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7 IN THE SUPERIOR COURT OF WASHINGTON
8 FOR KING COUNTY

9 LEGAL COUNSEL FOR YOUTH AND
10 CHILDREN, a nonprofit organization;
11 LAVENDER RIGHTS PROJECT, a nonprofit
12 organization; MOMSRISING, a nonprofit
13 organization; OASIS YOUTH CENTER, a
14 nonprofit organization; PEOPLE OF COLOR
15 AGAINST AIDS NETWORK, a nonprofit
16 organization; SEXUAL VIOLENCE LAW
17 CENTER, a nonprofit organization;
18 SOUTHWEST WASHINGTON EQUITY
19 COALITION, a nonprofit organization; KARI
20 LOMBARD, in her individual capacity; JANE
DOE, in her individual capacity; and, SOUTH
WHIDBEY SCHOOL DISTRICT, a public
school district,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

No.

**COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

21 **I. INTRODUCTION**

22 1.1 This is a lawsuit challenging Initiative 2081. Initiative 2081 was proposed as an
23 initiative to the Legislature and subsequently passed during the 2023/2024 biennial legislative
24 session.
25

26 1.2 The Initiative presents a striking contrast to Washington's long-term priorities of
27

1 upholding youth privacy rights, education rights, and inclusion protections.

2 1.3 Initiative 2081, styled as a “Parents’ Bill of Rights,” undermines, contradicts, and
3 amends numerous laws that protect students’ rights to privacy, healthcare, education, and an
4 affirming and inclusive school environment.

5 1.4 Initiative 2081 purports to grant several rights to parents and legal guardians of
6 public school students under 18 years old. These include the right to examine textbooks and
7 curriculum materials, to inspect their child’s public school records, to inspect their child’s medical
8 and mental health records, to receive prior notification when any medical or mental health services
9 are offered to a student, to receive notification when the school has arranged “indirectly” for care
10 that could require follow-up care beyond normal school hours, to receive notification in certain
11 circumstances related to crime and law enforcement, and to receive immediate notification if a
12 student is removed from school without parental permission, including to stay at a youth shelter.
13

14 1.5 Initiative 2081 also requires broad disclosures from public schools that must
15 provide notice and the option to opt their children out of “surveys, assignments, questionnaires,
16 role-playing activities, recordings of their child, or other student engagement” relating to “sexual
17 experiences or attractions,” “family beliefs,” “morality,” and instruction “on topics associated with
18 sexual activity,” among other things.
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20 1.6 Many of the parental rights outlined in Initiative 2081 are duplicative of long-
21 established rights of parents.
22

23 1.7 However, certain provisions of Initiative 2081 erode current privacy protections for
24 young people, may interfere with or discourage trusted conversations school-based healthcare
25 providers and educators have with students, prevent students from seeking assistance, and greatly
26 frustrate a school’s ability to cover a wide range of topics in curriculum. Yet, the Initiative fails to
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1 disclose that it revises, contradicts, and frustrates these laws.

2 1.8 The Initiative's parental notification provisions, for example, contradict pre-
3 existing privacy protections for health records and likely interfere with youths' rights to
4 independently consent to certain medical treatment.

5 1.9 For LGBTQ+ youth, youth survivors of sexual assault or domestic violence,
6 students experiencing homelessness, and young people seeking sexual and reproductive health
7 services, mental health care, or behavioral health care, among others, the confidential spaces and
8 access to care and resources at school that those privacy rights ensure can be lifesaving.

9 1.10 The Initiative revises existing education requirements and increases the burden on
10 schools to proactively disclose myriad curricula and to allow for opt-outs.

11 1.11 The Initiative jeopardizes important principles of inclusion enshrined into
12 Washington law related to curriculum, anti-discrimination protections, and access to social
13 services supports.

14 1.12 Initiative 2081 revises, frustrates, and contradicts Washington State's long history
15 of upholding the privacy rights of young people.

16 1.13 Washington's elected officials, voters, and courts recognize the importance of
17 strong privacy protections for our State's youth.

18 1.14 Initiative 2081 not only harms Washington's public school students, it violates the
19 State Constitution because it fails to disclose how it revises and affects existing laws, it is
20 misleading, and leads to ambiguity and confusion regarding rights and obligations.

21 1.15 Initiative 2081 fails to identify the multitude of laws it impacts. This causes
22 confusion about the legal duties of schools, their staff and contractors, and school-based healthcare
23 providers, as well as the rights of students. School districts, administrators, and agencies are
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urgently trying to analyze and implement the Initiative’s provisions, which are obscured by its vague language, broad effects across multiple legal landscapes, and failure to identify the existing laws that it amends, alters, or negates. Students, educators, and providers alike, are trying to understand how the Initiative modifies support to students, health access, confidentiality, and curriculum and lesson plans. And many students will be deterred from talking to their school counselors, teachers, and staff.

1.16 Initiative 2081 is not a complete act, and it fails to identify existing laws it revises or amends in violation of article II, section 37 of the Washington State Constitution. Because of this, Washingtonians did not have opportunity to analyze the Initiative’s various provisions to determine whether the law would have adverse consequences on public schools and public school students.

1.17 The Initiative runs directly counter to the interests of many taxpayers and groups of impacted parents, students, and communities. The interests these communities, specifically immigrant, Black and Indigenous, those with disabilities, LGBTQ+, and many other parents and students whose voices are conspicuously absent.

1.18 Initiative 2081 is scheduled to be effective on June 6, 2024.

II. PARTIES

Nonprofit Organizational Plaintiffs

Legal Counsel for Youth and Children (“LCYC”)

2.1 Plaintiff Legal Counsel for Youth and Children (“LCYC”) is a legal services nonprofit that works to protect the interests and safety of youth in Washington by advancing their legal rights.

2.2 LCYC provides services across Washington State and is headquartered in Seattle.

1 2.3 LCYC operates under the laws of Washington State and is a taxpayer in
2 Washington.

3 2.4 The client community of LCYC consists entirely of youth, and about half are
4 minors—the vast majority of whom are students in public K-12 schools.

5 2.5 LCYC’s guiding principles include the axiom that youth have unique legal rights.
6 This includes the recognition that youth have equal status and dignity as members of the human
7 family and specific rights that recognize their unique needs.

8 2.6 LCYC serves and advocates for Washington’s youth by providing direct legal
9 representation, cultivating strong community partnerships, and advocating for systemic change.
10

11 2.7 LCYC provides legal services to youth who are experiencing or at risk of housing
12 instability. Many of these clients are youth of color and LGBTQ+ youth, who experience
13 homelessness at disproportionate rates.
14

15 2.8 LCYC has advocated for laws that protect homeless youth, including laws allowing
16 youth to remain in a homeless shelter if their parent does not welcome them home and laws
17 providing protections for homeless youth seeking gender affirming treatment or reproductive
18 health services.

19 2.9 Schools provide a safe place for many LCYC clients who need support outside of
20 the home. LCYC works closely with public school staff and other community partners to reach
21 students who are at risk of homelessness and need help from trusted adults and legal and social
22 services.
23

24 2.10 LCYC has a strong interest, on behalf of the many youth they serve, in ensuring
25 that Initiative 2081’s expansion of parental rights does not undermine youth’s access to affirming,
26 confidential spaces and does not disrupt or deteriorate educational services for young people.
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1 **Lavender Rights Project (“LRP”)**

2 2.11 Plaintiff Lavender Rights Project (“LRP”) is a nonprofit organization that works to
3 elevate the power, autonomy, and leadership of the Black intersex and gender diverse community
4 through intersectional legal and social services. LRP’s vision is to create a world in which the
5 Black and Indigenous gender diverse communities are at the forefront of liberation and recognized
6 for their power to build.

7
8 2.12 LRP is headquartered in Seattle, Washington and provides most of its services in
9 King County.

10 2.13 LRP operates under the laws of Washington State and is a taxpayer in Washington.

11 2.14 LRP serves and is led and guided by Black and Indigenous intersex and gender
12 diverse communities in Washington.

13
14 2.15 In pursuit of its mission, LRP provides free affirming and supportive services for
15 Black and Indigenous communities in Washington, including youth.

16 2.16 LRP also engages in local, state, and national advocacy to achieve policy change
17 and secure resources for transgender people in the areas of housing justice, economic justice, and
18 just abolition. LRP recently advocated for the passage of a State law to protect transgender youth
19 seeking gender-affirming care. Laws of 2023, ch. 408, § 1 (Youth and Young Adults Seeking
20 Protected Health Services Bill, “ESSB 5599”).

21
22 2.17 In service of its vision, LRP has a strong interest in ensuring that Washington
23 schools are a safe place for transgender youth and that Washington educators are able to teach
24 about race, gender identity, and other topics of diversity, equity, and inclusion.

25 2.18 LRP is deeply concerned about the impact of Initiative 2081’s parental notification
26 provisions on Black and Indigenous gender diverse youth in public schools, who rely on
27

1 confidential access to gender-affirming mental health care and other school-based services.

2 **MomsRising**

3 2.19 Plaintiff MomsRising Education Fund (“MomsRising”) is a nonprofit that works to
4 bring together the voices of moms across the country to increase family economic security, to end
5 discrimination against women and mothers, and to build a nation where both businesses and
6 families can thrive.
7

8 2.20 MomsRising is headquartered in Bellevue, Washington and works to mobilize
9 moms across the United States.

10 2.21 MomsRising operates under the laws of Washington State and is a taxpayer in
11 Washington.

12 2.22 MomsRising is a multicultural organization of more than a million members across
13 the country, with thousands of members in Washington State, including King County. The
14 majority of MomsRising’s members are mothers, many of whom are parents of public school
15 students in grades K-12.
16

17 2.23 MomsRising has advocated for education rights, including in Washington State.
18 Recent efforts include advocating to ban book bans in public schools to ensure diverse and
19 affirming education materials and fighting a school district’s parental consent policy that would
20 harm LGBTQ+ students.
21

22 2.24 The mothers of MomsRising strongly value student rights to privacy, because they
23 know these rights enable their students to find safe support from trusted adults and to access
24 healthcare. The mothers of MomsRising also are deeply concerned about ensuring access to a
25 quality education that includes multicultural, inclusive curricula.
26

27 2.25 MomsRising is also concerned that Initiative 2081 was drafted in a way that

1 deceives and confuses members of the public—including parents—about the rights of students and
2 parents, and what protections are being changed by Initiative 2081.

3 **Oasis Youth Center (“Oasis”)**

4 2.26 Plaintiff Oasis Youth Center (“Oasis”) is a drop-in, resource, and support center for
5 LGBTQ+ youth from ages 11-24, the majority of whom are public school students in grades 6-12.
6

7 2.27 Oasis’s mission is to transform the lives of queer youth by creating a safe space for
8 them to learn, connect, and thrive.

9 2.28 Oasis is a nonprofit and is headquartered in Pierce County, Washington.

10 2.29 Oasis operates under the laws of Washington State and is a taxpayer in Washington.

11 2.30 Oasis accomplishes its mission with programming for advocacy, prevention, and
12 leadership development. Oasis supports LGBTQ+ youth in advocating to schools and lawmakers
13 to support the safety, inclusion, and privacy of LGBTQ+ youth.
14

15 2.31 Oasis also provides technical assistance and trainings to schools, mental health
16 providers, and others working with LGBTQ+ youth.

17 2.32 For many youth that Oasis works with, the school environment is one of the only
18 places—other than Oasis—where they encounter adults who affirm their LGBTQ+ identity, offer
19 access to mental health support, or refer them to other needed serves.
20

21 2.33 Schools provide a safe space for the LGBTQ+ youth that Oasis works with, and
22 also help those youth connect to Oasis through referrals. For the many youth whose parents are
23 not affirming, the schools and Oasis are a lifeline. Oasis believes that Initiative 2081 will harm the
24 LGBTQ+ youth it serves by eroding young people’s privacy in public schools. LGBTQ+ youth,
25 including the youth Oasis serves, depend on having a safe and affirming school environment where
26 there are trusted adults they can go to and talk about their challenges, health needs, mental health,
27

1 and LGBTQ+ identities.

2 2.34 The youth Oasis serves also depend on referrals from trusted adults in their school
3 environments who can help them access affirming support spaces like those offered by Oasis.
4 Oasis has a strong interest in ensuring that Initiative 2081's expansion of parental rights do not
5 hinder LGBTQ+ youth's accessing to affirming school settings and limit confidential referrals
6 made by educators and school staff to Oasis's programming.
7

8 **People of Color Against AIDS Network ("POCAAN")**

9 2.35 Plaintiff People of Color Against AIDS Network ("POCAAN") is a multicultural,
10 multi-social service agency serving marginalized communities in Seattle and greater King County
11 including Latino, Black, Asian/Pacific Islander and Native Americans.
12

13 2.36 POCAAN's mission is to provide comprehensive, multicultural awareness and
14 prevention programs aimed at addressing health disparities and inequities experienced in
15 marginalized communities, including HIV/AIDS prevention, substance abuse, incarceration,
16 homelessness, and sexually transmitted diseases.

17 2.37 POCAAN is headquartered in Seattle and provides services throughout King,
18 Pierce, and Thurston Counties. The majority of POCAAN's clients live in South King County.
19

20 2.38 POCAAN operates under the laws of Washington State and is a taxpayer in
21 Washington.

22 2.39 POCAAN serves people who are LGBTQ+ and Black, Indigenous, and people of
23 color (BIPOC), including young people.

24 2.40 POCAAN operates programs that provide essential health services to BIPOC adults
25 and youth, including HIV and STI testing and education and access to HIV Pre-exposure
26 Prophylaxis (PrEP), a medication used to reduce the risk of becoming infected with HIV.
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1 2.41 POCAAN collaborates with educators in the schools, including getting clients
2 referred to POCAAN programs by trusted teachers and other professionals.

3 2.42 The ability to access sexual health resources, information, and care confidentially
4 is very important to POCAAN's youth clients. This is especially true for Black and Latino young
5 people who are struggling with their sexual orientation and fear stigma from friends and family.

6 2.43 POCAAN has a strong interest, on behalf of the BIPOC and LGBTQ+ young
7 people it serves, in ensuring that Initiative's 2081's explanation of parental rights do not undermine
8 the privacy rights that are critical for young people to access preventative and responsive sexual
9 healthcare.
10

11 **Sexual Violence Law Center ("SVLC")**

12 2.44 Plaintiff Sexual Violence Law Center ("SVLC") is a nonprofit law firm that
13 provides trauma-informed holistic legal assistance and representation to survivors of sexual
14 assault, abuse, harassment, trafficking, and stalking. SVLC's mission is to protect the safety,
15 privacy, and civil rights of survivors of sexual and gender-based violence, including youth, in
16 Washington.
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18 2.45 SVLC is headquartered in Seattle, Washington, and provides legal services across
19 Washington, including in King County.
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21 2.46 SVLC operates under the laws of Washington State and is a taxpayer in
22 Washington.
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24 2.47 SVLC's clients are survivors of sexual violence and include many public school
25 students in grades K-12. In addition to being survivors of sexual violence, many of SVLC's clients
26 face additional challenges like homelessness, family disapproval of their LGBTQ+ identities, and
27 domestic violence in their homes.

1 2.48 SVLC’s youth survivor clients often face threatening invasions of their privacy and
2 rely heavily on state and federal privacy protections, including protections of their school-related
3 records and health records.

4 2.49 SVLC has a strong interest, on behalf of the survivor communities that they serve,
5 in ensuring that Initiative 2081’s expansion of parental rights does not undermine the privacy rights
6 that are so essential to survivors’ safety.

7
8 **Southwest Washington Equity Coalition (“SWEC”)**

9 2.50 Plaintiff Southwest Washington Equity Coalition (“SWEC”) is a nonprofit
10 organization that works to promote racial justice and create a more equitable society in Southwest
11 Washington through collective action, inclusion, and collaboration.

12 2.51 SWEC is headquartered in Vancouver, Washington, with a service area covering
13 Southwest Washington.

14 2.52 SWEC operates under the laws of Washington State and is a taxpayer in
15 Washington.

16 2.53 SWEC runs a leadership institute to support emerging leaders of color, educates
17 community leaders and institutional decisionmakers in how to adopt an equity-centered lens, and
18 collaborates with its Membership Bloc organizations, which represent a cross-section of Southwest
19 Washington organizations advancing racial justice.

20 2.54 SWEC’s programming and services impact Southwest Washington youth by
21 informing and advising decisionmakers about how to build more equitable systems and
22 opportunities for future generations. Recently, SWEC and its partners worked to address budget
23 cuts in local public schools and provide an equity analysis to reduce racialized disparities. SWEC
24 has also advocated against school policies that prevent teachers from asking students what their
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1 preferred pronouns are.

2 2.55 SWEC has a strong interest in seeing schools in Southwest Washington teach
3 inclusive curricula about vital social and historical topics such as the 1619Project, the Holocaust,
4 and the Civil Rights Movement, without educational disruptions caused by burdensome notice and
5 opt-out requirements. SWEC also has an interest in ensuring communications between schools,
6 parents, and law enforcement do not disproportionately harm youth and families of color.
7

8 2.56 SWEC is deeply concerned that Initiative 2081 erodes the ability for schools and
9 educators to provide comprehensive, inclusive curriculum that is critical to the communities it
10 serves.

11 **Individual Taxpayers**

12 **Plaintiff Lombard**

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14 2.57 Plaintiff Kari Lombard is a Psychiatric-Mental Health Nurse Practitioner and a
15 former school nurse at West Seattle High School in Seattle, Washington.

16 2.58 Plaintiff Lombard resides in Tacoma, Washington and is a taxpayer in Washington.

17 2.59 Plaintiff Lombard has significant concerns about how Initiative 2081 will harm
18 students' health and safety and she opposes use of taxpayer funds to implement this
19 unconstitutional law.
20

21 2.60 Based on her years of experience working as a school nurse in a public high school,
22 Ms. Lombard highly values students' rights to privacy. Plaintiff Lombard believes that teachers,
23 school nurses, and school-based health center employees can provide students with much-needed
24 information, acceptance, affirmation, and healthcare. Plaintiff Lombard has firsthand experience
25 affirming that student privacy and trust are essential to getting students in the door to reach that
26 care. From Plaintiff Lombard's experience, many students have supportive parents, but for those
27

1 who do not, school can be a life-saving source of support.

2 2.61 Plaintiff Lombard has a strong interest in ensuring that Initiative 2081’s explanation
3 of parental rights does not adversely affect the ability of students to access important physical and
4 mental health treatment.

5 **Plaintiff Jane Doe**

6 2.62 Plaintiff Jane Doe is the mother of two students in the Seattle Public Schools.

7 2.63 Plaintiff Doe resides in Seattle, Washington, and is a taxpayer in Washington.

8 2.64 Plaintiff Doe opposes Initiative 2081 and the use of taxpayer funds to implement a
9 law that would undermine students’ rights and target LGBTQ+ students.
10

11 2.65 As the parent of a trans, non-binary child, Plaintiff Doe is seriously concerned that
12 Initiative 2081 will interfere with schools’ ability to engage in anti-bullying and anti-harassment
13 education and programming and to implement inclusive, affirming curricula. Plaintiff Doe also
14 believes that students should be able to go confidentially to trusted adults at school for support and
15 referrals, including to healthcare, and that Initiative 2081 would interfere with those existing youth
16 rights.
17

18 **Public School Districts**

19 **South Whidbey School District (“SWSD”)**

20 2.66 Plaintiff South Whidbey School District ("SWSD") is a K-12 school district on the
21 south end of Whidbey Island, located in Island County, Washington.
22

23 2.67 As of May 1 2024, SWSD serves approximately 1100 enrolled public school
24 students and employs approximately 225 contracted school-based staff.

25 2.68 SWSD has a responsibility to ensure that all students who reside within its
26 boundaries can safely access a free public K-12 education.
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1 2.69 SWSD supports parental/guardian rights, and it supports education that celebrates
2 our different identities; integrity in how we treat others; and courage to do what is right by listening
3 to, learning from, and respecting diverse viewpoints.

4 2.70 SWSD is concerned that Initiative 2081, as written, negatively affects the rights of
5 youth and its commitment to being a place for students to learn, to thrive, and to seek assistance,
6 information, and support free from judgment, discrimination, and bullying.

7
8 **Plaintiffs Presented the Claims to the Attorney General**

9 2.71 On May 6, 2024, Plaintiffs, through counsel, made a demand upon Attorney
10 General Bob Ferguson to investigate the constitutional violations arising from Initiative 2081. *See*
11 Exhibit A. On May 13, 2024, Attorney General Ferguson declined to investigate and initiate legal
12 proceedings. *See* Exhibit B.

13
14 **Defendant**

15 2.72 Defendant is the State of Washington.

16 **III. JURISDICTION AND VENUE**

17 3.1 The Court has subject matter jurisdiction of this matter pursuant to RCW 2.08.010.

18 3.2 The Court has authority to issue declaratory judgment in this matter pursuant to
19 RCW 7.24 (Uniform Declaratory Judgments Act).

20 3.3 The Court has authority to issue an injunction in this matter pursuant to RCW
21 7.40.010.

22 3.4 Venue is proper in this Court pursuant to RCW 4.92.010 because the residence or
23 principal place of business of one or more of the Plaintiffs is in King County, Washington.

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IV. FACTS

A. Washington State Historically Protects Youth Privacy Rights, the Right to Education, and Inclusion of All Students in the Educational Environment.

4.1 Washington State’s Constitution recognizes important protections for youth, including the right to privacy, the right to education, and the right to inclusion in the school environment.

4.2 Recognizing young people’s privacy rights is particularly necessary when it comes to their ability to seek services related to the most personal aspects of their lives.

4.3 Protecting young people’s privacy rights is a long-term priority in Washington State. For more than 45 years, Washington has provided privacy protections for youth accessing safe spaces and important medical and mental health services, without parental consent. *See, e.g.*, RCW 70.24.110 (right to access testing and treatment for sexually transmitted infections for youth 14 years or older); RCW 71.34.530 (right to engage in outpatient behavioral health treatment for youth 13 years or older); RCW 9.02.100 (fundamental right of privacy with respect to personal reproductive decisions, including the right to access abortion services and birth control); RCW 13.32A.082 (access to youth shelters without parental consent for compelling reasons).

4.4 Washington State’s Constitution provides a right to education for all Washington children, “without distinction or preference on account of race, color, caste, or sex,” including provision of and full funding for a public school system. Washington State Const. Art. IX.

4.5 This right includes the right to an education that meets certain basic standards. *See e.g.*, RCW 28A.655.070. Washington’s school districts and educators are tasked with developing and implementing curricula to meet these standards. *See e.g.*, RCW 28A.150.210; RCW 28A.320.230.

1 4.6 In so doing, Washington has balanced parent access to classroom and school
2 activities so as not to disrupt learning activities and its paramount duty to educate. *See e.g.*, RCW
3 28A.605.020; 28A.230.070, RCW 28A.300.475.

4 4.7 Washington has enshrined protection from discrimination and requires notice to
5 parents of anti-discrimination policies. See, e.g., RCW 28A.640.010 (prohibiting discrimination
6 on the basis of sex); RCW 28A.642.010 (prohibiting discrimination on the basis of race, creed,
7 religion, color...sexual orientation including gender expression or identity....); RCW
8 28A.300.286 (requiring the superintendent of public schools to provide notice of policies and
9 complaint procedures regarding discrimination to parents).

10 4.8 Beginning June 6, 2024, school districts are required to adopt “policies and
11 procedures that incorporate adopting inclusive curricula and selecting inclusive instructional
12 materials that include the histories, contributions, and perspectives of historically marginalized
13 and underrepresented groups.” Laws of 2024, ch. 157, § 1 (Inclusive Learning Standards Bill,
14 “ESB 5462”), passed in the 2024 Session.

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17 **B. Washington Schools Provide Support to Students and Connect Youth to Resources.**

18 4.9 Public schools offer robust and comprehensive education and support.

19 4.10 Teachers, school counselors, and other staff at school provide LGBTQ+ students
20 safe and affirming spaces. That support is invaluable, especially in the absence of familial support.
21 LGBTQ+ students with supportive school staff report higher levels of self-esteem and lower rates
22 of suicidal ideation.

23
24 4.11 Teachers, school counselors, and other staff at school provide students seeking
25 protection from racism and bigotry, domestic violence, sexual violence, mental health support,
26 reproductive health, and other sensitive topics with safe and affirming spaces to seek assistance on
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1 a range of issues that young people may not be ready or able to talk with their families about.

2 4.12 School nurses, for example, provide emotional support, counseling, health services,
3 medical information, and referrals to other health providers, such as school-based health clinics.

4 4.13 School-based health clinics provide age-appropriate reproductive health care,
5 sexually transmitted infection screening and treatment, substance abuse and mental health
6 counseling and referrals, and other medical services.

7
8 4.14 School-based health clinics serve students who are less likely to access care in the
9 community, including students who cannot afford private-pay options, students experiencing
10 homelessness—which disproportionately includes LGBTQ+ students, and historically
11 underserved student groups, particularly Black and Indigenous youth.

12 4.15 Because of Washington’s commitment to ensuring access to healthcare and
13 upholding the privacy rights of young people, students can access these critical spaces and services
14 confidentially.

15
16 4.16 The promise of privacy in medical and mental health care received through school
17 providers, referrals, and school-based health clinics encourages young people to access these
18 services. Without privacy protections, many students will not engage with counseling and health
19 services resulting in a lack of access to resources critical for their safety and well-being.

20 4.17 Public school curriculum offers age-appropriate sexual health education, which
21 reduces rates of pregnancy, sexually transmitted infections, and risky sexual activity in teenagers.

22 4.18 Washington State educators develop and teach important curriculum elements that
23 help Washington youth be safe and healthy, treat each other with respect, and learn about
24 historically marginalized groups.

25 4.19 Schools teach students about respecting, celebrating, accepting, and understanding
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1 students of different identities and backgrounds.

2 4.20 Pursuant to legislation taking effect the same day that Initiative 2081 is scheduled
3 to take effect, public schools will promote inclusive learning by adopting inclusive curricula which
4 includes the histories, contributions, and perspectives of historically marginalized and
5 underrepresented groups.

6
7 4.21 Inclusive curricula and learning standards have been shown to improve the mental
8 health, academic performance, attendance rates, and graduation rates of historically marginalized
9 and underrepresented communities.

10 **C. Initiative 2081 Revises Existing Laws Without Properly Setting Forth Its Revisions.**

11 4.22 Initiative 2081 revises existing laws and fails to set forth that it does so.

12 4.23 For example, RCW 70.02.130 requires that, when a young person is legally
13 authorized to access health care without parental consent, the health care provider may not disclose
14 health care information about the youth—even to their parents—without their consent. This
15 important protection applies to mental and behavioral health care, reproductive health care, and
16 sexually transmitted infection testing—all of which minors of a certain age can receive without
17 parental consent.

18
19 4.24 Initiative 2081 revises RCW 70.02.130 by granting parental access to medical
20 records held by schools, eroding critical privacy protections for youth attending public schools.

21 4.25 Yet, Initiative 2081 fails to identify that it revises RCW 70.02.130.

22 4.26 Additionally, students have existing rights to access medical care without parental
23 consent. The Initiative requires prior notification for when “medical services are being offered to
24 their child” or when the school “has arranged directly or indirectly for medical treatment that
25 results in follow-up care beyond normal school hours,” which appears to conflict with existing
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27

1 law.

2 4.27 Initiative 2081 fails to identify that it modifies those laws.

3 4.28 Initiative 2081 fails to identify the myriad existing laws it revises or amends in
4 violation of article II, section 37 of the Washington State Constitution.

5 **D. Initiative 2081 Frustrates and Interferes with Existing Laws Causing Ambiguity and**
6 **Confusion.**

7 4.29 Initiative 2081 fails to identify the myriad laws it impacts. This causes confusion
8 about the legal duties of schools, their staff and contractors, and school-based healthcare providers.

9 4.30 For example, Initiative 2081 frustrates laws intended to address youth safety. RCW
10 13.32A.082 mandates that if a young person accesses a youth shelter without parental permission,
11 the shelter must notify the youth's parents within 72 hours of the youth's arrival unless compelling
12 reasons exist not to notify parents, in which case the shelter notifies the Department of Children,
13 Youth, and Families ("DCYF") instead. And in circumstances where it is safe to do, DCYF will
14 make efforts to inform parents and provide family reunification resources.

15 4.31 Initiative 2081 bypasses the important exceptions to parental notification and the
16 provision of family reunification efforts—including safety concerns—contained in RCW
17 13.32A.082, by instead requiring schools—without exception—to inform parents if a youth is
18 taken from a school to a youth shelter.

19 4.32 Initiative 2081 makes no mention of its effect on RCW 13.32A.082.

20 4.33 Initiative 2081 also contains notice and opt-out provisions related to family beliefs,
21 morality, political affiliations, religion, mental health, and sexual attraction that significantly
22 expand opt-outs under existing law. Covered topics that would require notice and opportunity to
23 opt-out could arise in a wide array of subjects and classroom activities. This new notice obligation,
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1 and the accompanying new right of parents to opt their child out, frustrate existing inclusive
2 curriculum mandates and significantly disrupts classrooms by forcing teachers to spend time
3 administrating parental preference instead of teaching.

4 4.34 Initiative 2081 imposes significant burdens on educators and schools that conflict
5 with and undermine the goals of inclusive curriculum and education, conflicting with the careful
6 balancing Washington has achieved between providing information to parents and community
7 while ensuring that schools are teaching mandatory curriculum.

8 4.35 In order to determine all of the laws impacted, a thorough search of existing laws
9 is required to fully understand the Initiative’s effects.

10 4.36 Even where Initiative 2081 references another law, the vague language makes the
11 interaction between Initiative 2081 and existing law impossible to determine.

12 4.37 For example, Initiative 2081 requires that parents receive written notice and the
13 option to opt their child out of instruction on “topics associated with sexual activity” in accordance
14 with RCW 28A.300.475, which governs comprehensive sexual health education.

15 4.38 But RCW 28A.300.475, provides existing notice and opt-out requirements for
16 “planned instruction in comprehensive sexual education”, a defined curricular program with clear
17 standards and requirements. The Initiative’s broader language creates ambiguity and uncertainty
18 as to how it should be applied.

19 4.39 Initiative 2081 also states that parents are entitled to “receive assurance” that their
20 child’s school will not discriminate against their child based on the family’s religious beliefs. The
21 Initiative’s language appears to conflict with Washington’s nondiscrimination law by elevating
22 religious rights over others. It risks putting schools in the impossible position of maintaining safe
23 and nondiscriminatory educational environments for all students, while seemingly prioritizing
24
25
26
27

1 through the provision of “assurance” of a family’s religious beliefs.

2 4.40 Initiative 2081’s vague language purporting to bestow parental rights across vast
3 areas without proper citation makes it impossible to identify all the laws it impacts.

4 4.41 School districts, administrators, agencies, and organizations representing youth are
5 urgently trying to understand the implication of the law’s provisions, which are obscured by its
6 vague language, broad effects across multiple legal landscapes, and failure to identify the existing
7 laws that it amends, alters, or negates.
8

9 **E. Plaintiffs Are Harmed by Initiative 2081.**

10 4.42 Plaintiffs are suffering and will continue to suffer injury unless and until the State
11 is enjoined from implementing Initiative 2081 and an injunction is issued preventing Initiative
12 2081 from becoming effective law.
13

14 4.43 Plaintiffs are harmed directly and individually as taxpayers because State funds
15 have been allocated to implement Initiative 2081, and funds will be used until the Initiative is
16 enjoined.

17 4.44 Plaintiffs are harmed because the Initiative has resulted in the significant
18 expenditure of State funds allocated to implementing the Initiative.

19 4.45 Plaintiffs are harmed directly and individually by the Initiative because it fails to
20 inform the Legislature and the people of the important laws protecting youth that it revises.
21

22 4.46 Plaintiffs are harmed directly and individually by Initiative 2081 contradicts and
23 undermines critical privacy protections for youth attending public schools in Washington State.

24 4.47 Plaintiffs include parents of children who are residents of the State, are enrolled in
25 public schools within the State, and who are harmed by the burdensome restraints placed on public
26 schools by the Initiative.
27

1 4.48 The Initiative harms Plaintiffs’ interests in the quality of public school education.

2 4.49 The Initiative harms Plaintiffs’ interests in student healthcare privacy.

3 4.50 The Initiative harms Plaintiffs’ interests in youth safety.

4 4.51 The Initiative harms Plaintiffs’ interests in public school education.

5 4.52 The Initiative harms Plaintiffs’ interests in youth autonomy.

6 4.53 Plaintiffs include organizations that advocate for, represent, and serve public school

7 students in Washington State.

8

9 4.54 The Initiative harms Plaintiff organizations by forcing them to divert resources

10 from their priorities and programs in order to address the harms of Initiative 2081. Plaintiff

11 organizations will also suffer harm from decreased ability to deliver services, including as a result

12 from decreased referrals from schools and the chilling effect the Initiative will have on

13 conversations between school staff and students.

14

15 4.55 Plaintiff organizations’ members and constituents will also suffer harm. Plaintiff

16 organizations serve the youth of Washington State who will be most negatively affected by the

17 Initiative, including survivors of sexual violence, homeless youth, LGBTQ+ youth, youth whose

18 parents do not support their identities, youth seeking mental health support, youth who need

19 reproductive or sexual health care, Black and Indigenous youth, and youth with intersectional

20 identities compounding the harm they will experience.

21

22 4.56 The Initiative causes harm to students by eroding privacy protections when youth

23 get healthcare information or services through their school.

24 4.57 The Initiative creates ambiguity and risk—for students and educators alike—

25 regarding what records and conversations can be kept confidential. For the many young people

26 who do not feel safe disclosing to their parents difficult challenges in their lives, they will suffer

27

1 harm because school will no longer be a place where they can seek confidential counsel with a
2 trusted adult.

3 4.58 The Initiative will harm students and interfere with their right to a quality education,
4 an inclusive curriculum, and a non-discriminatory learning environment. Educators will face
5 additional burdens teaching inclusive curriculum and anti-bullying, anti-harassment, and anti-
6 discrimination lessons, as topics as broad as “morals” and “beliefs” require notice and opt-out.
7 Notice and opt-out requirements will burden staff time, interfere with teachers’ ability to teach
8 important topics, and cause disruptions as students who are opted-out require supervision.
9

10 4.59 The Initiative harms Plaintiffs because it burdens schools, interfering with the right
11 an ample education that is the State’s paramount duty.

12 4.60 The Initiative harms Plaintiffs because it fails to reflect their priorities as taxpayers,
13 parents, and advocates for youth, including adequate school funding, robust services for English
14 language learners, students with disabilities, and safe and affirming spaces for all.
15

16 4.61 This matter is of serious public importance, and immediately affects a significant
17 portion of the Washington populace, including all youth in public school, and its outcome will
18 have a direct bearing on public education and youth welfare.

19 4.62 This Court’s grant of declaratory and injunctive relief will redress directly the
20 harms caused to Plaintiffs by Initiative 2081.
21

22 **V. CAUSE OF ACTION: VIOLATION OF ARTICLE II, SECTION 37**

23 5.1 Article II, section 37 of the Washington State Constitution provides: “No act shall
24 ever be revised or amended by mere references to its title, but the act revised or the section
25 amended shall be set forth at full length.”

26 5.2 Under article II, section 37, an enactment does not impermissibly revise or amend
27

1 existing law if it is a complete act and does not render erroneous a straightforward determination
2 of the scope of rights or duties under the existing statutes.

3 5.3 A new enactment is a complete act if the scope of the rights or duties created or
4 affected by the legislative action can be determined without referring to any other statute.
5

6 5.4 Additionally, where a straightforward determination of the scope of rights or duties
7 under the existing statutes would be rendered erroneous by the new enactment, the existing act
8 must be set forth in full.

9 5.5 Initiative 2081 is not a complete act because it implicates laws beyond the purported
10 parental rights contained in its text.

11 5.6 Initiative 2081 fails to set forth the existing acts or statutes or laws it revises or
12 amends in full, and in many cases, it fails to set them forth at all and makes no reference to the
13 important laws it revises.
14

15 5.7 Initiative 2081 renders erroneous a straightforward determination of the scope of
16 rights or duties under many existing statutes without setting forth the existing acts or statutes or
17 laws that it revises.

18 5.8 Thus, Initiative 2081 amends existing law in violation of article II, section 37 of the
19 Washington State Constitution.
20

21 5.9 Plaintiffs are harmed by Initiative 2081's violation of article II, section 37.

22 **VI. CAUSE OF ACTION: DECLARATORY JUDGMENT**

23 6.1 An actual dispute exists between Plaintiffs and Defendant State of Washington,
24 which parties have genuine and opposing interests, which interests are direct and substantial, and
25 a judicial determination of these issue would be final and conclusive.

26 6.2 This matter raises important constitutional questions of public importance, and a
27

1 judicial opinion will benefit the public, other branches of governments, and public school students
2 and districts across the state.

3 **VII. CAUSE OF ACTION: INJUNCTIVE RELIEF**

4 7.1 Plaintiffs have clear legal rights to prevent implementation of Initiative 2081.

5 7.2 Plaintiffs have a well-grounded fear of immediate invasion of those rights, which
6 will result in actual and continuing injury.
7

8 7.3 No adequate remedy of law exists to remedy this invasion.

9 7.4 Plaintiffs are, therefore, entitled to an injunction prohibiting implementation and
10 enactment of Initiative 2081.

11 **VIII. PRAYER FOR RELIEF**

12 WHEREFORE Plaintiffs requests that the Court:

13 A. Enter a judgment declaring that Initiative 2081 violates article II, section 37 of the
14 Washington State Constitution;
15

16 B. Issue a permanent injunction barring Initiative 2081 from implementation and
17 from become effective, and;

18 C. For such further relief as the Court deems just and equitable.

19 Dated this 23rd day of May, 2024.

20 QLaw FOUNDATION OF WASHINGTON

21
22 By: /s/ J. Denise Diskin
23 J. Denise Diskin, WSBA #41425
24 QLaw Foundation of Washington
25 400 East Pine Street, Suite 225
26 Seattle, Washington 98122
27 Tel: (206) 483-2725
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LEGAL VOICE

By: /s/ Julia Marks

Julia Marks, WSBA #59704

Legal Voice

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AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOUNDATION

By: /s/ Adrien Leavitt

Adrien Leavitt, WSBA #44451

Taryn Darling, WSBA #38276

La Rond Baker, WSBA #43610

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Attorneys for Plaintiffs

EXHIBIT – A

From: [Adrien Leavitt](#)
To: noah.purcell@atg.wa.gov
Cc: [Taryn Darling](#); [La Rond Baker](#); [Julia Z. Marks](#); [Denise Diskin](#)
Subject: Letter re: Taxpayer Request for Action -- Initiative 2081
Date: Monday, May 6, 2024 7:42:21 AM
Attachments: [Taxpayer Request for Action -- Initiative 2081 .pdf](#)
[image001.png](#)

Solicitor General Purcell –

Please find attached a taxpayer request for action letter regarding Initiative 2081. We request response no latter than Monday, May 13.

Sincerely,
-Adrien

Adrien Leavitt
Staff Attorney
Pronouns: he, him

American Civil Liberties Union of Washington
PO Box 2728, Seattle, WA 98111-2728

206.624.2184 | aleavitt@aclu-wa.org
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SENT VIA ELECTRONIC MAIL

May 6, 2024



Robert Ferguson, Washington State Attorney General
Noah Purcell, Solicitor General for the Washington State Attorney
General's Office
PO Box 40100
Olympia, WA 98504

Re: Taxpayer Request for Action–Response Needed by May 13

Dear Attorney General Ferguson and Solicitor General Purcell:



Washington

PO Box 2728
Seattle, WA 98111
(206) 624-2184
aclu-wa.org

Sherri Nichols
Board President

Michele Storms
Executive Director

La Rond Baker
Legal Director

John Midgley
Of Counsel

Taryn Darling
Senior Staff Attorney

Susannah Porter Lake
Adrien Leavitt
Brent Low
David Montes
Jonathan Nomamiukor
Staff Attorneys

Sagiv Galai
Legal Fellow

Tracie Hooper Wells
Paralegal

The ACLU of Washington, QLAW Foundation of Washington, and Legal Voice represent a resident and taxpayer of Washington State, who seeks injunctive and declaratory relief against the State of Washington to address the constitutional infirmities in Initiative 2081, before it becomes operative law. As a prerequisite to suing on behalf of our client, we request, under *State ex rel. Boyles v. Whatcom Cnty. Superior Court*, 103 Wn.2d 610, 694 P.2d 27 (1985), that you bring suit on behalf of Washington State taxpayers to obtain this relief. We request that you advise us as soon as possible, and in any event no later than **Monday, May 13, 2024**, whether you will file suit to redress the constitutional infirmities described below.

Initiative 2081 is an initiative to the legislature passed during the 2023/2024 legislative session. Initiative 2081 is styled as a “Parents’ Bill of Rights” and requires new and varied disclosures to parents in advance of curriculum and allows parents to examine instructional material, to opt their child out of classroom activities, and to gain access to students’ records. Although Initiative 2081 is largely duplicative of currently existing parental rights laws, it expands access to student records—and it is unclear if 2081 also requires the disclosure of health records that are, otherwise, confidential under current state law—in harmful ways. We are particularly concerned with the Initiative’s impacts on LGBTQ+ youth, youth who access school-based sexual health services and/or mental health counseling, homeless youth, unaccompanied immigrant youth, youth survivors of sexual assault or domestic violence, and those youth who have strained relationships with one or more of their parents.

Not only will the law harm our State’s youth, the law violates article 2, section 37 of the Washington State Constitution. Article 2, section 37 was drafted to protect the legislature and the public against fraud and deception. *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 640, 71 P.3d 644 (2003). “Relatedly, a significant purpose of

article 2, section 37 is to ensure that those enacting an amendatory law are fully aware of the proposed law's impact on existing law." *Black v. Cent. Puget Sound Reg'l Transit Auth.*, 195 Wn.2d 198, 205, 457 P.3d 453, 458 (2020) (citing *Wash. Citizens Action of Wash. v. State*, 162 Wn.2d 142, 152, 171 P.3d 486 (2007) (internal quotation marks omitted)).

Initiative 2081 runs afoul of this constitutional requirement by failing to appropriately inform lawmakers and citizens of all the laws that it impacts. Separately, where it does reference particular statutes that it might amend, how it amends those laws is not specified in the Initiative language and unclear in its intended interpretation. Trying to understand the impact of the Initiative on existing laws, therefore, requires a searching analysis of myriad statutes, and even after such search, the impact is still unclear because of the vague language in several of its provisions.

Because of the critical interests at stake and the constitutional deficiencies of Initiative 2081, we request that you advise us as soon as possible, and no later than **Monday, May 13, 2024**, whether you will file suit to redress this constitutional infirmity. Barring any positive response by May 13, we intend to file a taxpayer lawsuit against the State of Washington seeking injunctive relief and a declaratory judgement that Initiative 2081 violates article 2, section 37 of the Washington State Constitution. The taxpayer claims will likely be alleged alongside claims of organizational plaintiffs.

Sincerely,

s/ La Rond Baker

La Rond Baker, Legal Director, WSBA #43610
Taryn Darling, Senior Staff Attorney, WSBA #38276
Adrien Leavitt, Staff Attorney, WSBA #44451
American Civil Liberties Union of Washington Foundation
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s/J. Denise Diskin

J. Denise Diskin, Co-Executive Director – Litigation and Sustainability,
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QLaw Foundation of Washington
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s/ Julia Z. Marks

Julia Z. Marks, Washington Litigation Attorney, WSBA #59704

Legal Voice

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EXHIBIT – B



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Administration Division
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

May 13, 2024

Sent via electronic mail only

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Julia Z. Marks, Washington Litigation Attorney
Legal Voice
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Dear Ms. Baker, Ms. Diskin, and Ms. Marks:

I write in response to your letter of May 6, 2024, concerning a lawsuit you anticipate filing regarding Initiative 2081, Laws of 2024, ch. 4. As I understand it, you propose seeking declaratory and injunctive relief that the law violates article 2, section 37 of the Washington Constitution. As a prerequisite to asserting taxpayer standing, you request that our office bring suit to seek this relief. You advise that you will file suit if you do not receive a positive response by May 13, 2024.

We consider litigation at the request of taxpayers in appropriate situations. In this instance, we decline to take the actions you request, but do so without expressing any view as to whether your claims may have potential merit.

May 13, 2024
Page 2

To the extent your request is made as a prerequisite to asserting taxpayer standing, please understand that this letter expresses no view as to whether the requirements for taxpayer standing would be met.

I trust that this information will be helpful.

Sincerely,

s/ Noah Purcell
NOAH PURCELL
Solicitor General