the Washington Education
17 Pathways Fund as needed to continue the diversion of public funds to charter schools.
18 The constitutional defects in I-1240’s funding provisions identified by the Court cannot be
19 overcome by this type of shell game. Additionally, as permitted under the Act, certain
20 administrative costs continue to be funded directly from the general fund during fiscal
21 year 2016.
22

23 44. The Charter School Act provides that charter employees are covered by the
24 Public Employees’ Collective Bargaining Act, chapter 41.56 RCW, and the Educational
25

1 Employment Relations Act, chapter 41.59 RCW (together, “state collective bargaining
2 laws”), but that “[a]ny bargaining unit or units established at the charter school must be
3 limited to employees working in the charter school and must be separate from other
4 bargaining units in school districts, educational service districts, or institutions of higher
5 education.” Charter School Act, § 137-38.

6
7 **B. Charter Schools Are Not Lawful ALEs.**

8 45. On December 18, 2015, shortly after the Supreme Court ruled the diversion
9 of public funds to charter schools violates the Washington Constitution, the
10 Superintendent promulgated emergency rules (“Emergency Rules”) to perpetuate the
11 diversion of public funds to charter schools through sponsorship of charter schools as
12 ALEs by non-resident schools districts.

13
14 46. The Emergency Rules were intended to “allow former charter school
15 students in Washington to expeditiously transition to alternative learning experiences
16 (ALE) offered by nonresident public school districts[.]” WSR 16-01-130. The
17 Emergency Rules provide that, unlike other public school students without a special
18 hardship or detrimental condition, former charter school students enrolling in ALEs are
19 automatically eligible for release from their resident school district to non-resident
20 districts offering ALEs. WAC 392-137-145(3)(c). The Emergency Rules also provide
21 that resident school districts must act on a charter student’s request for release within five
22 days. WAC 392-137-155(4).

23
24 47. Charter schools do not qualify as ALEs under the requirements of chapter
25 28A.232 RCW. ALEs are “not primarily based on full-time, daily contact between

1 teachers and students and [do] not primarily occur[] on-site in a classroom.” RCW
2 28A.232.005(2). Rather, ALEs “occur outside the classroom using an individual student
3 learning plan.” *Id.* For example, RCW 28A.232.010(1)(a) requires that an ALE is
4 provided “in whole or in part independently from a regular classroom setting or schedule,
5 but may include some components of direct instruction[.]” RCW 28A.232.010(1)(a) also
6 requires that an ALE is provided “in accordance with a written student learning plan[.]”
7

8 48. Unlike charter schools, ALEs also are not funded on the same basis as
9 public schools. Although school districts may receive state basic education funding for
10 students enrolled in ALEs, *see* RCW 28A.232.010(2), the Superintendent separately
11 calculates and distributes money to school districts for each full-time equivalent student
12 enrolled in an ALE, *see* RCW 28A.232.020. As the legislature found in RCW
13 28A.232.005(2), “there are different costs associated with providing courses not primarily
14 based on full-time, daily contact.”
15

16 49. Several charter schools located in the Tacoma and Highline School
17 Districts in western Washington remain open as alternative learning experiences (“ALEs”)
18 sponsored by the Mary Walker School District in eastern Washington.
19

20 50. On information and belief, the Mary Walker School District does not have
21 permission from or an interlocal agreement with the Tacoma School District or the
22 Highline School Districts to operate ALEs within their respective jurisdictions.
23

24 51. Mary Walker School District has received state funds for sponsoring
25 charter schools located in the Tacoma and Highline School Districts. According to the
Fiscal Note for the Charter School Act, about 750 students enrolled in these sponsored

1 charter schools for the 2015-16 school year. In filings with the Superintendent, Mary
2 Walker School District demanded more than \$3.1 million in public funds for ALEs for the
3 2015-16 school year, which is approximately \$2.8 million more than the total ALE funds
4 received by Mary Walker School District in the 2014-15 school year.

5
6 **VI. CONSTITUTIONAL AND STATUTORY VIOLATIONS**

7 52. Plaintiffs repeat and re-allege each of the foregoing allegations as though
8 fully set forth herein.

9 53. Plaintiffs challenge the constitutionality of the Charter School Act and the
10 constitutionality and legality of diverting public funds to charter schools as ALEs.

11 **A. ARTICLE IX, SECTIONS 2 AND 3 OF THE CONSTITUTION (COMMON**
12 **SCHOOL FUND)**

13 54. Plaintiffs repeat and re-allege each of the foregoing allegations as though
14 fully set forth herein.

15 55. Article IX, section 2 of the Constitution requires the Legislature to provide
16 for a system of public schools, which system must include “common schools” and also
17 may include high schools, normal schools, and technical schools.

18 56. Article IX, sections 2 and 3 require that certain state funds be used
19 exclusively to support the State’s common schools.

20 57. A “common school,” as the term is used in the Constitution, means a
21 school:

22
23 that is common to all children of proper age and capacity, free, and subject
24 to, and under the control of, the qualified voters of the school district. The
25 complete control of the schools is a most important feature, for it carries
with it the right of the voters, through their chosen agents, to select
qualified teachers, with power to discharge them if they are incompetent.

1 *League of Women Voters*, 184 Wn.2d at 405 (quoting *Sch. Dist. No. 20 v. Bryan*, 51
2 Wash. 498, 504, 99 Pac. 28 (1909)).
3

4 58. Using certain state monies to fund schools other than common schools
5 violates the Constitution. For example, in *League of Women Voters*, the Court held that
6 funding for charter schools under I-1240 violated the Constitution because, *inter alia*, the
7 funds dedicated to the operation of charter schools are the same basic education moneys
8 dedicated to the operation of common schools. *Id.* at 406. The Court explained that the
9 constitutional protection afforded to common school appropriations is not dependent on
10 the source of the revenue or the account in which the funds are held. *Id.* at 408.
11

12 59. Charter schools do not meet the requirements for common schools because
13 charter schools are neither subject to, nor under the control of, the qualified voters of the
14 school district. For example, voters do not have the right, through their chosen agents, to
15 select and discharge teachers. Instead, a charter school board comprised of members
16 appointed or selected under the terms of a charter application submitted by a private non-
17 profit corporation has the authority to hire, manage, and discharge any charter school
18 employee. Additionally, voters do not have the right to elect agents with supervisory
19 authority over charter schools authorized by the Commission. Instead, the Commission,
20 which is comprised of appointed members, supervises the charter schools it authorizes.
21

22 60. The Charter School Act provides that a “charter school” is “operated
23 separately from the common school system as an alternative to traditional common
24 schools.” Ex. A, § 115.
25

1 61. In an effort to sidestep the Court’s ruling in *League of Women Voters*, the
2 Charter School Act directs the legislature to appropriate certain operational and
3 construction funds to charter schools from the Washington Education Pathways Fund.
4 Charter School Act, §§ 127, 128. The Act, however, does not change the substantive
5 effect of charter schools on restricted basic education funding. The Act specifically states
6 that the “legislature intends that state funding for charter schools be distributed equitably
7 with state funding provided for other public schools.” *Id.*, § 128(1). The Act did not
8 establish a new revenue source or eliminate any existing expenditures. Instead, as
9 confirmed by the legislative history, the legislature intends merely to move existing
10 moneys and/or existing programs between the general fund and the Washington Education
11 Pathways Fund as needed to continue the diversion of public funds to charter schools.
12 The constitutional defects in I-1240’s funding provisions identified by the Court cannot be
13 overcome by this type of shell game. Additionally, as permitted under the Act, certain
14 administrative costs continue to be funded directly from the general fund during fiscal
15 year 2016.
16

17
18 62. Thus, the Charter School Act violates article IX, sections 2 and 3 of the
19 Constitution by continuing the unconstitutional diversion of public funds to charter
20 schools.
21

22 **B. ARTICLE IX, SECTION 2 OF THE CONSTITUTION (GENERAL AND**
23 **UNIFORM SYSTEM OF PUBLIC SCHOOLS)**

24 63. Plaintiffs repeat and re-allege each of the foregoing allegations as though
25 fully set forth herein.

1 64. Article IX, section 2 of the Constitution requires the Legislature to
2 “provide for a general and uniform system of public schools.”

3 65. “Uniform” means that “every child shall have the same advantages and be
4 subject to the same discipline as every other child.” *Fed. Way Sch. Dist. No. 210 v. State*,
5 167 Wn.2d 514, 524, 219 P.3d 941 (2009) (internal quotation omitted).

6 66. A “general and uniform system” is “one in which every child in the state
7 has free access to certain minimum and reasonably standardized educational and
8 instructional facilities and opportunities to at least the 12th grade – a system administered
9 with that degree of uniformity which enables a child to transfer from one district to
10 another within the same grade without substantial loss of credit or standing and with
11 access by each student of whatever grade to acquire those skills and training that are
12 reasonably understood to be fundamental and basic to a sound education.” *Id.* (internal
13 quotation omitted).

14 67. Additionally, “[t]he system must be uniform in that every child shall have
15 the same advantages and be subject to the same discipline as every other child. A system
16 of control through school boards and county superintendents is provided for, their duties
17 defined, and a method supplied to secure, in theory at least, efficient teachers and
18 instructors.” *Bryan*, 51 Wash. at 502-03.

19 68. Like I-1240, the Charter School Act is another unconstitutional effort to
20 create an alternative, parallel school system that serves the same population as common
21 schools and is funded on the same basis as common schools.
22
23
24
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1 69. The Charter School Act provides that a “charter school” is “[o]perated
2 separately from the common school system as an alternative to traditional common
3 schools[.]” *Id.*, § 102(1)(b). Voters do not have the right, through their chosen agents, to
4 select and discharge teachers and other employees. Instead, a charter school board
5 comprised of members appointed or selected under the terms of a charter application
6 submitted by a private non-profit corporation has the authority to hire, manage, and
7 discharge any charter school employee.
8

9 70. The Charter School Act exempts charter schools from numerous provisions
10 in the “Common School Provisions,” Title 28A RCW, which the Supreme Court has held
11 meet the “general and uniform” criteria. For example, charter schools are not required to
12 offer certain components of the education program outlined in the basic education act,
13 including many of the “minimal instructional requirements” for “basic education” set forth
14 in RCW 28A.150.220. Charter schools also are exempt from a range of other state
15 statutes and rules applicable to school districts “in areas such as scheduling, personnel,
16 funding, and educational programs[.]” Ex. A, § 104(3).
17

18 71. Thus, the Charter School Act violates the general and uniform requirement
19 of article IX, section 2 of the Constitution because, *inter alia*, charter schools eliminate the
20 local voter control that was – and remains – a hallmark of public schools, thereby
21 resulting in different, non-uniform governance for charter schools.
22

23 72. Charter schools are also non-uniform in that they do not offer every child
24 the same advantages or subject them to the same discipline as every other child in
25

1 Washington public schools and, thus, charter schools are not required to offer students a
2 constitutionally sufficient education.

3 **C. ARTICLE IX, SECTION 1 OF THE CONSTITUTION (PARAMOUNT**
4 **DUTY)**

5 73. Plaintiffs repeat and re-allege each of the foregoing allegations as though
6 fully set forth herein.

7 74. Article IX, section 1 of the Constitution establishes that “[i]t is the
8 paramount duty of the state to make ample provision for the education of all children
9 residing within its borders[.]”

10 75. In order to comply with its paramount duty under Article IX, the State must
11 provide “substantive content” to the word “education” and to the “program it deems
12 necessary to provide that ‘education’ within the broad guidelines.” *Seattle Sch. Dist. No.*
13 *I v. State*, 90 Wn.2d 476, 518-19, 585 P.2d 71 (1978).

14 76. The State may delegate the execution of public functions to an
15 administrative agency or private entity only if adequate standards, guidelines, and
16 procedural safeguards exist. Specifically, the State must provide standards to indicate
17 what is to be done and designate the agency to accomplish it. Additionally, the State must
18 provide procedural safeguards to control arbitrary administrative action and abuse of
19 discretionary power.

20 77. The Charter School Act constitutes an unconstitutional delegation of the
21 State’s paramount duty because it fails to provide sufficient standards and guidelines to
22 charter schools to ensure they provide a constitutionally sufficient education and fails to
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1 provide procedural safeguards to control arbitrary administrative action and abuse of
2 discretionary power.

3 78. The legislature has defined the substance of the constitutionally required
4 “education” by, among other things, identifying the four learning goals set forth in RCW
5 28A.150.210 and adopting the EALRs. Additionally, however, the legislature also has
6 defined the program necessary to provide this constitutionally required education by
7 identifying several offerings, including the education program outlined in the basic
8 education act.

9
10 79. The Charter School Act fails to set forth standards and guidelines to ensure
11 that charter schools offer the program necessary to provide a constitutionally sufficient
12 education. The Act does not require charter schools to offer the program that the
13 legislature has deemed necessary to provide students with a basic education. For example,
14 charter schools are exempt from the “minimal instructional requirements” for “basic
15 education” set forth in RCW 28A.150.220. Charter schools also are exempt from a range
16 of state statutes and rules applicable to school districts in areas including scheduling,
17 personnel, funding, and programming. Charter School Act, § 104(2), (3). The Act offers
18 no standards or guidelines for replacing these programming requirements.
19

20 80. The Charter School Act constitutes an unconstitutional delegation of the
21 State’s paramount duty because the law lacks procedural safeguards to control arbitrary
22 action and abuse of discretionary power by private entities.

23 81. The private interest at stake is the affirmative right of all children residing
24 within the state to have the State make ample provision for their education through a
25

1 general and uniform common school system. This right is paramount under the
2 Constitution.

3 82. There is great risk of an erroneous deprivation of that interest because the
4 Charter School Act exempts charter schools from offering the programs needed to provide
5 a constitutionally sufficient education. There is no mechanism for voters or parents of
6 students at charter schools to control the programs offered by charter schools or the hiring
7 or firing decisions at the school.

9 83. The Charter School Act provides that authorized schools districts and the
10 Commission may revoke or decline to renew charter contracts only under specified
11 circumstances and only after notice, time to prepare a response, a hearing that includes
12 documents and testimony, a reasonable period for deliberation, and a final written
13 determination, during which time all students enrolled at the charter school would be
14 receiving a constitutionally inadequate education. At charter schools authorized by the
15 Commission, no elected official has supervisory authority over the private charter school
16 board or the authority to revoke or decline to renew a charter contract.

18 84. The State's interest (if any) in maintaining the limited procedures
19 applicable to charter schools is minimal.

21 85. For at least these reasons, the Charter School Act violates the State's
22 paramount duty under article IX, section 1 of the Constitution because it fails to provide
23 adequate standards, guidelines, and procedural safeguards to ensure that students receive a
24 constitutionally sufficient education.

1 **D. ARTICLE IX, SECTION 1 OF THE CONSTITUTION (AMPLE**
2 **PROVISION FOR EDUCATION)**

3 86. Plaintiffs repeat and re-allege each of the foregoing allegations as though
4 fully set forth herein.

5 87. Article IX, section 1 of the Constitution establishes that the “paramount
6 duty” of the State is to make ample provision for the education of all children residing
7 within its borders

8 88. In *McCleary v. State*, 173 Wn.2d 477, 539, 269 P.3d 227 (2012), the
9 Supreme Court held that the state has failed and continues to fail to provide the funding
10 needed to fulfill this duty and ordered the legislature to fully fund basic educational
11 programs by 2018. In August 2015, the Court held the legislature in contempt after it
12 repeatedly failed to provide a plan to comply fully by the 2018 deadline.
13

14 89. Charter schools are not part of the basic educational programs the Supreme
15 Court ordered the Legislature to fund.

16 90. Charter schools are exempt from many of the basic education requirements
17 identified by the Washington Supreme Court as necessary to provide a constitutionally
18 sufficient education.
19

20 91. The Charter School Act requires that already deficient state funds be
21 diverted to support charter schools.

22 92. The Charter School Act does not provide for consideration, in the charter
23 approval process, of the economic impact on school districts or for any discretion in the
24 amount of funding that the State and school districts must provide to a charter school.
25

1 93. The Charter School Act therefore violates article IX, section 1 of the
2 Constitution and is contrary to the Supreme Court’s decision in *McCleary* because it
3 diverts funds from public schools to charter schools without providing any mechanism to
4 ensure that doing so will not interfere with the State’s paramount duty to make ample
5 provision for education.
6

7 94. Additionally, the diversion of funds from public schools to charter schools
8 operating as ALEs violates article IX, section 1 of the Constitution.

9 95. The Superintendent promulgated Emergency Rules to enable school
10 districts to “sponsor” charter schools in other districts as ALEs, even though charter
11 schools do not qualify as ALEs under the requirements of chapter 28A.232 RCW.
12

13 96. Mary Walker School District obtained state funding to sponsor the charter
14 schools located in the Tacoma and Highline School Districts.

15 97. This diversion of public funding to charter schools through their
16 sponsorship as ALEs also violates article IX, section 1 of the Constitution and is contrary
17 to the Supreme Court’s decision in *McCleary* because it diverts funds from public schools
18 to charter schools.
19

20 **E. ARTICLE III, SECTION 22 OF THE CONSTITUTION**
21 **(SUPERINTENDENT SUPERVISION)**

22 98. Plaintiffs repeat and re-allege each of the foregoing allegations as though
23 fully set forth herein.

24 99. Article III, section 22 of the Constitution requires that the state
25 Superintendent “have supervision over all matters pertaining to public schools[.]”

 100. The Charter School Act defines charter schools as public schools.

1 101. The Charter Commission established by the Charter School Act is
2 authorized to grant charters, *id.*, § 108(1), and “administer[s] the charter schools it
3 authorizes,” *id.*, § 107(2).

4 102. The Commission is an independent state agency and is not subject to
5 oversight by the Superintendent.

6 103. Members of the Commission are appointed by the Governor, the President
7 of the Senate, and the Speaker of the House of Representatives, not the Superintendent.
8 The Superintendent or his/her representative fills one of eleven positions on the
9 Commission and has no supervisory authority over the Commission’s activities. *See id.*, §
10 107(2).

11 104. The Charter School Act provides that a charter school is managed and
12 operated by a charter school board, which is comprised of members appointed or selected
13 under the terms of a charter application, not the Superintendent.

14 105. The Superintendent thus has no supervisory authority over the Commission
15 or charter schools authorized by the Commission in violation of Article III, section 22 of
16 the Constitution.

17
18
19 **F. ARTICLE II, SECTION 37 OF THE CONSTITUTION (LEGISLATIVE**
20 **AMENDMENT)**

21 106. Plaintiffs repeat and re-allege each of the foregoing allegations as though
22 fully set forth herein.

23 107. Article II, section 37 of the Constitution requires that “[n]o act shall ever
24 be revised or amended by mere reference to its title, but the act revised or the section
25 amended shall be set forth at full length.”

1 108. Under article II, section 37, where a new enactment is not a complete act
2 such that the scope of the rights or duties created or affected by the new enactment can be
3 determined without referring to any other statute or enactment, the existing act and/or
4 section must be set forth in full.

5 109. Additionally, where a straightforward determination of the scope of rights
6 or duties under the existing statutes would be rendered erroneous by the new enactment,
7 the existing act and/or section must be set forth in full.

8 110. The Charter School Act amends the scope of rights and duties of common
9 schools, and the rights and duties of public schools to provide a basic education, without
10 setting forth those revisions and amendments in full.

11 111. Although the Charter School Act requires that charter schools “[p]rovide a
12 program of basic education that meets the goals of RCW 28A.150.210,” the Act also
13 exempts charter schools from offering many components of the education program
14 outlined in the basic education act.

15 112. The Charter School Act fails to set forth these revisions and amendments to
16 existing law in full, in violation of article II, section 37 of the Constitution. The Act’s
17 effect on the scope of the rights and duties of public schools, including but not limited to
18 the scope of the rights and duties of public schools to provide a basic education, cannot be
19 determined without referring to existing provisions governing public schools and the basic
20 education act.

21 113. Additionally, a straightforward determination under existing law of the
22 scope of the rights or duties of public schools, including but not limited to the rights or
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1 duties of public schools to provide a basic education, would be rendered erroneous by the
2 revisions and amendments in the Charter School Act.

3 114. The Charter School Act also revises and amends the scope of the rights and
4 duties under state collective bargaining laws without setting forth those revisions and
5 amendments in full.
6

7 115. The Charter School Act provides that charter employees are covered by
8 state collective bargaining laws.

9 116. The Charter School Act purports to add new sections to state collective
10 bargaining laws that restrict bargaining units to charter employees working in each charter
11 school but fails to set forth existing sections of state collective bargaining laws governing
12 the determination of bargaining units.
13

14 117. The Charter School Act fails to set forth these revisions and amendments to
15 existing law in full, in violation of article II, section 37 of the Constitution. The Act's
16 effect on the scope of rights and duties regarding the determination of collective
17 bargaining units cannot be determined without referring to existing state collective
18 bargaining provisions.
19

20 118. Additionally, a straightforward determination under existing law of the
21 scope of the rights and duties regarding the determination of collective bargaining units
22 would be rendered erroneous by the revisions and amendments to existing state collective
23 bargaining laws in the Charter School Act.

24 119. Thus, the Charter School Act amends existing law in violation of article II,
25 section 37 of the Constitution.

1 **G. Chapters 28A.232 and 28A.315 RCW**

2 120. Plaintiffs repeat and re-allege each of the foregoing allegations as though
3 fully set forth herein.

4 121. Charter schools do not qualify as ALEs under the requirements of chapter
5 28A.232 RCW. ALEs are “not primarily based on full-time, daily contact between
6 teachers and students and [do] not primarily occur[] on-site in a classroom.” RCW
7 28A.232.005(2). Rather, ALEs “occur outside the classroom using an individual student
8 learning plan.” *Id.* For example, RCW 28A.232.010(1)(a) requires that an ALE is
9 provided “in whole or in part independently from a regular classroom setting or schedule,
10 but may include some components of direct instruction[.]” RCW 28A.232.010(1)(a) also
11 requires that an ALE is provided “in accordance with a written student learning plan[.]”
12
13

14 122. A school district may not operate an ALE within the boundaries of another
15 school district without obtaining an interlocal agreement from the school district where
16 the ALE is located, as doing so would violate the statutory scheme for creating school
17 district boundaries in chapter 28A.315 RCW.

18 123. The Superintendent’s Emergency Rules require school districts to release
19 students enrolling in charter schools sponsored as ALEs in another school district in
20 violation of chapter 28A.232 RCW and chapter 28A.315 RCW.

21
22 124. Charter schools have been sponsored as ALEs even though charter schools
23 do not qualify as ALEs under chapter 28A.232 RCW. For example, the Mary Walker
24 School District in Stevens County, Washington, has sponsored as ALEs charter schools
25 that operate primarily in a regular classroom setting and without courses provided in

1 accordance with a written student learning plan implemented pursuant to district policies
2 and rules.

3 125. School districts have been required to release students to enroll in ALEs
4 without an interlocal agreement in place that allows for the operation of the ALE within
5 the district's boundaries by another district. On information and belief, the Mary Walker
6 School District in Stevens County, Washington, has sponsored charter schools to operate
7 as ALEs in the Tacoma School District in Pierce County, Washington, and in the Highline
8 School District in King County, Washington, without obtaining an interlocal agreement
9 from the Tacoma and Highline School Districts in violation of chapter 28A.315 RCW.
10

11 126. Thus, the Superintendent has improperly allowed charter schools to operate
12 as ALEs and to enroll students in violation of chapter 28A.232 RCW and chapter 28A.315
13 RCW.
14

15 **VII. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**
16 **(Charter School Act)**

17 127. Plaintiffs repeat and re-allege each of the foregoing allegations as though
18 fully set forth herein.

19 128. For reasons including but not limited to those stated in this Complaint, an
20 actual dispute exists between Plaintiffs and Defendant the State of Washington, which
21 parties have genuine and opposing interests, which interests are direct and substantial, and
22 of which dispute a judicial determination would be final and conclusive.

23 129. Alternatively, this matter raises important constitutional questions about
24 the State's paramount duty to provide an education to children within its boundaries, and a
25

1 judicial opinion will benefit the public, other branches of government, and school districts
2 within the state.

3 130. Plaintiffs will suffer immediate damage and harm if the Charter School Act
4 is not declared unconstitutional and is permitted to be enforced.

5 131. Plaintiffs are, therefore, entitled to a declaratory judgment that the Charter
6 School Act is unconstitutional, as well as such other and further relief as may follow from
7 the entry of such a declaratory judgment.
8

9 **VIII. SECOND CAUSE OF ACTION: DECLARATORY JUDGMENT**
10 **(ALTERNATIVE LEARNING EXPERIENCES)**

11 132. For reasons including but not limited to those stated in this Complaint, an
12 actual dispute exists between Plaintiffs and Defendant the State of Washington, which
13 parties have genuine and opposing interests, which interests are direct and substantial, and
14 of which dispute a judicial determination would be final and conclusive.

15 133. Alternatively, this matter raises important constitutional questions about
16 the State's paramount duty to provide an education to children within its boundaries, and a
17 judicial opinion will benefit the public, other branches of government, and school districts
18 within the state.
19

20 134. Plaintiffs will suffer immediate damage and harm if charter schools
21 continue to receive public funds by purporting to operate as ALEs.

22 135. Plaintiffs are, therefore, entitled to a declaratory judgment that charter
23 schools do not constitute ALEs, that any diversion of public funds to charter schools
24 through operation as ALEs is unconstitutional and unlawful, and that the Emergency
25 Rules requiring resident districts to release charter school students to enroll in ALEs

1 sponsored by other districts are invalid, as well as such other and further relief as may
2 follow from the entry of such a declaratory judgment.

3 **IX. THIRD CAUSE OF ACTION: INJUNCTIVE RELIEF**
4 **(Charter School Act)**

5 136. For reasons including but not limited to those stated in this Complaint,
6 Plaintiffs are entitled to prevent implementation of the Charter School Act.

7 137. Plaintiffs have clear legal rights to prevent implementation of the Charter
8 School Act as described in this Complaint. Plaintiffs have a well-grounded fear of
9 immediate invasion of those rights by the State, which invasion will result in actual and
10 continuing injury. No adequate remedy at law exists to remedy this invasion of Plaintiffs'
11 rights.
12

13 138. Plaintiffs are, therefore, entitled to an injunction prohibiting
14 implementation of the Charter School Act.

15 **X. FOURTH CAUSE OF ACTION: INJUNCTIVE RELIEF**
16 **(ALTERNATIVE LEARNING EXPERIENCES)**

17 139. For reasons including but not limited to those stated in this Complaint,
18 Plaintiffs are entitled to prevent the diversion of public funds to charter schools attempting
19 to operate as ALEs.

20 140. Plaintiffs have clear legal rights to prevent the diversion of public funds to
21 charter schools attempting to operate as ALEs as described in this Complaint. Plaintiffs
22 have a well-grounded fear of immediate invasion of those rights by the State, which
23 invasion has resulted and will result in actual and continuing injury. No adequate remedy
24 at law exists to remedy this invasion of Plaintiffs' rights.
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DATED this ____th day of June, 2016.

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