

THURSTON CIVIL COUNTY SUPERIOR COURT
Case Information Cover Sheet (CICS)

Case Number _____ Case Title Sutherland et. al. vs Dean et.al.
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| <input type="checkbox"/> ABJ Abstract of Judgment | <input type="checkbox"/> PRG Property Damage – Gangs |
| <input type="checkbox"/> ALR Administrative Law Review | <input type="checkbox"/> PRP Property Damages |
| <input type="checkbox"/> ALRJT Administrative Law Review-Jury Trial (L&I) | <input type="checkbox"/> QTI Quiet Title |
| <input type="checkbox"/> CRP Petition for Certificate of Restoration of Opportunity | <input type="checkbox"/> RDR Relief from Duty to Register |
| <input type="checkbox"/> CHN Non-Confidential Change of Name | <input type="checkbox"/> RFR Restoration of Firearm Rights |
| <input type="checkbox"/> COL Collection | <input type="checkbox"/> SDR School District-Required Action Plan |
| <input type="checkbox"/> CON Condemnation | <input type="checkbox"/> SPC Seizure of Property-Commission of Crime |
| <input type="checkbox"/> COM Commercial | <input type="checkbox"/> SPR Seizure of Property-Resulting from Crime |
| <input type="checkbox"/> DOL Appeal Licensing Revocation | <input type="checkbox"/> STK Stalking Petition |
| <input type="checkbox"/> DVP Domestic Violence | <input type="checkbox"/> SXP Sexual Assault Protection |
| <input type="checkbox"/> EOM Emancipation of Minor | <input type="checkbox"/> TAX Employment Security Tax Warrant |
| <input type="checkbox"/> FJU Foreign Judgment | <input type="checkbox"/> TAX L & I Tax Warrant |
| <input type="checkbox"/> FOR Foreclosure | <input type="checkbox"/> TAX Licensing Tax Warrant |
| <input type="checkbox"/> FPO Foreign Protection Order | <input type="checkbox"/> TAX Revenue Tax Warrant |
| <input type="checkbox"/> HAR Unlawful Harassment | <input type="checkbox"/> TMV Tort – Motor Vehicle |
| <input checked="" type="checkbox"/> INJ Injunction | <input type="checkbox"/> TRJ Transcript of Judgment |
| <input type="checkbox"/> INT Interpleader | <input type="checkbox"/> TTO Tort – Other |
| <input type="checkbox"/> LCA Lower Court Appeal – Civil | <input type="checkbox"/> TXF Tax Foreclosure |
| <input type="checkbox"/> LCI Lower Court Appeal – Infractions | <input type="checkbox"/> UND Unlawful Detainer – Commercial |
| <input type="checkbox"/> LUPA Land Use Petition Act | <input type="checkbox"/> UND Unlawful Detainer – Residential |
| <input type="checkbox"/> MAL Other Malpractice | <input type="checkbox"/> VAP Vulnerable Adult Protection Order |
| <input type="checkbox"/> MED Medical Malpractice | <input type="checkbox"/> VVT Victims of Motor Vehicle Theft-Civil Action |
| <input type="checkbox"/> MHA Malicious Harassment | <input type="checkbox"/> WDE Wrongful Death |
| <input type="checkbox"/> MSC2 Miscellaneous – Civil | <input type="checkbox"/> WHC Writ of Habeas Corpus |
| <input type="checkbox"/> MST2 Minor Settlement – Civil (No Guardianship) | <input type="checkbox"/> WMW Miscellaneous Writs |
| <input type="checkbox"/> PCC Petition for Civil Commitment (Sexual Predator) | <input type="checkbox"/> WRM Writ of Mandamus |
| <input type="checkbox"/> PFA Property Fairness Act | <input type="checkbox"/> WRR Writ of Restitution |
| <input type="checkbox"/> PIN Personal Injury | <input type="checkbox"/> WRV Writ of Review |
| <input type="checkbox"/> PRA Public Records Act | <input type="checkbox"/> XRP Extreme Risk Protection Order |

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

**PLAINTIFFS' COMPLAINT IN
SUPPORT OF DECLARATORY
AND INJUNCTIVE RELIEF**

JURY DEMANDED

INTRODUCTION

- 1
2 1. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives
3 issued the *COVID-19, 2021 House Interim Operations Plan, Updated Sept 2021* (the “Interim
4 Plan”). Exhibit A of Declaration of Jesse Young filed herewith (“Young Dec.” Exh. A.). The
5 Chief Clerk is listed as a Defendant in this matter.
- 6 2. The Interim Plan was authorized by a 4-to-3 vote of the seven member House Executive Rules
7 Committee.
- 8 3. The House Executive Rules Committee is a longstanding committee, which is renewed each
9 biennium. HR No. 4610, adopted February 25, 2021. The present configuration of the
10 Executive Rules Committee consists of seven members: four from the majority party and three
11 from the minority party. HR 4610, Rule 6. Young Decl., Exh B.
- 12 4. Rule A-3 of the present configuration authorizes the Executive Rules Committee to “modify
13 provisions relating to admittance to house facilities as conditions warrant.” HR 4610, Rule A-
14 3(7). Young Decl., Exh B.
- 15 5. The seven members of the Executive Rules Committee are Lauri Jenkins, Pat Sullivan, Lillian
16 Ortiz-Self, Monica Stonier, J.T. Wilcox, Joel Kretz, and Paul Harris. Upon information and
17 belief, only Jenkins, Sullivan, Ortiz-Self, and Stonier voted in favor of the Interim Plan. (Walsh
18 Decl., Exh. D. email from Wilcox)
- 19 6. The Interim Plan, unlawfully limits access to House facilities and resources (the Capitol Campus
20 and district offices), for both members and staff. According to the Interim Plan beginning
21 October 18, 2021 only “members and staff who have provided documentation of being fully
22 vaccinated against COVID-19” are permitted entry to House facilities. Walsh Decl. Exh. A.
23 “Absent verification of being fully vaccinated, members and staff will not be permitted into
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House facilities.” *Id.*

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2 7. On November 18, 2021, the Chief Clerk emailed the Members of the Washington State House
3 of Representatives (“Members”) notification of the *2022 House Operations Plan* (“2022
4 Plan”).

5 8. The 2022 Plan maintains the requirement that Members and staff show proof of vaccination to
6 obtain entry to the or undergo regular testing as prescribed by the House may access John
7 L. O’Brien Building or authorized House spaces in the Legislative Building; however,
8 there is no testing option or alternative accommodation(s) for access to the House floor for
9 undocumented Members under the 2022 Plan.

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11 9. Importantly, the 2022 Plan allows for the public to attend live floor session insofar as such
12 members of the public “must screen for COVID symptoms and provide vaccination
13 verification or proof of a negative COVID test taken within the prior 72 hours.” (emphasis
14 added.) Notably, members of the Public do not have to show proof of vaccine to attend floor
15 sessions from the gallery in person; however, Members must show such proof of vaccine to
16 enter any building aside from their own office. This level of disparity shows clear
17 discrimination against the Representatives who do not show proof of vaccination and
18 demonstrates the arbitrariness of this Rule.

19
20 10. Collectively, the Interim Plan and the 2022 Plans are identified herein as “the Plans.”

21 11. Plaintiffs include six undocumented members of the Washington State House of
22 Representatives (“Representative”) who are subject to the Plans and six of their “Constituents”
23 (Washington citizens who voted for one or more of the Representatives).

24 12. Each undocumented Representative is presently prohibited from accessing their individual
25 offices and workspace and prohibited from conducting business at the Capitol Campus because

1 of the Plans.

2 13. Consequently, these Representatives are being treated differently compared to similarly
3 situated members of the Washington State House of Representatives.

4 14. Similarly, because of the Plans, the Constituents are prevented from meeting with, conferring
5 with, or engaging with their Representative at the Capitol Campus or in their district offices
6 despite the House facilities being a public forum.

7 15. The Plans do not allow members or staff to seek an exemption or an exception to the Interim
8 Plan requirements. Young Decl. Exh. A; Sutherland Dec.; Exh. C.

9 16. Because the Plans do not allow for medical, religious, or philosophical exceptions, the Interim
10 Plan discriminates against certain representatives, staff, and voters specifically because of, and
11 due to, those same representatives', staff, and voters' religious beliefs or medical conditions.
12

13 17. Defendants, in a glaring abuse of power, have seized the COVID-19 crisis to expand their
14 authority, without a proper foundational Constitutional, statutory, or other legal basis.

15 18. The implementation of the Plans and the resulting annexation of the Capitol campus for a select
16 few undocumented Representatives has caused and will continue to cause Plaintiffs to suffer
17 immediate and irreparable harm.

18 19. Absent declaratory and injunctive relief, Plaintiffs' rights will continually be violated,
19 unlawfully silencing the Members' voices and their constituent voters' at the Capitol Campus
20 resulting from the promulgation and enforcement of the Interim Plan.
21

22 20. Consequently, each Plaintiff will suffer direct and measurable harm if Defendants are not
23 enjoined from implementing the Plans and if the Plans are not deemed void as unconstitutional.

24 **JURISDICTION AND VENUE**

25 21. Undocumented Representative Plaintiffs are prohibited from equally entering buildings

1 located on the Capitol Campus in Olympia, Thurston County.

2 22. Defendant Dean is employed at the capitol building in Thurston County, Washington.

3 23. Upon information and belief, discussion and voting associated with the Interim Plan were
4 completed electronically off the Capitol Campus.

5 24. This Court has jurisdiction pursuant to RCW 4.12.020(2) and RCW 4.12.025(1).

6 **PARTIES**

7 25. Defendant Bernard Dean is the Chief Clerk for the House of Representatives.

8 26. The remaining Defendants are members of the Washington State House of Representatives
9 who are also currently serving on the House Executive Rules Committee and who, upon
10 information and belief, voted in favor of the Interim Plan: Lauri Jinkins, Pat Sullivan Lillian
11 Ortiz-Self, and Monica Stonier. Walsh Decl. Exh. D

12 27. Defendant Dean distributed Each Plan to all House members and staff.

13 28. The undocumented Representative-plaintiffs are six members of the Washington State House
14 of Representatives who are barred from access to House facilities as a result of Executive Rules
15 Committee's implementation of the Plans.
16

17 29. Plaintiff Robert "Rob" Chase is a Washington State Representative for the 4th Legislative
18 District.

19 30. Plaintiff Luke Davis is a voter in the 4th Legislative District.

20 31. Plaintiff Jennifer Graham is a Washington State Representative for the 6th Legislative
21 District.
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23 32. Plaintiff Russell Neff is a voter in the 6th Legislative District.

24 33. Plaintiff Robert "Bob" McCaslin, Jr. is a Washington State Representative for the 4th
25 Legislative District.

1 34. Plaintiff Gary Edwards is a voter in the 4th Legislative District.

2 35. Plaintiff Robert Sutherland is a Washington State Representative for the 39th Legislative
3 District.

4 36. Plaintiff John Henry Moselage, III is a voter in the 39th Legislative District who voted in 2020.

5 37. Plaintiff Jim Walsh is a Washington State Representative for the 19th Legislative District.

6 38. Plaintiff Jessie Westcott is a voter in the 19th Legislative District who voted in 2020.

7 39. Plaintiff Jesse Young is a Washington State Representative for the 26th Legislative District.

8 40. Plaintiff Craig Wellbrock is a voter in the 26th Legislative District who voted in 2020.

9 **FACTS**

10 41. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives,
11 Bernard Dean, issued the House Interim Plan (the “Interim Plan”). Young Decl. Exs. A and
12 B.
13

14 42. Defendant Dean was acting under the direction of the House Executive Rules Committee,
15 which consists of the following seven Representatives: Lauri Jenkins, Pat Sullivan Lillian
16 Ortiz-Self, Monica Stonier, J.T. Wilcox, Joel Kretz, and Paul Harris and was distributed by
17 Defendant Dean. Young Decl. Exh. A.

18 43. The Interim Plan requires proof of COVID-19 vaccination for elected Representatives and
19 their staff to enter the Capitol Campus. The Interim Plan fails to take into account those
20 Representatives or staff possessing natural immunity to COVID-19. The Interim Plan and
21 provides no exemptions or accommodations for Representatives or staff who decline
22 vaccination pursuant to medical advice, sincerely held religious beliefs, or other personal
23 objections.
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25 44. Thus, the Interim Plan categorically prohibits any member or staff who is unwilling or unable

1 to provide affirmative proof of a COVID-19 vaccination from entering all House facilities.

2 45. The Plans appear to be an underhanded method used by a few tyrannical members to impose
3 Governor Inslee's mandate on a legislative body specifically exempt from the mandate.

4 46. Despite having no authority to prohibit certain classes of Representatives, undocumented
5 Representatives, from entering capitol facilities or to implement and enforce the Plans,
6 Defendants continue to bar any such undocumented Representative's attempting to access
7 House facilities. Walsh Decl.

8 47. The facts bely the capriciousness of the Plans. Importantly, (1) legislative members are
9 categorically exempt from Governor Inslee's mandate, (2) House members did not pass a
10 resolution requiring members and staff to become documented and to show affirmative proof
11 of a COVID-19 vaccination, (3) House members did not vote on the Interim or the 2022 Plan,
12 and (4) the Senate members and staff are not similarly restricted regardless of vaccination
13 status, (5) voter-plaintiffs are denied equal protection, treatment, access, and representation to
14 the House legislative process via their legislative members..
15

16 48. Under the Plans, only documented Representatives are allowed to attend in-person meetings
17 at the House facilities.

18 49. The Plans do not provide an exception for those Representatives or staff possessing natural
19 immunity to COVID-19.

20 50. The Plans provide no exemption or accommodation process, let alone a Constitutionally
21 allowed process, for Representatives, or staff, whose decline vaccination pursuant to medical
22 advice.
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24 51. The Plans provide no exemption or accommodation process, let alone a Constitutionally
25 allowed process, for Representatives, or staff, whose decline vaccination or disclosure of

1 vaccination pursuant to sincerely held religious beliefs.

2 52. Representative Graham has had COVID and can demonstrate natural immunity through
3 antibody testing.

4 53. Representative Graham has a family history of adverse reactions to the COVID-19 injection.

5 54. Representative Sutherland had a severe adverse reaction to a flu shot, consequently his doctor
6 has advised him against taking any of the COVID-19 injections.

7 55. Representative Sutherland cannot obtain a medical exemption from his medical professional
8 without first obtaining the required medical exemption of his employer. Representative
9 Sutherland has been advised by House Counsel, Ohad Lowy, that no such exemptions are
10 available to Representatives or staff.

11 56. Representative Walsh objects to the COVID-19 vaccination based on religious, philosophical,
12 and freedom-of-conscience grounds due to the processes and ingredients used to develop and
13 manufacture the currently-available shots, amongst other reasons.

14 57. Representative Young objects to the COVID-19 vaccination based on sincerely held religious
15 beliefs that prohibit him from receiving the COVID-19 injection.

16 58. Plaintiff Davis's vote no longer matters. As a resident of rural Spokane County, Plaintiff Davis
17 has little representation (virtually no representation from his local elected officials), and the
18 loss of effective representation from Plaintiffs Chase and McCaslin significantly impact his
19 ability to connect with any elected officials. Without representation from Plaintiffs Chase and
20 McCaslin, Davis has no representation.

21 59. Plaintiff Edwards vote has been washed as Representative McCaslin, as an undocumented
22 Member, is prohibited from effectively doing his job. Plaintiff Edwards has been actively
23 engaged in the political process, and he no longer can be as effective without information or
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proper assistance from Representative McCaslin.

60. Plaintiff Moselage is a voter in the State of Washington and voted for Representative Sutherland in the 2020 election and spent significant time working on Representative Sutherland's election campaign. Because of the Interim Plan, Moselage is prevented from engaging in political discussion, from expressing his thoughts, concerns, beliefs, and from simply meeting with duly elected Representative Sutherland at the Capitol Campus, the explicitly identified seat of our State Government. Such prohibitions infringe on Moselage's fundamental rights and liberties and are therefore unlawful and unconstitutional.

61. Plaintiff Neff is a voter in the State of Washington and voted for Representative Graham in the 2020 election. Because of the Interim Plan, Neff is prevented from engaging in political discussion, from expressing his thoughts, concerns, beliefs, and from simply meeting with duly elected Representative Graham at the Capitol Campus, the explicitly identified seat of our State Government. Such prohibitions infringe on Neff's fundamental rights and liberties and are therefore unlawful and unconstitutional.

62. Plaintiff Wellbrock is a voter in the State of Washington and voted in the 2020 election. Because of the Interim Plan, Wellbrock is prevented from engaging in political discussion, prevented from expressing his thoughts, concerns, beliefs, and prevented from even meeting with duly elected Representative Young at the Capitol Campus, the explicitly identified seat of our State Government. Such prohibitions infringe on Wellbrock's fundamental rights and liberties and are therefore unlawful and unconstitutional.

63. Plaintiff Jessie Westcott is a voter in the State of Washington and voted for Representative Walsh in the 2020 election and spent significant time working on Representative Walsh's election campaign. Because of the Interim Plan, Westcott cannot even meet with duly elected

1 Representative Walsh at his office on the Capitol Campus. Consequently, Westcott is
2 prevented from engaging in political discussion or expressing her thoughts, concerns, beliefs
3 with her duly elected representative at the Capital Campus. The Interim Plan's restrictions
4 infringe on Westcott's fundamental rights and liberties and therefore the Interim Plan is
5 unlawful and unconstitutional.

6 64. Previously, all members and staff were treated equally.

7 65. Now, under the Plans, documented members and staff (those who have provided proof of
8 COVID-19 injection), enjoy the privilege of using the House facilities and process, including,
9 but not limited to staff, infrastructure, proximity to legislative action and negotiations, legal
10 resources, floor activity, parliamentary procedure benefits, and oral objection discretion, while
11 undocumented Members are excluded from the use of House facilities under the Interim Plan
12 and undocumented Members will also be barred from certain facilities and participation in
13 legislative processes via the 2022 Plan.

14 66. The members of the Senate and their staff are not subject to this Plan; in fact, the Senate
15 adopted its own plan on November 5, 2021, which barred no member from accessing Senate
16 facilities. Importantly, unlike the House Executive Rules Committee, no Senate committee has
17 attempted to promulgate a similarly unlawful, arbitrary, or capricious rule that creates two
18 classes of legislators.
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20 67. Therefore, similarly situated legislators are receiving preferential treatment because Senate
21 members and staff have the privilege of entering and using the Capitol Campus facilities
22 regardless of vaccination status.
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24 68. There are Constitutionally viable and less restrictive means than banning Members and staff
25 from accessing the Capitol Campus and district offices to accomplish the Plans.

1 69. The Clerk and the Executive Rules Committee are aware that less restrictive means exist as
2 each Plan identifies and requires mask wearing and social distancing in common areas for all
3 (vaccinated) members and staff allowed on campus.

4 70. The penalties are arbitrary and capricious, and are not tailored to allow Members with natural
5 immunity by virtue of prior infection or for Members seeking medical or religious exemptions
6 on the Capitol Campus.

7 71. Irreparable harm has been, and will continue to be, caused by the infringement of the right to
8 free speech, the Free Exercise Clause of the United States Constitution, Equal Protections
9 Rights, the Washington Law Against Discrimination, and the Right to Informed
10 Consent/Bodily Integrity.

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12 **FIRST CAUSE OF ACTION**

13 **STATE AND FEDERAL VIOLATIONS OF THE EQUAL PROTECTION CLAUSE**
14 **AND CLAIMS OF VOTER DILUTION**

15 72. Plaintiffs re-allege and incorporate by reference all of the facts and allegations contained in all
16 of the preceding paragraphs.

17 73. The right to equal protection under the law guaranteed by the United States Constitution,
18 amend. XIV, § 1, and by the privileges and immunities clause of the Washington Constitution,
19 art. I, § 12, are substantially identical. *State v. Shawn P.*, 122 Wn.2d 553, 559-60, 859 P.2d
20 1220 (1993). Both require that persons similarly situated receive like treatment.

21 74. Article I, §. 12 of the Washington Constitution provides “No law shall be passed granting to
22 any citizen, class of citizens, or corporation other than municipal, privileges or immunities
23 which upon the same terms shall not equally belong to all citizens, or corporations.” Section
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1 One of the Fourteenth Amendment provides, in pertinent part, that "[n]o state shall ... deny to
2 any person within its jurisdiction the equal protection of the laws."

3 75. Because of the Plans Plaintiffs Sutherland, Chase, Graham, McCaslin, Walsh, and Young, who
4 are each duly elected legislators in the Washington State House of Representatives, are barred
5 from accessing the Capitol Campus and district offices and from participating in House travel
6 under the Interim Plan. Each of these Representatives will be barred from accessing the House
7 floor and will be required to work entirely alone under the 2022, all because these Members
8 are undocumented.

9 76. Unlike similarly situated documented legislators who have free access to all using House
10 facilities, the undocumented Representatives are prevented from equally accessing the Capitol
11 Campus, from attending legislative meetings in person, and from meeting with voters at House
12 facilities. These undocumented Members have a diminished ability to carry out their legislative
13 duties or fulfill the promises made to voters.

14 77. Plaintiffs Edwards, Evans, Moselage, Neff, Wellbrock, and Westcott are voters in the State of
15 Washington, each of whom voted in the 2020 elections. Each plaintiff-voter's vote has been
16 diluted by the Plans as their voted Representative lacks access to facilities necessary to
17 effectively do his/her jobs.

18 78. Additionally, by prohibiting the Representatives from conducting daily business and
19 participating in meetings at House facilities for the foreseeable future and also preventing the
20 Constituents and the general population from petitioning their duly elected government for
21 redress of grievances at the Capitol Campus or the Representatives' district offices, the
22 Defendant are depriving all Plaintiffs of their rights, privileges, or immunities secured by the
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1 Constitution of the State of Washington and the United States Constitution under the First and
2 Fourteenth Amendments.

3 **SECOND CAUSE OF ACTION**

4 **STATE AND FEDERAL VIOLATIONS OF THE RIGHT TO PETITION**

5 79. Plaintiffs re-allege and incorporate by reference all of the facts and allegations contained in all
6 preceding paragraphs.

7 80. The Plans contravene core principles and values and must be repealed.

8 81. Article I, Section IV of the Washington Constitution, the Right of Petition and Assemblage
9 provides that “The right of petition and of the people peaceably to assemble for the common
10 good shall never be abridged.” This Right allows the People to petition their government for
11 redress of grievances.

12 82. The right to petition is also protected by the United States Constitution through the Fourteenth
13 and First Amendments. The right to petition for redress of grievances is one of the fundamental
14 rights guaranteed by the First Amendment. *United Mine Workers v. Illinois State Bar Assn.*,
15 389 U.S. 217, 222, 88 S.Ct. at 353, 19 L.Ed.2d 426 (1967) (right to petition government for
16 redress of grievances is among the most precious of the liberties safeguarded by the Bill of
17 Rights). “[P]eaceably expressing . . . grievances” to legislative bodies is “an exercise of these
18 basic constitutional rights in their most pristine and classic form.” *Edwards v. South Carolina*,
19 372 U.S. 229, 235 (1963). By virtue of the Fourteenth Amendment, states may not prevent
20 individuals from exercising this fundamental right. *De Jonge v. Oregon*, 299 U.S. 353, 364
21 (1937).
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23 83. A corollary to the right to petition for redress of grievances is the right to participate equally
24 in the political process. *See Reynolds v. Sims*, 377 U.S. 533, 560, 566-68, 84 S.Ct. 1362, 1381,
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1 1383-85, 12 L.Ed.2d 506 (1964) (concept of equal protection has been traditionally viewed as
2 requiring the uniform treatment of persons standing in the same relation to the governmental
3 action questioned or challenged); *accord Evans v. Romer*, 854 P.2d 1270, 1276 (Colo.1993)
4 (“the Equal Protection Clause guarantees the fundamental right to participate equally in the
5 political process and . . . any attempt to infringe on an independently identifiable group’s ability
6 to exercise that right is subject to strict judicial scrutiny”).

7 84. The Plans, by denying certain duly elected legislators the same rights given to other legislators,
8 interfere with the undocumented Representatives’ right to participate equally in the political
9 process.

10 85. The Plans also violates the Constituents’ constitutional right to participate in and have access
11 to government, a right which is one of the “fundamental principle[s] of representative
12 government in this country.” *Reynolds v. Sims*, 377 U.S. 533, 560, 566-68, 84 S.Ct. 1362,
13 1381, 1383-85, 12 L.Ed.2d 506 (1964). “[T]he right to receive ideas is a necessary predicate
14 to the recipient’s meaningful exercise of his own rights of speech, press and political freedom.”
15 *Board of Education v. Pico*, 457 U.S. 853, 867, 102 S.Ct. 2799, 2808, 73 L.Ed.2d 435 (1982).

16 86. “The very idea of a government, republican in form, implies a right on the part of its citizens
17 to meet peaceably for consultation in respect to public affairs and to petition for a redress of
18 grievances.” *United States v. Cruikshank*, 92 U.S. 542, 552 (1875). As the Plans prohibit duly
19 elected, undocumented Representatives from accessing the Capitol Campus, the Plans violate
20 the bedrock First Amendment right to petition and participate in the legislative for redress of
21 grievances as the voting public has can no longer contact these Representatives at the Capitol
22 Campus or in their district offices. Although undocumented Representatives acknowledge that
23 they may meet with voters outside of the Capitol Campus; they cannot meet with constituents
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1 or other legislators in on-campus meetings, a critical role of the republican form of
2 government.

3 87. The free exchange of ideas is fundamental to democracy and preventing some members from
4 engaging in such discourse is not only a violation of their rights, it is a blight on our freedom
5 as a society.

6 **THIRD CAUSE OF ACTION**

7 **VIOLATION OF FIRST AMENDMENT RIGHT TO FREEDOM OF SPEECH**

8 88. Plaintiffs reallege and incorporate by reference all of the facts and allegations contained in all
9 preceding paragraphs.

10 89. The First Amendment to the United States Constitution provides:

11 Congress shall make no law respecting an establishment of religion, or prohibiting the free
12 exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people
13 peaceably to assemble, and to petition the government for a redress of grievances.

14 90. The First Amendment applies to the states as well as to the federal government. *Gitlow v. New*
15 *York*, 268 U.S. 652, 665, 45 S.Ct. 625, 630, 69 L.Ed. 1138 (1925). “[T]here is [a] practically
16 universal agreement that a major purpose of that Amendment was to protect the free discussion
17 of governmental affairs.” *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 838, 98
18 S.Ct. 1535, 1541, 56 L.Ed.2d 1 (1978).

19 91. “The First Amendment was fashioned to assure unfettered interchange of ideas for the bringing
20 about of political and social changes desired by the people.” *Connick v. Myers*, 461 U.S. 138,
21 145 (1983) (citations omitted). “Premised on mistrust of governmental power” the First
22 Amendment “stands against attempts to disfavor certain subjects or viewpoints.” *Citizens*
23 *United v. Fed. Election Comm’n*, 558 U.S. 310 (2010)). Pursuant to the First Amendment,
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1 “government generally has no power to restrict expression because of its message, its ideas, its
2 subject matter, or its content.” *Barr v. Am. Assoc. of Political Consultants, Inc.*, ___ U.S. ___,
3 140 S. Ct. 2335, 2346 (2020) (quotation marks and citation omitted).

4 92. The Supreme Court has said: “The hallmark of the protection of free speech is to allow ‘free
5 trade in ideas’—even ideas that the overwhelming majority of people might find distasteful or
6 discomfoting.” *Virginia v. Black*, 538 U.S. 343, 365 (2003)(quoting *Abrams v. United States*,
7 250 U.S. 616, 630 (1919) (Holmes, J., dissenting)). A “core postulate of free speech law” is
8 that the “government may not discriminate against speech based on the ideas or opinions it
9 conveys.” *Iancu v. Brunetti*, ___ U.S. ___, 139 S. Ct. 2294, 2299 (2019).

10 93. “[W]hen any law restricts speech, even for a purpose that has nothing to do with the
11 suppression of communication...we insist that it meet the high First-Amendment standard of
12 justification.” 501 U.S. at 576, 111 S.Ct. at 2465-66. *See also Rosen v. Port of Portland*, 641
13 F.2d 1243, 1246, 1249 (9th Cir.1981) (laws restricting speech face a heavy presumption against
14 their constitutional validity and proponents bear burden of establishing that they are “narrowly
15 tailored” to further a “compelling” government interest).

16 94. The First Amendment “strictly limit[s]” government entities “in their ability to regulate private
17 speech in . . . ‘traditional public fora.’” *Pleasant Grove City, Utah v. Sumnum*, 555 U.S. 460,
18 469 (2009) (citation omitted). For a public forum, content-based restrictions on speech must
19 satisfy strict scrutiny. This means that “the restriction must be narrowly tailored to serve a
20 compelling government interest.” *Christian Legal Soc’y Chapter of the Univ. of California,*
21 *Hastings College of Law v. Martinez*, 561 U.S. 661, 679 n.11 (2010) (internal quotation marks
22 omitted).
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1 95. The Plans restrict the speech of all undocumented Representatives and staff who do not satisfy
2 the Plans' requirements at the House facilities, a public forum.

3 96. The decision not to receive a vaccine injection for COVID-19 or the decision to perhaps receive
4 the vaccine but abstain from providing proof of such vaccination are forms of expressive
5 speech. With the exception of those who cannot receive a vaccination for medical reasons, all
6 those who are not complying with Plan requirements are communicating by expressive speech
7 a religious or philosophical basis for non-compliance.

8 97. That the defendants disagree with Plaintiffs' expressive speech, does not give them the ability
9 or the authority to discriminate against such speech.

10 98. The Plans are not narrowly tailored as other protective measures less invasive than a
11 vaccination can similarly protect the members and staff of the House as demonstrated by the
12 Plans, which addresses the requirement for social distancing and mask wearing.

13 99. The Plans also violate the First Amendment by depriving elected officials and public
14 employees of the ability to communicate in-person with their fellow legislators, their
15 constituents, and with the public at the Capitol Campus.

16 100. Defendants, through implementation of the Plans, have interfered with the Representatives'
17 rights to equally participate in the legislative process in a manner defined by the standing
18 permanent house rules.

19 101. Defendants, without authority, have implemented and enforced a Plan that restricts rights
20 promised to the Representatives in the properly voted on House Permanent Rules. Young Dec.

21 102. As such, the Plans are an unconstitutional deprivations of the Representatives' constitutional
22 duties or rights.

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3 **FOURTH CAUSE OF ACTION**

4 **VIOLATIONS OF RELIGIOUS LIBERTY AND FREEDOM OF CONSCIENCE**
5 **PROTECTED UNDER ARTICLE I, SECTION 11 OF WASHINGTON**
6 **CONSTITUTION AND VIOLATIONS OF THE FREE EXERCISE CLAUSE OF THE**
7 **FIRST AMENDMENT**

8 103. Plaintiffs re-allege and incorporate by reference all of the facts and allegations contained in
9 all preceding paragraphs.

10 104. Article I, Sec. 11 of the Washington Constitution provides “Absolute freedom of conscience
11 in all matters of religious sentiment, belief and worship, shall be guaranteed to every
12 individual, and no one shall be molested or disturbed in person or property on account of
13 religion; but the liberty of conscience hereby secured shall not be so construed as to excuse
14 acts of licentiousness or justify practices inconsistent with the peace and safety of the state.”

15 105. The Free Exercise Clause of the First Amendment, which has been applied to the States
16 through the Fourteenth Amendment, provides that “Congress shall make no law respecting an
17 establishment of religion, or *prohibiting the free exercise thereof...*” *Church of Lukumi Babalu*
18 *Aye, Inc. v. Hialeah*, 508 U.S. 520, 531, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993) (internal
19 citation omitted).

20 106. Under the protections of the Free Exercise Clause, a challenged law (or order) that is not a
21 generally applicable or it burdens religious practice should be invalidated unless it can be
22 justified by a compelling interest and is narrowly tailored to advance that interest.

1 107. In this case, the Plans are not neutral and of general applicability because it prohibits
2 Representatives Young and Walsh from accessing and using House facilities because of their
3 sincerely held religious and personal beliefs.

4 108. Although the House is empowered to determine its rules of proceedings, it “may not by its
5 rules ignore constitutional restraints or violate fundamental rights.” *United States v. Ballin*,
6 144 U.S. 1, 5, 12 S.Ct. 507, 36 L.Ed. 321 (1892).

7 109. Although the Plans are alleged to be a legislative act thus escaping the purview and review
8 of the courts, the facts demonstrate the Plans were administrative, not legislative acts. The
9 Plans involved ad hoc decision making, it only applies to a few and not the entire legislative
10 body, it was created by a few members of a newly created committee and did not go through
11 the proper procedures necessary to change the permanent rules of the House and therefore, it
12 does not bear all the hallmarks of traditional legislation. Furthermore, the Interim Plan clearly
13 affects the voter-Plaintiff’s protected right to equal protection, treatment, and representation.

14 110. The Plans violate each undocumented Representatives’ ability to freely practice their
15 religious beliefs and violates the Free Exercise Clause because the Plans do not allow anyone
16 to apply for a religious of freedom of conscience exemption to each Plan.

17 111. The Plans treats Members differently; those with a sincere religious or personal conscience
18 belief that reject the vaccine are left without recourse as the Plans do not offer such
19 undocumented Members to engage in the iterative accommodation process that should be
20 granted under the Washington Law Against Discrimination or under Title VII of the Civil
21 Rights Act.
22

23 112. Representatives Young and Sutherland are left with no recourse.
24

25 **FOURTH CAUSE OF ACTION**

VIOLATION OF WASHINGTON VOTING RIGHTS ACT - RCW 29A.92

113. Plaintiffs re-allege and incorporate by reference all of the facts and allegations contained in all preceding paragraphs. Each Plaintiff is a registered voter in the State of Washington.

114. The Washington Voting Rights Act, RCW 29A.92, provides, in part “The legislature finds that electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections as provided by Article I, section 19 and Article VI, section 1 of the Washington state Constitution as well as protections found in the Fourteenth and Fifteenth amendments to the United States Constitution. The well-established principle of ‘one person, one vote’ and the prohibition on vote dilution have been consistently upheld in federal and state courts for more than fifty years.”

115. Each Plaintiff’s vote is diluted when its duly elected official was barred from equally accessing tools to properly perform his or her job. These Plaintiffs include both the voter-Plaintiffs and the Representative-Plaintiffs as each’s vote is equally diluted.

116. Under the Plans, each and every vote of these eight Washington voters is diluted.

FIFTH CAUSE OF ACTION

VIOLATION OF WASHINGTON LAW AGAINST DISCRIMINATION – RCW 49.60 AND VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

117. Plaintiffs re-allege and incorporate by reference all of the facts and allegations contained in all preceding paragraphs.

118. The Plans violates the Washington Law Against Discrimination (“WLAD”), Revised Code of Washington (“RCW”) Section 49.60. Section 49.60.010 provides, “it is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning

1 civil rights. The legislature hereby finds and declares that practices of discrimination against
2 any of its inhabitants because of race, creed, color...”

3 119. RCW 49.60.010 created a state agency and empowered it to eliminate and prevent
4 “discrimination in employment” and “in places of public resort, accommodation, or
5 amusement,” such as the Capitol Campus. Failure to accommodate these individuals
6 constitutes an unfair practice as defined in RCW 40.60.222(2)(a).

7 120. Plaintiff Representatives have been singled out for specifically unfavorable treatment as
8 opposed to other members of the Washington State House of Representatives.

9 121. To ensure healthy society and government voters and members of government must
10 encourage and safeguard the constitutional rights of persons to petition, speak freely, associate
11 freely, and otherwise participate in government. The Plans, however, squelche participation
12 and communication.

13
14 122. Plaintiffs Graham and Sutherland with allergic or other medical conditions making the
15 vaccine inappropriate are qualified individuals.

16 123. Plaintiffs Graham and Sutherland can continue to perform to essential functions of their jobs
17 as duly elected Representatives without submitting to the COVID-19 vaccine as each did
18 during the 2021 legislative session.

19 124. Plaintiff Graham has natural immunity and is able to continue performing the essential
20 functions of their jobs as duly elected Representatives without submitting to the COVID-19
21 vaccine as each did during the 2021 legislative session.

22
23 125. Plaintiffs Graham and Sutherland, along with all other individuals who are medically unable
24 to take the vaccine are being discriminated against and have no recourse under the Plans as
25 they are prohibited from entering their workplace, the Capitol Campus and district offices.

1 126. Defendants have failed to offer any reasonable accommodations for individuals like Plaintiffs
2 Graham, Sutherland, and Young.

3 127. By disallowing Representatives to seek religious accommodations, the Plain violates the
4 Washington Law Against Discrimination (RCW 49.60), which protects practices falling under
5 individuals' creeds, such as Representative Young and Walsh's sought accommodations
6 against the COVID-19 vaccine mandate.

7 **SIXTH CAUSE OF ACTION**

8 **VIOLATION OF THE FUNDAMENTAL RIGHT IN ONE'S OWN BODY AND THE**
9 **RIGHT TO INFORMED CONSENT**

10 128. By mandating the vaccine to allow Representative Plaintiffs access to the Capitol Campus
11 and other critical resources to perform their duly elected duties, the Plans violate
12 undocumented Plaintiff Representatives' fundamental right to determine what is to be done
13 with their own bodies. This right is commonly referred to as the doctrine of informed consent.
14 Plaintiff did not, and does not, consent to receiving the COVID-19 vaccine, doctrine adopted
15 by the State Supreme Court in *Miller v. Kennedy*, 85 Wn. 2d 151 (Wash. 1975) and codified
16 by the legislature in Revised Code of Washington Section 7.70 the very next year.

17 129. COVID-19 vaccine effectiveness is waning, especially against the present Delta variant. A
18 preliminary study has shown that in the case of a breakthrough infection, the Delta variant is
19 able to grow in the noses of vaccinated people to the same degree as if they were not vaccinated
20 at all. The virus that grows is just as infectious as that in unvaccinated people, meaning
21 vaccinated people can transmit the virus and infect others.¹
22

23
24 ¹ Sanjay Mishra, *Evidence mounts that people with breakthrough infections can spread Delta easily*, National Geographic
25 (Aug. 20, 2021), <https://www.nationalgeographic.com/science/article/evidence-mounts-that-people-with-breakthrough-infections-can-spread-delta-easily>; see also Statement from CDC Director Rochelle P. Walensky, MD, MPH on *Today's MMWR* (July 30, 2021), <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html> (noting "the Delta

1 130. Recent statements by Center for Disease Control (“CDC”) note the vaccine ineffectiveness
2 against COVID-19 spreading: “Investigations are ongoing to further assess the risk of
3 transmission from fully vaccinated persons with SARS-CoV-2 infections to other vaccinated
4 and unvaccinated people. Early evidence suggests infections in fully vaccinated persons caused
5 by the Delta variant of SARS-CoV-2 may be transmissible to others.” CDC Director, Dr.
6 Rochelle Walensky, MD, MPH, stated on August 18, 2021: “vaccine effectiveness against
7 infection declined over time...”² The CDC has published additional information on declining
8 COVID-19 vaccination effectiveness as has the *New England Journal of Medicine*.³
9

10 infection resulted in similarly high SARS-CoV-2 viral loads in vaccinated and unvaccinated people” and

11 ² Available at: The White House, WH.gov’s YouTube Page, entitled *Press Briefing by White House COVID-19 Response Team and Public Health Officials* <https://www.youtube.com/watch?v=ciVGA PuruoQ>. Minute Mark: 10:48 – 18:50.

12 ³ The CDC issued the following publications addressing waning vaccine effectiveness:

- 13 • *Outbreak of SARS-CoV-2 B.1.617.2 (Delta) Variant Infections Among Incarcerated Persons in a Federal Prison — Texas, July–August 2021*. Hagan, MPH, et. al., which noted that “Attack rates were higher among unvaccinated persons (39 of 42; 93%) than among fully vaccinated persons (129 of 185; 70%) (p = 0. 002) and among persons vaccinated ≥4 months before the outbreak (83 of 93; 89%) than among those vaccinated 2 weeks to 2 months before the outbreak (19 of 31; 61%) (p<0.001).” MMWR Vol. 70, No. 38, 1349-54. 9/24/21. Available at: https://www.cdc.gov/mmwr/volumes/70/wr/mm7038e3.htm?s_cid=mm7038e3_w. Last accessed: 9/26/21
- 14 • *New COVID-19 Cases and Hospitalizations Among Adults, by Vaccination Status — New York, May 3–July 25, 2021*. Roesenburg, et. al., noted “that During May 3–July 25, 2021, the overall age-adjusted VE [Vaccine Effectiveness] against new COVID-19 cases for all adults declined from 91.8% to 75.0%.” The study updated the data with “a supplementary analysis [that] found that among 1,285 fully vaccinated adults and 7,288 unvaccinated adults, 553 (43.0%) and 4,231 (58.1%), respectively, were reported to have been admitted for COVID-19 by hospital staff.” The Report also notes that Vaccine Efficiency, “VE against infection appears to have declined in recent months in New York, coinciding with a period of easing societal public health restrictions[¶] and increasing Delta variant circulation.” MMWR, Vol. 70, No. 37, 9/17/21, 1306-11. Available at: <https://stacks.cdc.gov/view/cdc/109654>. Last accessed: 9/26/21.
- 15 • *Effectiveness of Pfizer-BioNTech and Moderna Vaccines in Preventing SARS-CoV-2 Infection Among Nursing Home Residents Before and During Widespread Circulation of the SARS-CoV-2 B.1.617.2 (Delta) Variant — National Healthcare Safety Network, March 1–August 1, 2021*. Nanduri, Md., et. al. This publication noted that “Using 17,407 weekly reports from 3,862 facilities from the pre-Delta period, adjusted effectiveness against infection for any mRNA vaccine was 74.7% (95% confidence interval [CI] = 70.0%–78.8%). Analysis using 33,160 weekly reports from 11,581 facilities during an intermediate period (May 10–June 20) found that the adjusted effectiveness was 67.5% (95% CI = 60.1%–73.5%). Analysis using 85,593 weekly reports from 14,917 facilities during the Delta period found that the adjusted effectiveness was 53.1% (95% CI = 49.1%–56.7%).” Thus, the effectiveness of these vaccines decreased from roughly 75% effectiveness to roughly 53% effectiveness as measured between the following periods: (March 1–May 9, 2021) and (June 21–August 1, 2021). MMWR, Vol. 70, No. 34, 1163-66, 8/27/21. Available at: https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e3.htm?s_cid=mm7034e3_w. Last accessed: 9/26/21. Analysis using 85,593 weekly reports from 14,917 facilities during the Delta period found that the adjusted effectiveness was 53.1% (95% CI = 49.1%–56.7%).” Thus, the effectiveness of these vaccines decreased from

1 131. Accordingly, there are many less invasive and permanent means to protect persons at the
2 House facilities.

3 **SEVENTH CAUSE OF ACTION**

4 **INJUNCTIVE RELIEF AND DECLARATORY RELIEF**

5 132. RCW 7.40.020 empowers this Court to grant a preliminary and permanent injunction.

6 133. Plaintiffs have personal standing to seek a declaratory judgment, the Uniform Declaratory
7 Judgments under RCW chapter 7.24 as the Plans substantially violate their Constitutionally
8 protected rights, and their fundamental right to determine what is to be done with each person's
9 own body. *Grant Cty Fire Prot. Dist. 5 v. City of Moses Lake*, 150 Wn. 2d 791, 802 (Wash.
10 2004)

11 134. Unless Defendants are preliminarily enjoined from enforcing the Plans, the status quo cannot
12 be maintained during the legal process, the legal rights of affected individuals will be
13 irreparably harmed and impaired, and they will be denied any meaningful and effective
14 remedy.
15

16 135. Unless temporarily enjoined during these proceedings and permanently thereafter from
17 giving effect to the Proclamation, the constitutional rights of the Plaintiffs and other individuals
18 represented by the Plaintiffs, will be irreparably harmed; therefore, declaratory judgment is
19 also appropriate. The uncertainty and lack of clarity associated with obtaining relief from the
20

21
22 roughly 75% effectiveness to roughly 53% effectiveness as measured between the following periods: (March
23 1–May 9, 2021) and (June 21–August 1, 2021). MMWR, Vol. 70, No. 34, 1163-66, 8/27/21. Available at:
24 https://www.cdc.gov/mmwr/volumes/70/wr/mm7034e3.htm?s_cid=mm7034e3_w. Last accessed: 9/26/21.

- 25
- *The New England Journal of Medicine* published *Resurgence of SARS-CoV-2 Infection in a Highly Vaccinated Health System Workforce*, Keehner, M.D., et. al. “Vaccine effectiveness exceeded 90% from March through June but fell to 65.5% (95% confidence interval [CI], 48.9 to 76.9) in July... The dramatic change in vaccine effectiveness from June to July is likely to be due to both the emergence of the delta variant and waning immunity over time.” DOI: 10.1056/NEJMc2112981. Published 9/1/21. Available at: <https://www.nejm.org/doi/full/10.1056/NEJMc2112981>. Last accessed: 9/26/21.

1 decision to get vaccinated that will violate and subordinate their individual and collective
2 matters of conscience or remain locked out from the Capitol Campus, their staff, district
3 offices, and other necessary amenities to successfully achieve their jobs.

4 136. Plaintiffs are without any plain, speedy, or adequate remedy at law; unless the status quo is
5 maintained, Plaintiffs will be deprived of any meaningful remedy and suffer irreparable harm.

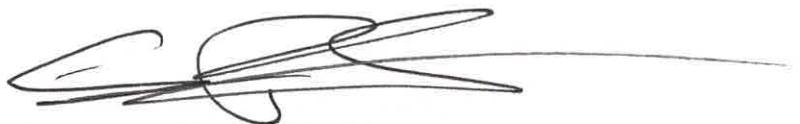
6 137. Defendants and the Plans should be preliminarily enjoined from giving effect to or otherwise
7 implementing the Proclamation during the pendency of these proceedings and permanently
8 enjoined thereafter.

9
10 **RELIEF REQUESTED**

- 11 A. A Declaration that the Interim Plan and the 2022 Plan is each Unconstitutional on face and as
12 applied.
- 13 B. A Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction restraining
14 the Clerk from and his subordinates from enforcing, directly or indirectly, the Plans.
- 15 C. Attorney's fees and any other costs at the discretion of this Court.
- 16 D. Any other damages, awards, or equitable relief that this Court sees appropriate.

17
18 Dated this 21st Day of November, 2021.

19 **SILENT MAJORITY FOUNDATION**

20 

21
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25 *Counsel for Plaintiffs*

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

**PLAINTIFFS' MEMORANDUM
OF SUPPORT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

JURY DEMANDED

INTRODUCTION

1
2 “There is no such thing as a vote that doesn’t matter. It all matters.” Fmr. President Barack
3 Obama.¹ For, “[i]f the provisions of the Constitution be not upheld when they pinch as well as when
4 they comfort, they may as well be discarded.” *Home Bldg. & Loan Ass’n v. Blaisdell*, 290 U.S. 398,
5 483 (1934) (Sutherland, J., dissenting) (emphasis added).

6 This lawsuit challenges two actions, which are essentially a single, continuing action, each
7 taken by the Washington State House of Representatives’ Executive Rules Committee (“Committee”
8 or “ERC”). Each action was a glaring abuse of power, exploited the COVID-19 pandemic to seize
9 authority and dominion over the entire Capitol Campus, lacking constitutional, statutory, or other legal
10 basis. The first action occurring on or before October 18, 2021, when the Committee devised and
11 implemented the *COVID-19, 2021 House Interim Operations Plan, Updated Sept 2021* (the “Interim
12 Plan”), which categorically prohibits both members of the Washington State House of Representatives
13 and staff who are unwilling or unable to provide affirmative proof of a COVID-19 vaccination from
14 entering all “House facilities” (defined in the Interim Plan as the Capitol Campus and district offices)
15 and The Interim Plan from engaging in legislative travel. These undocumented Representatives are
16 treated in a separate, unequal manner than those Representatives who are vaccinated and willing to
17 share such documentation with Defendant Dean and his staff. The Interim Plan was distributed by
18 Defendant Dean to all members of the Washington State House of Representatives on September 30,
19 2021. The second action occurred on November 18, 2021, when Defendant Dean distributed the *2022*
20 *House Operations Plan* (“2022 Plan”)², which prohibited the same undocumented House members
21
22

23
24 ¹ President Barack Obama’s speech at: Congressional Black Caucus Foundation Dinner, September 17, 2016. Video
25 available at: <https://www.c-span.org/video/?c4855645/user-clip-thing-vote-matter-matters>. Last accessed: October 14,
2021.

² Collectively, the Interim Plan and the 2022 Plan are referred to as “the Plans.”

1 from accessing the Joint Legislative Operations Building with no accommodations. Interestingly, the
2 2022 Plan allows members of the public to access the House Gallery without providing proof of
3 vaccination while barring undocumented Members from accessing the House Floor, a critical
4 workspace. These Plans individually and collectively create two classes of Legislator: the documented
5 and the undocumented Representatives and bars the undocumented Representatives from equal access
6 to necessary resources to do their work. In fact, the disparate treatment of the undocumented members
7 is clear as they are granted less access to their workspace than the general public.

8 Plaintiffs include Members of the Washington State House of Representatives and Washington
9 voters who voted for and/or supported one or more of the named Representative-Plaintiffs. Each
10 undocumented Representative-Plaintiff is presently barred from the House facilities because of the
11 Plans. Presently, under the Interim Plan means each Representative-Plaintiff is prevented from
12 accessing their individual offices and workspace and is prohibited from conducting business at the
13 Capitol Campus because of the Interim Plan. Consequently, the Voter-Plaintiffs are prevented from
14 meeting with, conferring with, or engaging with their elected Representative at the Capitol Campus or
15 in their district offices even though the House facilities are a public forum. Likewise, as each plaintiff-
16 Representative is unable to effectively do his/her job, the Voter-Plaintiff's vote is correspondingly
17 diminished unless and until the voter's elected Representative Plaintiff is returned to full and equal
18 access to the resources to complete his scope of work.

19
20 The unconstitutional Plans were neither devised, nor adopted by the House members at large,
21 but by the seven-member House Executive Rules Committee. Young Decl., Exh B. The permanent
22 House Rules, adopted as House Resolution 2021-4610 (Bill Number 4610), on February 25, 2021
23 were adopted via motion vote without publicity or objection. The relevant sections of the permanent
24
25

1 House Rules are Rule 6 and Rule A-3. Rule 6 establishes a seven-member Executive Rules Committee
2 (4 majority party, three minority party) and authorize, and Rule A-3 . The Executive Rules Committee
3 members are: Lauri Jinkins, Pat Sullivan, Lillian Ortiz-Self, Monica Stonier, J.T. Wilcox, Joel Kretz,
4 Paul Harris.³ Upon information and belief, Jinkins, Sullivan, Ortiz-Self, and Stonier voted in favor of
5 the Interim Plan and because of their individual vote, each is named as a defendant. Walsh Dec., Exh.
6 D. It is presently unclear as to how the 2022 Plan was developed and adopted; however, the 2022 Plan
7 was distributed by Defendant Dean.

8 Each Plan is overinclusive and discriminates against many House members and staff. Neither
9 Plan provides an exception for those Representatives or staff possessing natural immunity to COVID-
10 19. Neither Plan provides an exemption or accommodation process for Representatives, or staff, who
11 decline vaccination pursuant to medical advice. Neither Plan provides an exemption or
12 accommodation process for Representatives, or staff, who decline vaccination or disclosure of
13 vaccination pursuant to sincerely held religious, philosophical, and freedom-of-conscience grounds.
14 Each Plan simply creates two categories of legislators: documented legislators who have full
15 privileges, and undocumented legislators whose rights, privileges, and abilities are curtailed and
16 limited due to their undocumented status.

17
18 The Plans abridge both the Representative Plaintiffs' and the Voter Plaintiffs' freedom of
19 speech. The Plans provide no compelling reason to restrict the speech of the Representative Plaintiffs
20 and the Voter Plaintiffs at the House facilities, a public forum. Certainly, there are many less
21 restrictive means to achieve the same goal.

22
23 The Plans unlawfully impinge upon both the Representative Plaintiffs' and the Voter Plaintiffs'

24
25 ³ <https://leg.wa.gov/House/pages/leadership.aspx>

1 right of petition and assemblage as provided in Article I, Section IV of the Washington Constitution
2 and the United States Constitution through the Fourteenth and First Amendments. The Plans deny
3 undocumented, but duly elected, legislators the same rights given to the documented legislators,
4 interferes with the Representatives' right to participate equally in the political process. The Plans
5 violate the Voters' constitutional right to participate in and have access to government, a right which
6 is one of the "fundamental principle[s] of representative government in this country." *Reynolds v.*
7 *Sims*, 377 U.S. 533, 560, 566-68, 84 S.Ct. 1362, 1381, 1383-85, 12 L.Ed.2d 506 (1964).

8 The Plans result in more favorable treatment of undocumented Senators than undocumented
9 House members. As opposed to the members and staff of the House of Representatives, as members
10 and staff of the Washington Senate are not subject to the Interim Plan, nor has any Senate committee
11 attempted to ban Senators and staff from the Capitol Campus based on vaccination status. Thus,
12 similarly situated legislators are receiving preferential treatment because Senate members and staff
13 have the privilege of entering and using the Capitol Campus facilities regardless of vaccination status.

14 *Importantly*, each Plan dilutes every Plaintiff's (and every Washingtonian's) vote, violating
15 the Washington State Voters Rights Acts. Each Plan also violates the Americans with Disabilities Act
16 and the Washington Law Against Discrimination neither allows for medical exemptions. Two of six
17 of the undocumented Plaintiff Members have sought medical exemptions and were subsequently
18 informed that medical exemptions are not permissible under the present circumstances. See: Graham
19 and Sutherland Declarations.
20

21 COVID-19 is real, and it poses real threats. Plaintiffs, many of whom have had COVID-19 or
22 lost a dear one to COVID-19 recognize that "even in a pandemic, the Constitution cannot be
23 forgotten," nor can our elected officials, in the battle against COVID-19. *Roman Cath. Diocese of*
24

1 *Brooklyn v. Cuomo*, 141 S. Ct. 63, 66, 208 L. Ed. 2d 206 (2020). There are reasonable, more narrowly
2 tailored methods to protect against COVID-19 within the legislature that do not include mandatory
3 vaccination to allow Representatives to retain access to the Capitol Campus or to receive authorization
4 for House approved travels. Unfortunately, in a time when elected officials are desperately needed to
5 stand for their constituents, Defendants enacted and carried out the Plans, which deprive
6 undocumented legislators' their lawful access to necessary resources to successfully represent their
7 constituents, including the voter-Plaintiffs. The Plans are illogical, unnecessarily punitive, and
8 discriminatory as it provides several *other* means to limit transmission of COVID-19, yet it prohibits
9 the unvaccinated Members and staff from accessing the Capitol Campus, their district offices, or from
10 completing House approved travel.

11 **STATEMENT OF FACTS**

12
13 On September 30, 2021, Defendant Dean, the Chief Clerk of the House of Representatives
14 emailed the Members of the House of Representatives the COVID-19 2021 Interim Operations Plan,
15 Updated September 2021 ("Plan" or "the Interim Plan"). Exhibit A of Declaration of Jesse Young
16 filed herewith ("Young Dec." Exh. A.). The Interim Plan was adopted by the House Executive Rules
17 Committee, comprised of seven house Members, four Democrats Lauri Jenkins, Pat Sullivan Lillian
18 Ortiz-Self, Monica Stonier and three Republicans J.T. Wilcox, Joel Kretz, and Paul Harris. The four
19 Democrats, named as defendants, Jenkins, Ortiz-Self, Stonier, and Sullivan voted in favor of the
20 Interim Plan, while the three Republicans, Wilcox, Kretz, and Harris voted against the Rule. Young
21 Dec., Exh. A. The Interim Plan was distributed by Defendant Dean. Young Dec., Exh. A. The Interim
22 Plan expressly prohibits undocumented House Members and staff from accessing the Capitol Campus
23 and district offices. Young Dec., Exh. A. The Interim Plan offers no exemptions or exceptions to the
24
25

1 Interim Plan. Sutherland Dec., Exh. A. When asked whether the exemptions were available under the
2 Interim Plan, House Counsel, Ohad Lowy independently advised Representative Sutherland and
3 Representative Walsh that “the House does not Plan a vaccine” and that “the House does not have a
4 vaccination Plan or requires vaccination as a condition of employment.” Sutherland Dec., Exh. A.
5 Declaration of Jim Walsh (“Walsh Dec.”), Exh. B. While no accommodations are offered, Mr. Lowy
6 noted that accommodations can be made for vaccinated staff to assist Members in retrieving items
7 from their Capitol offices. *Id.*

8 On November 18, 2021, Defendant Dean released the 2022 Rules, which prohibits
9 undocumented House Members from accessing the legislative floor and requires that they work alone
10 in their respective office. The 2022 Plan has no such restrictions for documented House members, and
11 it even allows form members of the public to attend legislative sessions in the gallery.
12

13 Rob Chase is a Representative for the 4th Legislative District of Washington. Declaration of
14 Rob Chase (“Chase Dec.”), Exh. C. He has held this position for 1 year.

15 Luke Evans is a voter who has voted for, and supported Representative Chase. Declaration
16 of Luke Evans filed herewith (“Evans Dec.”) Exh. D.

17 Virginia “Jenny” Graham is the Representative for the 6th Legislative District of Washington.
18 Declaration of Representative Graham (“Graham Dec.”), Exh. E. She has held this position since 2019.

19 ¶¶ 2.

20 Russell Neff is a voter who has voted for, and supported Representative Graham. Declaration
21 of Russell Neff filed herewith (“Neff Dec.”) Exh. F.

22 Bob McCaslin is a Representative for the 4th Legislative District of Washington. Declaration
23 of Bob McCaslin (“McCaslin Dec.”), Exh. G. He has held this position since 2014.
24

1 Gary Edwards is a voter who has voted for, and supported Representative McCaslin.
2 Declaration of Gary Edwards filed herewith (“Edwards Dec.”) Exh. H.

3 Robert Sutherland is the duly elected 39th Legislative District Representative. Sutherland Dec.
4 ¶¶ 2. Exh. A. Representative Sutherland has a history of adverse reactions to shots, including an
5 adverse reaction to his most recent vaccine; a flu shot in 1994. Sutherland Dec. ¶¶ 5. Exh. A.
6 Representative Sutherland has discussed risks associated with the COVID-19 vaccine and his need to
7 abstain from the vaccine. Sutherland Dec. ¶¶ 6. Exh. A. Representative Sutherland sought a medical
8 exemption from his primary care physician, but he was unable to obtain one without *first* providing an
9 exemption form from the House of Representatives. Sutherland Dec. ¶¶ 6. Exh. A. Representative
10 Sutherland requested such a form from the House of Representatives, and House legal counsel, Ohad
11 Lowy, informed Representative Sutherland that no such form is available as the vaccine Plan is not a
12 condition of employment and that the “facility access requirement does not require an accommodation
13 process because it is not a condition of employment.” Sutherland Dec., Exh. A. Exh. A. Representative
14 Sutherland presently has no access to the Capitol Campus as he cannot receive accommodations, and
15 he has a legitimate medical concern. Sutherland Dec. ¶¶ 6. Exh. A.

17 John Henry Moselage, III is a voter and supporter of Robert Sutherland. Declaration of John
18 Henry Moselage, III filed herewith (“Moselage Dec.”) Exh. I. Mr. Moselage spent hundreds of hours
19 over the course of the past two election cycles working on Representative Sutherland’s behalf and has
20 donated to his campaigns. Moselage Dec. ¶¶ 4-5. Exh. I. Mr. Moselage has frequent contact with
21 Representative Sutherland while the Representative is in and out of session and shares ideas and
22 information with the Representative. Moselage Dec. ¶¶ 6. Exh. I. If Representative Sutherland is
23 barred from accessing his office and staff and is unable to adequately function in his role as a duly
24

1 elected Representative, Mr. Mosely's vote will no longer have the value it once did. Moselage Dec.
2 ¶¶ 7. Exh. I. Additionally, if Representative Sutherland continues to be banned from House facilities,
3 both Representative Sutherland's and Mr. Mosley's ability to participate in the legislative process
4 is severely diminished as compared to those similarly situated.

5 Jim Walsh is the is the duly elected Representative of the 19th Legislative District
6 Representative. Declaration of Jim Walsh filed herewith ("Walsh Dec.") Exh, B.

7 Jessie Westcott is a voter who has voted for, and supported Representative Walsh. Declaration
8 of Jessie Westcott filed herewith ("Westcott Dec.") Exh. J.

9 Jesse Young is the is the duly elected Representative of the 26th Legislative District
10 Representative. Declaration of Jesse Young filed herewith ("Young Dec.") Exh, K. Representative
11 Young has declined the COVID-19 vaccine for deeply held religious beliefs. Young Dec. ¶¶ 3. Exh.K.

12 Craig Wellbrock is a voter who has voted for, and supported Representative Young.
13 Declaration of Craig Wellbrock filed herewith ("Wellbrock Dec.") Exh. L. Mr. Wellbrock has had
14 substantial contact with Representative Young throughout the pandemic as Representative Young
15 has been an asset in Mr. Wellbrock obtaining a religious exemption from the COVID-19
16 vaccination. Wellbrock Dec. ¶¶ 5-6. Throughout the pandemic, Representative Young's local office
17 has been a critical meeting place for Rep. Young, Mr. Wellbrock, and others in a similar situation.
18 Wellbrock Dec. ¶¶ 7.

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20 The Plans will directly impact the ability of these undocumented Representatives to effectively
21 do their job as these individuals will be locked out of their offices. The Representatives have no
22 recourse as they are informed that there is no way to seek accommodations to grant them access to
23 *their* offices at the Capitol Campus under the Interim Plan or to have access to staff *in* their offices or
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1 the House Floor during the 2022. Voters who have duly elected these four Representatives are directly
2 impacted as their advocates have lost their voices and inability interact with other Representatives,
3 staff, and members of the public.

4 ARGUMENT AND AUTHORITY

5 To obtain injunctive relief, Plaintiffs must show a likelihood of success, that denying them
6 relief would lead to irreparable injury, and that granting relief would not harm the public interest.
7 *Diocese of Brooklyn* at 66. Under Washington Law, the court may issue injunctive relief on no or
8 short notice. RCW 7.40.010 and Civil Rule 65. One seeking a temporary or permanent injunction
9 must show (1) a clear legal or equitable right, (2) a well-grounded fear of immediate invasion of that
10 right, and (3) that the acts complained of are either resulting in or will result in actual and substantial
11 injury to the individual. *Fed. Way Family Physicians, Inc., v. Tacoma Stands Up for Life*, 106 Wash.2d
12 261, 265; see also: *Washington Fed'n of State Emps., Council 28, AFL-CIO v. State*, 99 Wn.2d
13 878, 887-88, (1983), citing with approval in also *San Juan County v. No New Gas Tax*, 160
14 Wn.2d 141, 153 (2007). The showing for declaratory relief is straightforward as it requires a
15 “justifiable controversy,” or, (1) an actual, present and existing dispute (whether the Plans infringe on
16 Plaintiff’s rights to access the Capitol Campus or dilutes Plaintiffs’ votes), (2) between parties having
17 genuine and opposing interests, (3) the matter involves direct and substantial interests (Representative
18 access to the Capitol Campus and voter integrity/dilution), and (4) a judicial determination will be
19 final and conclusive. *Langworthy v. Alt. Humane Soc’y*, No. 80754-4-I, at *13 (Wash. Ct. App. Nov.
20 2, 2020) The Uniform Declaratory Judgments Act’s “purpose is to settle and to afford relief from
21 uncertainty and insecurity with respect to rights, status and other legal relations.” See RCW 7.24.120
22 and *Washington State Coalition for the Homeless v. Department of Social & Health Services*, 133 Wn.

1 2d 894, 916 (Wash. 1997). This issue is appropriate for injunctive and declaratory relief as such a
2 controversy exists.

3 Here, the House Clerk is treating the Plans' prohibition of duly elected Representatives from
4 accessing their Capitol Offices, the Capitol Campus, their district offices, limiting interaction with
5 members of the public, and barring these undocumented legislators from the House floor during
6 legislative session, as if such prohibition causes no impact to these Representatives or their supporters.
7 That is simply not true. This is the irreparable injury as these Members cannot do their jobs effectively,
8 and their voices are silenced. The public is harmed by the diluted votes and diluted democracy; this is
9 clearly demonstrated through the voter-plaintiffs' declarations. This dilution, this imbalanced
10 democracy, where the act of a few committee members can ban and exclude Representatives from
11 resources constitutionally guaranteed and allocated to all Representatives regardless of vaccine status
12 prior to September 2021, calls into question our republic form of government, which inherently places
13 the power of government in the hands of the People. WA Const. Art. 1, Sec. I. These facts and analysis
14 demonstrate that the Plaintiffs are likely to prevail, that denying them relief would lead to irreparable
15 injury, and that granting relief would not harm the public interest. *See Winter v. Natural Resources*
16 *Defense Council, Inc.*, 555 U.S. 7, 20, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008).

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18 Without a TRO or preliminary injunction, violations of Plaintiffs' state and federal
19 constitutional and civil rights will continue causing Plaintiffs significant harm.

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24 **Loss of First Amendment Freedoms is Irreparable**

1 The First and Fourteenth Amendments to the United States Constitution secure to each person
2 the right against State interference in the free exercise of religion. Similarly, the State of Washington's
3 Constitution, Article I, Sections 11 and 12 secure these rights.

4 Article I, Section 11 of the Washington Constitution provides in relevant part, "Absolute
5 freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to
6 every individual..." The Free Exercise Clause of the First Amendment, which has been applied to the
7 States through the Fourteenth Amendment, provides that "Congress shall make no law respecting an
8 establishment of religion, or prohibiting the free exercise thereof. . . [.]"⁴ Accordingly, the plain
9 language of the First Amendment limits *government action* that "prohibits" free exercise and our state
10 provision "absolutely" protects freedom of worship and bars conduct that merely "disturbs" another
11 on the basis of religion.⁵ Thus, as Washington citizens, Plaintiffs' individual and collective religious
12 beliefs and conduct are constitutionally protected. There can be no question that the Interim Plan has,
13 and will continue to, cause irreparable harm to these rights and that the 2022 Plan will have the same
14 effect. Importantly, the United State Supreme Court has provided that "[t]he loss of First Amendment
15 freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."⁶
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21 ⁴ *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 531, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993) (internal
citation omitted).

22 ⁵ A *Gunwall* analysis is unnecessary as "already determined in a particular context the appropriate state constitutional
23 analysis under a provision of the Washington State Constitution, it is unnecessary to provide a threshold *Gunwall* analysis."
City of Woodinville v. Northshore United Church of Christ, 166 Wash. 2d 633, 641, 211 P.3d 406, 410 (2009). Washington
24 courts previously interpreted Section 11 to provide the same protection as the First Amendment's free exercise clause and
therefore applied strict scrutiny to laws burdening religion. *State v. Arlene's Flowers, Inc.*, 193 Wash. 2d 469, 524, 441
P.3d 1203, 1231 (2019) (collecting cases).

25 ⁶ *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020) (per curiam) (citing *Elrod v. Burns*, 427 U.S. 347,
373, 96 S.Ct. 2673 (1976) (plurality opinion)).

1 Furthermore, “when an alleged deprivation of a constitutional right is involved, most courts hold that
2 no further showing of irreparable injury is necessary.”⁷

3 Representative Walsh and Young both have sincerely held religious beliefs regarding their
4 right to choose what is done to their bodies. When determining whether a person holds sincerely held
5 religious belief, the government cannot define the scope of personal religious beliefs. *See Holt v.*
6 *Hobbs*, 574 U.S. ___, 135 S.Ct. 853, 190 L.Ed.2d 747 (2015). Moreover, the Supreme Court instructs
7 that courts should not “question the centrality of particular beliefs or practices to a faith, or the validity
8 of particular litigants’ interpretations of those creeds.” *Employment Div., Dept. of Human Resources*
9 *of Ore. v. Smith*, 494 U.S. 872, 887, 110 S.Ct. 1595, 108 L.Ed.2d 876 (1990). The Free Exercise Clause
10 “forbids subtle departures from neutrality,”⁸ and covert suppression of particular religious beliefs.
11 Official action that targets religious conduct for distinctive treatment cannot be shielded by mere
12 compliance with the requirement of facial neutrality. The Free Exercise Clause protects against
13 masked and overt governmental hostility, and the courts are directed to “survey meticulously the
14 circumstances of governmental categories to eliminate, as it were, religious gerrymanders.”⁹ The
15 Plans require elected government officials force any individual (plaintiff-Representatives) to choose
16 between maintaining religious practices and individual freedom of association or coercing these
17 individuals into the State’s dictates to access the individual’s work place (the Capitol Campus) and
18 participate in workplace activities, the imposing officials overtly infringe in individual constitutional
19 liberties.
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23 ⁷ *Mitchell v. Cuomo*, 748 F.2d 804, 806 (2d Cir. 1984), citing what is now 11A, Federal Practice & Procedure, §
24 2948.1 n. 21 (3d ed.); See also: *County of Spokane v. Local No. 1553*, 76 Wn. App. 765, 770(1995).

24 ⁸ *Gillette v. United States*, 401 U.S. 437, 452, 91 S.Ct. 828, 837, 28 L.Ed.2d 168 (1971).

25 ⁹ *Walz v. Tax Comm'n of New York City*, 397 U.S. 664, 696, 90 S.Ct. 1409, 1425, 25 L.Ed.2d 697 (1970) (Harlan, J., concurring).

1 Because the Plans clearly burden the Representatives’ exercise of religion, the defendants must
2 show that the Interim Plan is narrowly tailored to achieve a compelling goal. *Roman Diocese* at 67
3 citing: *Church of Lukumi* at 546. The defendants cannot satisfy this burden. Stopping COVID is a
4 compelling interest; however, neither Plan can achieve such lofty goals, nor is either Plan narrowly
5 tailored in fact, neither Plan is tailored...at all. For the past 20 months, including the “long” legislative
6 session of the biennial legislative session (105 days), Legislators have effectively met, convened, and
7 worked together without requiring each member attest to being fully vaccinated against COVID-19.
8 There are less restrictive means to accomplish the State’s interest, including implementing the same
9 rules that were in place prior to wide spread vaccine availability: mask wearing, social distancing,
10 having **all** legislators working from home, and closing the facilities to the public, for example, would
11 be a great start. In fact, such means were adopted in the Senate Plan, which allows for all 49 senators
12 (on the floor) and up to 12 members of the public (in the gallery) to attend a given session, regardless
13 of vaccination status. The Senate’s Plan demonstrates that the House Plan could allow for in-person
14 attendance of the Members.
15

16 Additionally, neither Plan is narrowly tailored because neither can accomplish the alleged goal
17 of preventing the spread of COVID-19. Forcing people to get vaccinated does not stop the spread of
18 COVID-19. Indeed, even the CDC admits that fully vaccinated individuals may spread COVID-19
19 with the same rate as unvaccinated and even the “fully vaccinated” can contract COVID-19 and spread
20 COVID-19.¹⁰ If the rationale was true then states and countries without vaccine mandates and less
21

22 ¹⁰ CDC October 29, 2021 publication 70(43);1520–1524, *COVID-19 Vaccination and Non-COVID-19 Mortality Risk —*
23 *Seven Integrated Health Care Organizations, United States, December 14, 2020–July 31, 2021* notes that Standard
24 Mortality Rates (“SMRs”) “after dose 1 were 0.42 and 0.37 per 100 person-years for Pfizer-BioNTech and Moderna,
25 respectively, and were 0.35 and 0.34, respectively, after dose 2 (Table 2). These rates were lower than the rate of 1.11 per
100 person-years among the unvaccinated mRNA vaccine comparison group (p <0.001). Among Janssen vaccine
recipients, the overall SMR was 0.84 per 100 person-years, lower than the rate of 1.47 per 100 person-years among the

1 restrictive COVID-protection protocols should show significantly higher rates of transmission,
2 hospitalizations, and death. The facts, however, do not support the supposition. Additionally, the
3 requirement of being “fully vaccinated” is an ever-moving goal post as it is likely that within months
4 persons who are currently considered fully vaccinated will no longer qualify and will be required to
5 get injected with a booster to be, once again, considered “fully vaccinated.”¹¹ The Interim Plan directly
6 impacts each plaintiff-Representative’s First Amendment rights, bodily integrity (a fundamental
7 liberty), and ability to equally legislate (i.e., successful employment) is directly impacted.¹²

8 *The Supreme Court of the United States Distinguished Live Participation from Remote Participation*
9 *in the First Amendment Contest in Diocese of Brooklyn*

10 Representative-Plaintiffs must be allowed the same freedoms and resources available to other
11 similarly situated representatives. *Diocese of Brooklyn* remains the centerpiece for this analysis as the
12 Court distinguished in-person attendance at a religious ceremony from live viewing via television or
13 other electronic means, as follows:

14 If only 10 people are admitted to each service, the great majority of those who wish to
15 attend Mass on Sunday or services in a synagogue on Shabbat will be barred. And while
16 those who are shut out may in some instances be able to watch services on television,
such remote viewing is *not the same as personal attendance*.¹³

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20 unvaccinated comparison group (p <0.001). Among persons aged 12–17 years, SMRs were similar among the Pfizer-
BioNTech vaccine recipients and unvaccinated comparison groups (p = 0.68 after dose 1 and 0.89 after dose 2).”

21 ¹¹ Dr. Anthony Fauci interview, November 21, 2021, available at: [https://abcnews.go.com/ThisWeek/fauci-fully-](https://abcnews.go.com/ThisWeek/fauci-fully-vaccinated-definition-changing-include-boosters/story?id=81299248)
22 [vaccinated-definition-changing-include-boosters/story?id=81299248](https://abcnews.go.com/ThisWeek/fauci-fully-vaccinated-definition-changing-include-boosters/story?id=81299248). “[F]ully vaccinated right now, by definition, is the
original two doses [of] ... Pfizer and Moderna and a single dose with [the one-shot Johnson & Johnson]...” Last accessed:
November 21, 2021.

23 ¹² See *Kallstrom v. City of Columbus*, 136 F.3d 1055, 1062 (6th Cir. 1998), holding: the interest in preserving one’s
own life and personal security and bodily integrity constitutes a fundamental liberty interest. See also *Kennedy v.*
24 *City of Ridgefield*, 439 F.3d 1055, 1061-62 (9th Cir. 2006) (“It is well established that the Constitution protects
a citizen's liberty interest in her own bodily security.”) (citing *Ingraham v. Wright*, 430 U.S. 651, 673-74 (1977); *Wood*
25 *v. Ostrander*, 879 F.2d 583, 589 (9th Cir. 1989)).

¹³ *Diocese of Brooklyn*,. at 67-68 (emphasis added).

1 In *Diocese of Brooklyn*, the Supreme Court ruled that these restrictions were not narrowly tailored
2 because they were “more severe than has been shown to be required to prevent the spread of the
3 virus.”¹⁴ The Court granted injunctive relief.

4 ///

5 Similarly, this Court should grant injunctive relief as the Plans are not narrowly tailored as
6 each Plan prohibits the Representative-plaintiffs from active participation in workplace. The Interim
7 Plan prohibits time on the Capitol Campus, which may be used to network, work with staff, research
8 and draft legislation, engage in policy debates. The 2022 Plan prohibits Representative-plaintiffs from
9 engaging in debate on the House floor, the very purpose for which they are elected; further, as Plaintiff
10 Graham has stated, she is no longer able to use her “silent advocacy approach” in the legislative
11 process by intentionally placing items on her Floor desk. Graham Dec. ¶¶ 8. Indeed, the value of access
12 to the Capitol Campus before, during, and after a legislative session is critical to the success of the
13 Plaintiff-Representatives. After all, “COVID-19 is not a blank check for a State to discriminate against
14 religious people.”¹⁵

16 **The Plans create an undeniable violation of Freedom of Speech.**

17 The First Amendment provides that “Congress shall make no law ... abridging the freedom of
18 speech...” The rights of free speech and peaceable assembly are fundamental rights which are
19 safeguarded against State interference by the due process clause of the Fourteenth Amendment. *De*
20 *Jonge v. Oregon*, 299 U.S. 353, 364, 81 L.Ed. 278, 57 S.Ct. 255 (1937). “[T]he First Amendment,
21 subject only to narrow and well-understood exceptions, does not countenance governmental control
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23 _____
24 ¹⁴ *Id.* at 67.

25 ¹⁵ *Calvary Chapel Dayton Valley v. Sisolak*, 140 S.Ct. 2603, 2614 (2020) (mem.) ((Kavanaugh, J.,
dissenting).

1 over the content of messages expressed by private individuals.” *Turner Broadcasting System, Inc. v.*
2 *Federal Communications Comm'n*, 512 U.S. 622, 641, 114 S.Ct. 2445, 129 L.Ed.2d 497 (1994).

3 To guard against that threat the Constitution demands that content-based restrictions on speech
4 be presumed invalid. *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 660, 124 S.Ct. 2783,
5 159 L.Ed.2d 690 (2004). The first amendment reflects a national commitment to the principle that
6 debate on public issues should be robust and uninhibited. Accordingly, speech on public issues
7 occupies the highest position of the hierarchy of first amendment values and is entitled to special
8 protection. *Snyder v. Phelps*, 562 U.S. 443, 451-52, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011).

9 In a public forum, the State may only impose time, place and manner restrictions upon all
10 expression, whether written, oral or symbolized by conduct if the restrictions are content-neutral, are
11 narrowly tailored to serve a significant government interest, and leave open ample alternative channels
12 of communication. *Heffron v. International Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647,
13 69 L.Ed.2d 298, 101 S.Ct. 2559 (1981).

14 In this case, neither Plan is content-neutral as each *only* allows for speech consistent with the
15 narrative as determined by the Executive Rules Committee – that full COVID vaccination is the *only*
16 method to prevent the spread of COVID-19. The defendants created an Order that proscribes any
17 speech to the contrary. An Order prohibiting speech based on content cannot survive First Amendment
18 challenge.
19

20 Additionally, the Executive Rules Committee’s narrative – that full COVID vaccination is the
21 *only* method to prevent the spread of COVID-19 -- is belied by the facts including the number of
22 break-through cases. Clearly “fully vaccinated” persons continue to spread and contract COVID.
23 Because the narrative is not supported by the facts and because there are other, less invasive methods
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1 of lessening the spread of COVID-19, the Plans cannot serve a compelling government interest.

2 The Plans also violate the Plaintiffs' right to free speech because medical decisions and
3 decisions regarding one's own body are forms of expressive speech and must be protected. Conduct
4 is expressive when the actor intends to communicate a particular message by his actions and that
5 message will be understood by those who observe it because of the surrounding circumstances. *Spence*
6 *v. Washington*, 418 U.S. 405, 410-11, 94 S.Ct. 2727, 2730-31, 41 L.Ed.2d 842 (1974).

7 Finally, the Plans violate the Plaintiffs' right to free speech because each Plan is overbroad.
8 The first amendment overbreadth doctrine looks not at whether a law improperly regulates speech
9 based on viewpoint or content but at the appropriate scope of the regulation. *See Osborne v. Ohio*, 495
10 U.S. 103, 112, 110 S.Ct. 1691, 109 L.Ed.2d 98 (1990) (recognizing that, where a statute regulates
11 expressive conduct, it may be found to be unconstitutionally overbroad if it "criminalizes an intolerable
12 range of constitutionally protected conduct"). A facial challenge based on first amendment
13 overbreadth is permitted out of concern that the threat of enforcement of an overbroad law may chill
14 or deter constitutionally protected speech, particularly where the statute imposes criminal penalties.
15 *Virginia v. Hicks*, 539 U.S. 113, 119, 123 S.Ct. 2191, 156 L.Ed.2d 148 (2003). In this case, each Plan
16 prohibits a substantial amount of protected speech as each Plan proscribes all speech at House
17 facilities, including proscribing duly elected Representatives from speaking on the House floor during
18 session, for these undocumented Plaintiffs. These Plans also threaten disciplinary action against
19 anyone who violates either Plan. Therefore, these Plans are facially invalid. *United States v. Williams*,
20 553 U.S. 285, 292, 128 S.Ct. 1830, 170 L.Ed.2d 650 (2008). (Under the first amendment's overbreadth
21 doctrine, "a statute is facially invalid if it prohibits a substantial amount of protected speech").
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24 Even if the restrictions on speech can be seen as viewpoint neutral, that does not mean the
25

1 Interim Plan is content-neutral.” [A] speech regulation targeted at specific subject matter is content
2 based even if it does not discriminate among viewpoints within that subject matter.” *See Reed v. Town*
3 *of Gilbert, Ariz.*, 135 S. Ct. 2218, 2230 (2015). “Innocent motives, moreover, do not eliminate the
4 danger of censorship presented by a facially content-based statute, as future government officials may
5 one day wield such statutes to suppress disfavored speech.” *Id.* at 2229. *Accord* Cass R. Sunstein,
6 *Democracy and the Problem of Free Speech* 169 (1993) (“When government regulates content, there
7 is a large risk that the restriction really stems from something illegitimate: an effort to foreclose a
8 controversial viewpoint, to stop people from being offended by certain topics and views, or to prevent
9 people from being persuaded by what others have to say.”).

10
11 **The Plan are administrative act of the Executive Rules Committee,
not legislative acts.**

12 Although the Plans are likely alleged to be a legislative act, thus escaping the purview and
13 review of the courts, the facts demonstrate the Plans are administrative, not legislative acts. The Plans
14 involved ad hoc decision making, only apply to a few Members (not the entire legislative body), were
15 created by a few members of a legislatively created committee, and the Plans did not go through the
16 proper procedures necessary to change the permanent rules of the House. Therefore, the Plans do not
17 bear all the hallmarks of traditional legislation. Furthermore, the Plans clearly affects the voter-
18 Plaintiffs’ protected right to equal protection, treatment, and representation.

19
20 **The Plans violate the Plaintiffs’ right to equal protection and treatment under the law.**

21 The right to equal protection under the law guaranteed by the United States Constitution,
22 amend. XIV, § 1, and by the privileges and immunities clause of the Washington Constitution, art. I,
23 § 12, are substantially identical. *State v. Shawn P.*, 122 Wn.2d 553, 559-60, 859 P.2d 1220 (1993).
24 Both require that persons similarly situated receive like treatment.
25

1 Article I, §. 12 of the Washington Constitution provides “No law shall be passed granting to
2 any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon
3 the same terms shall not equally belong to all citizens, or corporations.” Section One of the Fourteenth
4 Amendment provides, in pertinent part, that “[n]o state shall ... deny to any person within its
5 jurisdiction the equal protection of the laws.”

6 Because of the Plans, Representative-Plaintiffs, duly elected, but undocumented legislators in
7 the Washington State House of Representatives, are barred from accessing the Capitol Campus and
8 district offices. These Representatives are also prohibited from House travel under the Interim Plan,
9 thus preventing them from traveling to participate in meeting and events or visiting their constituents
10 even though such obligations are part of the promises each Representative-Plaintiff made to their
11 constituents and voters when elected.

12 Unlike similarly situated members of the House of Representatives, who are not prohibited
13 from entering and using House facilities, the undocumented Representatives who are prevented from
14 accessing the Capitol Campus, from attending committee meetings in person, and from meeting with
15 voters at House facilities—under the Plans--have a diminished ability to carry out their legislative
16 duties or fulfill the promises made to voters.

17 Additionally, and importantly, the members of the Senate and their staff are not subject to the
18 either Plan. In fact, the Senate plan does not include similar oppressive and coercive vaccination
19 requirements. Therefore, similarly situated legislators are receiving preferential treatment because
20 Senate members and staff have the privilege of entering and using the Capitol Campus facilities
21 regardless of vaccination status.

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The Plans violate the Plaintiffs’ right of Petition and Assemblage.

Article I, Section IV of the Washington Constitution, the Right of Petition and Assemblage provides that “The right of petition and of the people peaceably to assemble for the common good shall never be abridged.” This Right allows the People to petition their government for redress of grievances.

The right to petition is also protected by the United States Constitution through the Fourteenth and First Amendments. The right to petition for redress of grievances is one of the fundamental rights guaranteed by the First Amendment. *United Mine Workers v. Illinois State Bar Assn.*, 389 U.S. 217, 222, 88 S.Ct. at 353, 19 L.Ed.2d 426 (1967) (right to petition government for redress of grievances is among the most precious of the liberties safeguarded by the Bill of Rights). “[P]eaceably expressing ... grievances” to legislative bodies is “an exercise of these basic constitutional rights in their most pristine and classic form.” *Edwards v. South Carolina*, 372 U.S. 229, 235 (1963). By virtue of the Fourteenth Amendment, states may not prevent individuals from exercising this fundamental right. *De Jonge v. Oregon*, 299 U.S. 353, 364 (1937).

A corollary to the right to petition for redress of grievances is the right to participate equally in the political process. *See Reynolds v. Sims*, 377 U.S. 533, 560, 566-68, 84 S.Ct. 1362, 1381, 1383-85, 12 L.Ed.2d 506 (1964) (concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged); *accord Evans v. Romer*, 854 P.2d 1270, 1276 (Colo.1993) (“the Equal Protection Clause guarantees the fundamental right to participate equally in the political process and . . . any attempt to infringe on an independently identifiable group’s ability to exercise that right is subject to strict judicial scrutiny”).

1 The Plans, by denying certain duly elected legislators the same rights given to other legislators,
2 has interfered with plaintiff-Representatives' right to participate equally in the political process. The
3 Plans also violate the constituents' constitutional right to participate in and have access to government,
4 a right which is one of the "fundamental principle[s] of representative government in this country."
5 *Reynolds v. Sims*, 377 U.S. 533, 560, 566-68, 84 S.Ct. 1362, 1381, 1383-85, 12 L.Ed.2d 506 (1964).
6 "[T]he right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own
7 rights of speech, press and political freedom." *Board of Education v. Pico*, 457 U.S. 853, 867, 102
8 S.Ct. 2799, 2808, 73 L.Ed.2d 435 (1982).

9 Defendants impliedly assert that the forum does not matter and that virtual meetings are
10 equivalent to in-person dialogue, but this is simply not true. "The very idea of a government,
11 republican in form, implies a right on the part of its citizens to meet peaceably for consultation in
12 respect to public affairs and to As the Plans prohibit duly elected Representatives from accessing and
13 doing legislative business at the Capitol Campus, the seat of this state's government, the Plans directly
14 violate the bedrock First Amendment right to petition and participate in the legislative process for
15 redress of grievances as the voting public has can no longer contact these Representatives at the Capitol
16 Campus or in their district offices. The free exchange of ideas is fundamental to democracy.
17 Preventing some members from engaging in such discourse is not only a violation of their rights, it is
18 a blight on our freedom as a society.
19
20

21 **Violation of uncommented Representatives' privacy and bodily autonomy**

22 All Plaintiffs have a right to body autonomy. At common law, even the touching of one person
23 by another without consent and without legal justification was a battery. *Cruzan by Cruzan v. Dir.*,
24 *Missouri Dep't of Health*, 497 U.S. 261, 269, 110 S. Ct. 2841, 2846, 111 L. Ed. 2d 224 (1990). "No
25

1 right is held more sacred, or is more carefully guarded, by the common law, than the right of every
2 individual to the possession and control of his own person, free from all restraint or interference of
3 others, unless by clear and unquestionable authority of law.” *Union Pacific R. Co. v. Botsford*, 141
4 U.S. 250, 251, 11 S.Ct. 1000, 1001, 35 L.Ed. 734 (1891). “The logical corollary of the doctrine of
5 informed consent is that the patient generally possesses the right not to consent, that is, to refuse
6 treatment.” *Cruzan by Cruzan v. Dir., Missouri Dep't of Health*, 497 U.S. 261, 270, 110 S. Ct. 2841,
7 2847, 111 L. Ed. 2d 224 (1990) This right, too, has been infringed by the Executive Rules Committee
8 and Defendant Dean through the adoption and implementation of the Plans as the Plans mandate each
9 mandate each Representative receive a shot to fully participate in his or her scope of employment,
10 which includes public dialogue. By mandating such a shot for the full participation in one’s job scope,
11 the Plans violate the right to informed consent and bodily integrity as each plaintiff-Representative’s
12 choice to fulfill a promise to his/her constituents is contravened by his/her choice of bodily integrity.

14 CONCLUSION

15 Plaintiffs respectfully request that this Court declare the Interim Plan and the 2022 Plan
16 unconstitutional and void. Plaintiffs further request that a Temporary Restraining Order issue,
17 requiring the defendants to cease implementation of either Plan. In the alternative, Plaintiff’s
18 respectfully request that a hearing be expeditiously held for a preliminary injunction. Specifically,
19 Plaintiffs seek from this court:

- 20 A. A Declaration that the Interim Plan and the 2022 Plan is each Unconstitutional on face
21 and as applied.
- 22 B. A Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction
23 restraining the Clerk from and his subordinates from enforcing, directly or indirectly,
24

1 the Plans.

2 C. Attorney's fees and any other costs at the discretion of this Court.

3 D. Any other damages, awards, or equitable relief that this Court sees appropriate.

4 Dated this 22nd Day of November, 2021.

5
6 **SILENT MAJORITY FOUNDATION**

7
8 
9 Simon Peter Serrano, WSBA No. 54769
10 5426 N. Rd. 68 Ste. D, Box #105
11 Pasco, WA 99301
12 (530)906-9666
13 pete@silentmajorityfoundation.org

14 *Counsel for Plaintiffs*

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EXHIBIT A

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF ROBERT J. SUTHERLAND

JURY DEMANDED

ROBERT J. SUTHERLAND declares under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.

SILENT MAJORITY FOUNDATION
5426 N. RD. 68, STE D, BOX #105
PASCO, WA 99301

- 1 2. I am the representative for the 39th Legislative District of the State of Washington. I was
2 first elected to this position in November 2018.
- 3 3. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives
4 the House Executive Rules Committee, through its Clerk issued the House Interim Plan
5 (“Plan”), which prohibits the unvaccinated members of the legislature and their staff from
6 setting foot in the House Complex in Olympia. The Plan also forbids unvaccinated
7 Representatives and staff from using district offices.
- 8 4. After testing negative for antibodies on October 10, 2021, I do not believe I have ever
9 contracted COVID-19.
- 10 5. I have a history of adverse reactions to vaccinations. In December of 1994 I had a severe
11 negative reaction to the flu vaccine, lasting approximately two weeks and causing me to
12 fear for my life. I suffered high fever (~105°F) for an extended period of time, along with
13 typical flu-like symptoms of upper respiratory infection, coughing, muscle aches, trouble
14 sleeping, etc. Afterwards I made a personal decision to never again be vaccinated. I have
15 not received another vaccination shot since 1994 and I have remained healthier as a result.
16 Since this incident, I have not taken other vaccines. For this reason, I will not take the
17 COVID-19 vaccine.
- 18 6. On October 5th, 2021 I visited my primary care physician, Dr. Flynn. We discussed the
19 COVID-19 vaccine and my past negative reaction to the flu vaccination. I thus declined to
20 receive the vaccine. On October 8th I requested a medical exemption from my doctor. I
21 attempted to submit my request to Doctor Flynn, via email; however, my medical provider,
22 Kaiser, rejects any such request without an employer’s exemption form. I requested such a
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form from Ohad Lowy, Housel Counsel, Washington State House of Representatives on October 11, 2021. On October 13th, 2021 I was informed by Mr. Lowy that there was no need to submit a medical exemption form because their “plan” does not call for termination of employment for House members but instead prohibits unvaccinated individuals, Representatives or staff members, from accessing/entering the Capitol campus. Receiving no exemption form from the House, I am unable to submit a medical exemption request to my doctor, and I have been prohibited from accessing the Capitol campus since of Monday, October 18, 2021 and will not be allowed to access my office until at least January 1, 2022.

7. My work is most effective when done in person. When in Olympia, I can effectively coordinate meetings and work with my Legislative Assistant (L.A.) to plan for the upcoming session; however, if I am barred from the Capitol Complex, I cannot have such meetings or other impromptu meetings, nor will I have the opportunity to one-on-one work time with staff. The Plan will directly impact my ability to effectively research and write legislation for the upcoming 2022 session.

EXECUTED this 18th Day of November, 2021 at Granite Falls, Washington.



Robert J. Sutherland

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EXHIBIT A

RE: Attention required: Access to House Facilities on Oct 18, 2021

10/26/21 10:23 AM

From: "Sutherland, Rep. Robert" <Robert.Sutherland@leg.wa.gov>

To: "Lowy, Ohad" <Ohad.Lowy@leg.wa.gov>

Cc: "Wilcox, Rep. J.T." <JT.Wilcox@leg.wa.gov>, "Kretz, Rep. Joel" <Joel.Kretz@leg.wa.gov>, "Harris, Rep. Paul" <Paul.Harris@leg.wa.gov>, "Schmick, Rep. Joe" <Joe.Schmick@leg.wa.gov>, "Jacobsen, Rep. Cyndy" <Cyndy.Jacobsen@leg.wa.gov>, "Steele, Rep. Mike" <Mike.Steele@leg.wa.gov>

Ohad,

That's pretty funny: "the House does not have a mandatory vaccination policy." Yet, if members do not show their paperwork for getting the vaccine they are banned from their offices and other campus buildings in Olympia.

I asked you to justify the legality, based in law, regarding the decision of the ERC to ban elected officials from Olympia based upon their willingness to produce paperwork that shows their medical status regarding their COVID-19 vaccination. You have not done so.

You are the House attorney. I'm no longer asking, I am demanding that you produce the legal justification for this outrageous decision by the ERC to ban elected officials from entering their offices and other legislative buildings in Olympia based not upon "case law" but based upon the supreme law (the U.S. and WA State Constitutions). Can you do so? If not the ERC decision is "null."

Sans Peur,

Robert J. Sutherland

State Representative

39th Legislative District

Washington State House of Representatives

405 John L. O'Brien Bldg. | Olympia, WA

O: (360) 786-7967

E: robert.sutherland@leg.wa.govW: <http://robertsutherland.housepublicans.wa.gov>

House Committee Assignments:

Transportation

Community & Economic Development

College and Workforce Development

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>**Sent:** Thursday, October 21, 2021 4:10 PM**To:** Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>**Cc:** Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>**Subject:** RE: Attention required: Access to House Facilities on Oct 18, 2021

Hi Rep. Sutherland,

To clarify, the House does not have a mandatory vaccination policy. There are also the House Rules, which specially authorizes the Executive Rules Committee to manage member access to House facilities (<https://leg.wa.gov/House/Pages/HouseRules.aspx#appendix>). As I mentioned, I would encourage you to bring forward your concerns to the Executive Rules Committee.

From: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>

Sent: Tuesday, October 19, 2021 10:58 PM

To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>

Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Ohad,

To be clear, I am asking you to cite the law, not court cases. The supreme law of the land is the U.S. Constitution. Next in line for us is the WA State constitution. These two constitutions are the "law of the land." The same law that you and I swore an oath to defend from all enemies before we were allowed to accept our positions of employment. There can be no [legal] deviation from these two sets of laws. *Marbury v. Madison, 1803*: "A Law repugnant to the Constitution is void" written by Chief Justice Marshall.

US Constitution, Amendment 10:

"The powers not delegated to the United States by the Constitution...are reserved to the States respectively, or to the people."

There was no delegation of power by the people to the federal government to allow it to mandate medical treatment, dental treatment, vaccines or cold medicine to the citizens of the US. Thus, it was reserved by the people of the several states.

There is no delegation of power by the people to the state of Washington to mandate medical treatment, dental treatment, vaccines or cold medicine to the citizens of the WA state. Thus, it was reserved by the citizens of WA state.

RCW's are not law, they are codes. Codes that are necessary to help make the laws work properly. RCW's cannot create new laws. To do so would require a constitutional amendment.

So I am asking you, please site the law (WA State Constitution) that grants the government the legal authority to mandate vaccination of elected officials. And please, don't cite the 1905 case (Massachusetts, 197 U.S. 11 (1905) in which the Court upheld the authority of states to enforce compulsory vaccination laws), or I will cite:

Dred Scott v. Sandford (1857), the Supreme Court ruled that Americans of African descent, whether free or slave, were not American citizens and could not sue in federal court. The Court also ruled that Congress lacked power to ban slavery in the U.S. territories.

My point being that the courts make bad decisions from time to time. But those bad decisions do not affect the law as it was originally written.

So, again I ask, can you cite the WA State law (Constitution) which grants the government the legal authority to mandate vaccinations of elected officials? If you cannot, or will not, then I will cite the above mentioned *Marbury v. Madison, 1803 decision*. The request by the ERC to mandate vaccinations of elected officials "is void."

Please cite the law.

Sans Peur,

Robert J. Sutherland

State Representative
39th Legislative District
Washington State House of Representatives

405 John L. O'Brien Bldg. | Olympia, WA
O: (360) 786-7967
E: robert.sutherland@leg.wa.gov
W: <http://robertsutherland.housepublicans.wa.gov>

House Committee Assignments:
Transportation
Community & Economic Development
College and Workforce Development

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Sent: Tuesday, October 19, 2021 9:46 AM
To: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>
Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>
Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Hi Rep. Sutherland,

As mentioned previously, given my role, I think the best group to raise your concerns with is the Executive Rules Committee.

Additionally, you asked about the legality of the House program, so I conducted some additional research for you. I think it is important to remember that the House interim plan is not a mandatory vaccination policy, which would likely face less scrutiny than a mandatory vaccination program. That said, the Thurston County Superior Court has upheld the Executive Branch mandatory vaccination program, which did not, to the best of my knowledge, have an exemption for those who previously had COVID-19. Additionally, a federal judge has upheld a mandatory vaccination program which was challenged specifically because it did not exempt individuals with some level of immunity from a previous COVID-19 infection (<https://www.reuters.com/world/us/us-judge-upholds-covid-19-vaccine-requirement-those-with-natural-immunity-2021-09-30/>). This argument was also rejected by a federal court in Michigan (<https://nclalegal.org/wp-content/uploads/2021/10/Opinion-Denying-Plaintiffs-Motion-for-Preliminary-Injunction.pdf>). The California case is of some legal significance because if the California case is appealed, and the Ninth Circuit upholds that decision, that ruling would be binding on the federal courts in Washington as well.

Additionally, I went back and checked to ensure that the House Interim Plan is in line with national and local public health guidance. The CDC guidance is that those who have previously had COVID-19 should still get vaccinated: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>. Thurston County Public Health and Social Services also recommends that those who previously have had COVID 19 should get vaccinated (<https://www.thurstoncountywa.gov/phss/phssdocuments/Final%20Consolidated%20FAQs%20FINAL.pdf>). Furthermore, the CDC posted a [study that 1/3 of COVID-19 infections result in no protective antibodies](#); that [natural immunity can fade in as little as 60 days](#); and [vaccinations offer higher protections than previous COVID-19 infection](#).

I hope that this answers your questions and concerns.

Thank you,

From: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>
Sent: Sunday, October 17, 2021 1:27 PM
To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>
Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Ohad,

The House "plan" does not address the fact that Individuals who have been vaccinated against COVID-19 can and do continue to contract the disease and spread it to others, thus possibly jeopardizing the health and safety of members and staff while at the same time disenfranchising those who have not received the vaccine, including those with natural immunity, by denying them equal access to their offices in Olympia.

Let me remind you that those who are unvaccinated and yet who have been exposed to the virus (and thus have built up natural antibodies against the virus) have a less likelihood of contracting the disease a second time vs those who have only been vaccinated. Yet the "plan" prohibits them from accessing the Capitol campus as well. Why?

Is that legal? Can you please share with me the legal authority considered when it was decided to keep healthy Representatives away from their offices who have natural immunity against COVID-19 while allowing other Representatives to have access to their offices who may not have natural immunity and who can contract and spread the disease to others? It is obvious that science and data was not a concern when making that decision but I am wondering if following the law was also not a concern.

Sans Peur,

Robert J. Sutherland

State Representative
39th Legislative District
Washington State House of Representatives

405 John L. O'Brien Bldg. | Olympia, WA
O: (360) 786-7967
E: robert.sutherland@leg.wa.gov
W: <http://robertsutherland.housepublicans.wa.gov>

House Committee Assignments:
Transportation
Community & Economic Development
College and Workforce Development

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Sent: Friday, October 15, 2021 10:07 AM
To: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>
Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy

<Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>

Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Hi Rep. Sutherland,

In my role as the non-partisan House Council I do not opine on the merits of policies adopted by Executive Rules. If you have feedback about these policies I would encourage you to share them with Executive Rules.

From: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>

Sent: Thursday, October 14, 2021 11:17 PM

To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>

Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Thank you Ohad for your prompt reply and information provided.

However, and perhaps most importantly, you neglected to address my concerns about the health and safety of members and staff. Let me be clear, individuals who have been vaccinated against COVID-19 can and do continue to contract the disease and spread it to others. The House "plan" does not address this, possibly jeopardizing the health and safety of members and staff while at the same time disenfranchising those who have not received the vaccine by denying them equal access to their offices in Olympia. Every Washingtonian, whether vaccinated or not, can contract and spread COVID-19.

The "plan" does not address this, nor the science that demonstrates that those who are unvaccinated and yet who have been exposed to the virus (and thus have built up natural antibodies against the virus) have a less likelihood of contracting the disease a second time vs those who have only been vaccinated. Yet the "plan" also prohibits those individuals from accessing the Capitol campus as well. It becomes ever clearer, this "plan" doesn't appear to be about the health and safety of people, but something else. What?

Who are the 7 members of the Executive Rules Committee (ERC) which voted to implement the "plan"? 4 Democrat House members and 3 Republican House members. And the vote to implement the "plan" was 4-3, along party lines. Who are those primarily not wishing to receive the vaccination (for health or other personal reasons)? A majority of Republicans. Has COVID-19 been politicized? Weaponized against the minority? Is the "plan" really about keeping Republican elected officials out of Olympia while allowing Democrat elected officials in? No need to answer that question, but I will await your reply regarding my health and safety concerns in paragraphs one and two.

Sans Peur,

Robert J. Sutherland

State Representative

39th Legislative District

Washington State House of Representatives

405 John L. O'Brien Bldg. | Olympia, WA

O: (360) 786-7967

E: robert.sutherland@leg.wa.gov

W: <http://robertsutherland.housepublicans.wa.gov>

House Committee Assignments:

Transportation

Community & Economic Development

College and Workforce Development

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Sent: Thursday, October 14, 2021 2:42 PM
To: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>
Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>
Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Hi Rep. Sutherland,

While I normally respond directly to a person requesting an accommodation, this seems more of a general inquiry. As I previously mentioned, the House does not require vaccination as a condition of employment. The facility access requirement does not require an accommodation process because it is not a requirement or a condition of employment. In regard to HIPPA, it applies to health plans, health care clearinghouses and health care providers who conduct certain financial and administrative transactions electronically. The House of Representative is not considered a covered entity under HIPPA and therefore is not regulated by it. Additionally, the EEOC has been very clear during the pandemic that inquiring about one's vaccination status is not a medical inquiry. Additionally, members and staff who do not want to go through the House verification process can work remotely as the majority of staff and members have during the interim.

I am also including the House 2021 Interim Operations Plan (updated as of Sept. 2021) for your convenience. The plan sets out continuing conditions such as self-screening, masking, and other that will continue.

From: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>
Sent: Thursday, October 14, 2021 11:53 AM
To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Kretz, Rep. Joel <Joel.Kretz@leg.wa.gov>; Harris, Rep. Paul <Paul.Harris@leg.wa.gov>; Schmick, Rep. Joe <Joe.Schmick@leg.wa.gov>; Jacobsen, Rep. Cyndy <Cyndy.Jacobsen@leg.wa.gov>; Steele, Rep. Mike <Mike.Steele@leg.wa.gov>
Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Ohad,

Can you please inform me what other reasonable accommodation(s) will be made available to members and staff who do not consent to disclosing their personal health-related information to the government in order to access the Capitol campus? Some feel that doing so would violate their rights under the 1996 federal law "Health Insurance Portability and Accountability Act" (HIPPA) which was established to "protect sensitive patient health information from being disclosed without the patient's consent."

We all understand that being vaccinated against COVID-19 ****DOES NOT**** keep a person from contracting nor transmitting the disease. We also know that those individuals who have contracted COVID-19 and who have since recovered have antibodies that help prevent them from contracting the disease ****MORE EFFECTIVELY**** than those who are simply vaccinated. Thus by allowing only vaccinated persons to have access to the Capitol campus may give them a false sense of security and thereby put them at risk of being infected by an unsuspecting individual who may be vaccinated but also who may be currently infected. It also disenfranchises the others, even the vaccinated, who do not consent to sharing their personal medical information with the government and are thereby not allowed to work from the Capitol. Therefore what reasonable accommodation(s) will be made to accommodate them?

For instance, will there be daily monitoring of members and staff each morning to check for fever or other signs of illness before they are allowed to enter the Capitol campus? Wouldn't that be more effective than not testing? If so, those individuals who do not consent to sharing their personal, private, sensitive medical information with the government would also be allowed to work from their office in Olympia ****AND**** it would be more effective at safeguarding the health and safety of members and staff. Not only would that be more effective, but it would also be more equitable and fair to treat everybody the same instead of the divisive, dangerous and illegal manner mentioned below.

Sans Peur,

Robert J. Sutherland

State Representative
39th Legislative District
Washington State House of Representatives

405 John L. O'Brien Bldg. | Olympia, WA
O: (360) 786-7967
E: robert.sutherland@leg.wa.gov
W: <http://robertsutherland.housepublicans.wa.gov>

House Committee Assignments:
Transportation
Community & Economic Development
College and Workforce Development

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Sent: Wednesday, October 13, 2021 1:15 PM
To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Cc: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>
Subject: Attention required: Access to House Facilities on Oct 18, 2021

Hello,

If you are receiving this email it is because you have not verified your vaccination against COVID-19 through the House process per the current Interim Policy as adopted by Executive Rules. If you believe you have received this email in error, please contact me at ohad.lowy@leg.wa.gov or call me at x7767. On October 18th, those who have not provided verification through the House process will not be able to enter House facilities, and staff will not be able to travel or meet in-person.

However, you can still go through the verification process after October 18 by either using the secure **COVID-19 FORM** or contacting House Counsel to set up a virtual verification session. **Please do not come to campus with your vaccination documentation and ask Security to verify you.** They will not; the verification options are the ones described above. _

Additionally, it is not too late to go through the verification process. The secured form linked about can be used as well as there is one final Drop-In virtual Vaccination Verification Session open to all workgroups:

Drop in Vaccination Verification

- 10/15 – 9:00 to 10:00am
<https://leg-wa-gov.zoom.us/j/97965489233?pwd=YythaTRqZGVWVWV3IHT3ZVem5CYUJEUT09>
Passcode: 495574

Below is some additional information:

1. What if I got my final dose but I am not two weeks out from my final dose?

Answer: As long as your verification information contains the date of your final dose, you can go through the vaccination verification process, and the date for restoring key card access to House facilities will be noted and provided to Security.

2. Will there be other virtual opportunities after October 18?

Answer: There are currently no set dates for virtual verification after October 18. Individuals wishing to go through that process after October 18 should contact House Counsel at ohad.lowy@leg.wa.gov or x7667 to arrange a time and date.

3. I have been working entirely remotely, am I required to submit documentation?

Answer: No, but we encourage you to provide documentation so that your key card remains on. Otherwise, you will not be permitted to enter the House facilities at all without documentation on file and staff will not be permitted to travel.

Ohad Lowy
House Counsel
Washington State House of Representatives
(360) 786-7767

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EXHIBIT B

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF JIM WALSH

JURY DEMANDED

I, JIM WALSH, declare under penalty of perjury.

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1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.
2. I am the representative for the 19th Legislative District of the State of Washington. I was first elected to this position in 2016.
3. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives the House Executive Rules Committee, through its Clerk issued the House Interim Plan (“Plan”), which prohibits members of the legislature and their staff who have from setting foot in the House Complex in Olympia if the member or staff has not shown proof of COVID-19 vaccination to the Chief Clerk or his staff. The Plan also forbids Representatives and staff from using district offices.
4. I am opposed to taking any of the currently-available COVID prevention shots on religious, philosophical and freedom-of-conscience grounds. My opposition is based, among other reasons, upon the processes and ingredients used to develop and manufacture the currently-available shots.
5. I also object to the Plan as it does not provide a testing alternative as allowed by current Center for Disease Control and the Occupational Safety and Health Administration guidance/guidelines.
6. I requested such an alternative from Ohad Lowy, House Counsel, Washington State House of Representatives on October 13, 2021. On October 14th, 2021 Mr. Lowy replied that “the House does not have a vaccination mandate or requires vaccination as a condition of employment. The facility access requirement does not require an accommodation process

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because being present is not a requirement of a condition of employment.” Exhibit A. With no option for an exemption from the House, I am unable to submit a medical exemption, and I will indefinitely be prohibited from accessing the Capitol campus as of Monday, October 18, 2021.

7. My work is most effective when done in person. When in Olympia, I can effectively coordinate meetings and work with my Legislative Assistant (L.A.) to plan for the upcoming session; however, if I am barred from the Capitol Complex, I cannot have such meetings or other impromptu meetings, nor will I have the opportunity to work individually with staff. The Plan will directly impact my ability to effectively research and write legislation for the upcoming 2022 session.

EXECUTED this 19th day of November, 2021 at Aberdeen, Washington.



Jim Walsh

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EXHIBIT A

Fwd: FW: Attention required: Access to House Facilities on Oct 18, 2021

10/14/21 12:39 PM

From: "James Walsh" <jwalshliberty@gmail.com>To: pete@silentmajorityfoundation.org

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>**Sent:** Thursday, October 14, 2021 10:54 AM**To:** Walsh, Rep. Jim <Jim.Walsh@leg.wa.gov>**Subject:** RE: Attention required: Access to House Facilities on Oct 18, 2021

Hi Rep. Walsh,

I removed Rep. Wilcox and Cathy as I do when there are discussions regarding accommodations. The situation at the House is somewhat different then the situation described in the article. As mentioned in the September 30, 2021 email from the Chief Clerk's Office and House 2021 Interim Plan, the House does not have a vaccination mandate or requires vaccination as a condition of employment. The facility access requirement does not require an accommodation process because being present is not a requirement of a condition of employment. As when the House facilities were closed at other points in the pandemic, we can assist with arrangements to help members retrieving things without coming into the House facilities.

Thank you,

Ohad Lowy

House Counsel

Washington State House of Representatives

(360) 786-7767

From: Walsh, Rep. Jim <Jim.Walsh@leg.wa.gov>**Sent:** Wednesday, October 13, 2021 2:01 PM**To:** Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Cc: Wilcox, Rep. J.T. <JT.Wilcox@leg.wa.gov>; Hoover, Cathy <Cathy.Hoover@leg.wa.gov>

Subject: RE: Attention required: Access to House Facilities on Oct 18, 2021

Ohad—

I request a religious exemption to this Interim Policy.

<https://www.reuters.com/world/us/new-york-must-allow-religious-exemptions-covid-19-vaccine-mandate-judge-rules-2021-10-12/>

While Judge Hurd's decision focuses on New York's analogous policy, I believe it should be given deference as an opinion of first impression.

Thank you.

--Jim Walsh

From: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Sent: Wednesday, October 13, 2021 1:15 PM

To: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Cc: Lowy, Ohad <Ohad.Lowy@leg.wa.gov>

Subject: Attention required: Access to House Facilities on Oct 18, 2021

Hello,

If you are receiving this email it is because you have not verified your vaccination against COVID-19 through the House process per the current Interim Policy as adopted by Executive Rules. If you believe you have received this email in error, please contact me at ohad.lowy@leg.wa.gov or call me at x7767. On October 18th, those who have not provided verification through the House process will not be able to enter House facilities, and staff will not be able to travel or meet in-person.

However, you can still go through the verification process after October 18 by either using the secure **[COVID-19 FORM](#)** or contacting House Counsel to set up a virtual verification session. **Please do not come to campus with your vaccination documentation and ask Security to verify you.** They will not; the verification options are the ones described above. _

Additionally, it is not too late to go through the verification process. The secured form linked about can be used as well as there is one final Drop-In virtual Vaccination Verification Session open to all workgroups:

Drop in Vaccination Verification

- 10/15 – 9:00 to 10:00am

<https://leg-wa-gov.zoom.us/j/97965489233?pwd=YythaTRqZGVWWM3IHT3ZVem5CYUJEUT09>

Passcode: 495574

Below is some additional information:

1. What if I got my final dose but I am not two weeks out from my final dose?

Answer: As long as your verification information contains the date of your final dose, you can go through the vaccination verification process, and the date for restoring key card access to House facilities will be noted and provided to Security.

2. Will there be other virtual opportunities after October 18?

Answer: There are currently no set dates for virtual verification after October 18. Individuals wishing to go through that process after October 18 should contact House Counsel at ohad.lowy@leg.wa.gov or x7667 to arrange a time and date.

3. I have been working entirely remotely, am I required to submit documentation?

Answer: No, but we encourage you to provide documentation so that your key card remains on. Otherwise, you will not be permitted to enter the House facilities at all without documentation on file and staff will not be permitted to travel.

Ohad Lowy

House Counsel

Washington State House of Representatives

(360) 786-7767

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; NEAL DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF ROB CHASE

JURY DEMANDED

I, ROB CHASE, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this

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declaration of my personal knowledge.

2. I am the representative for the 4th Legislative District of the State of Washington. I was first elected to this position in 2020.
3. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives the House Executive Rules Committee, through its Clerk issued the House Interim Plan (“Plan”), which prohibits the unvaccinated members of the legislature and their staff from setting foot in the House Complex in Olympia. The Plan also forbids unvaccinated Representatives and staff from using district offices.
4. I am opposed to taking any of the currently-available COVID prevention shots as I’ve already contracted COVID-19 (August 2021), and I see no reason to take the injection.
5. I object to the Plan as it does not provide a testing alternative as allowed by current Center for Disease Control and the Occupational Safety and Health Administration guidance/guidelines, nor does it recognize natural immunity for those of us who have contracted COVID-19.
6. As a legislator, my work is most effective when done in person. When in Olympia, I can effectively coordinate meetings and work with my Legislative Assistant (L.A.) to plan for the upcoming session; however, if I am barred from the Capitol Complex, I cannot have such meetings or other impromptu meetings.

EXECUTED this 19th day of November, 2021 at Spokane Valley, Washington.



Rob Chase

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EXHIBIT D

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE GRAHAM; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF LUKE DAVIS

JURY DEMANDED

I, LUKE DAVIS, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.
2. I have known and supported Representative Rob Chase for nearly 15 years.

- 1 3. I voted for Representative Chase in the 2020 election, and I voted for him in other elected
2 positions prior to 2020. I've always supported Rob Chase in his political career.
- 3 4. Representative Chase has helped me in several ways: he has helped me become connected
4 within my community and has provided me with insight from Olympia and in his previous
5 offices.
- 6 5. Throughout Representative Chase's 2020 campaign, I supported him by frequent word of
7 mouth endorsements due to his character and integrity.
- 8 6. I presently live in the unincorporated Spokane County area, and I have limited ability to elect
9 representatives/officials as I cannot vote for City Council members as I reside outside of all
10 of those districts. Representative Chase carries my voice; maintaining his voice and ability
11 to legislate are critical to me.
- 12 7. If Representative Chase is kept off the Capitol Complex, my vote will not matter as my
13 elected Representative who carries a great weight of my voice, will not be able to do
14 effectively his job.
- 15 8. Representative Chase's friendship and willingness to help me throughout the over 15 years
16 that I've known him have been critical. His ability to continually advocate for me and others
17 like me is the reason I voted for him. Any decision from another individual or group of
18 individuals that disallows the Representative from doing their job directly impacts me, my
19 vote, and my lawful representation.

20 EXECUTED this 18th Day of November, 2021 at Spokane county, Washington.

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25 Luke Davis

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EXHIBIT E

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF VIRGINIA GRAHAM

JURY DEMAND

I, VIRGINIA GRAHAM, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this

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declaration of my personal knowledge.

2. I am the representative for the 6th Legislative District of the State of Washington. I was first elected to this position in 2018.
3. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives the House Executive Rules Committee, through its Clerk issued the House Interim Plan (“Plan”), which prohibits the unvaccinated members of the legislature and their staff, or such individuals who have natural immunity from setting foot in the House Complex in Olympia. The Plan also forbids unvaccinated Representatives and staff from using district offices.
4. I am opposed to taking any of the currently-available COVID prevention shots on a medical basis, as follows:
 - a. I have had COVID-19 and have laboratory confirmed natural immunity;
 - b. My son, who had no prior history of heart issues, received the COVID-19 vaccinations (both doses) and immediately after the first injection, developed heart issues (presumably myocarditis);
 - c. My nephew, also a young man (EWU student), who never had heart issues, was referred to a cardiologist by a doctor, for heart issues that have developed post COVID-19 vaccination; and
 - d. My brother-in-law was vaccinated against COVID-19 and received a booster shot; after receiving his booster shot, my brother-in-law died of complications of blood clots and heart failure.
 - e. I cannot definitively tie these heart issues or my brother-in-law’s death to the COVID-19 shot, but the timing is more than coincidental.

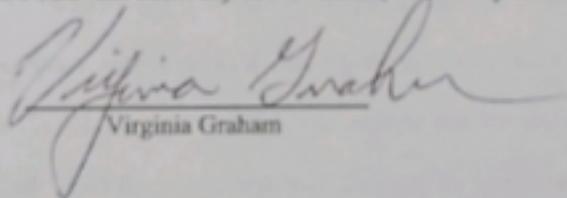
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5. I am willing to submit to COVID-19 testing to complete my work; however, I object to receiving a COVID-19 vaccine that is shown to have waning effectiveness, especially given my family health issues associated with the COVID-19 vaccines.
6. I am presently unable to access my district office and am still paying rent for this space. As an alternative, I am meeting with constituents in other public spaces.
7. Under the proposed House Session Plan that will be instituted on January 1, 2022, I will be allowed in my office alone, with no access to staff, constituents, or others seeking a meeting. Moreover, I will not be allowed on the House Floor or House chambers for important caucus meetings.
8. My presence on the House Floor is critical to my success as a legislator as I can coordinate with other legislators, oppose or support bills, speak on an item. My inability to be on the House floor is arbitrary and makes it easier for my voice and my constituents to be silenced. We learned last session how difficult it is to fully advocate for constituents due to constant technical difficulties. Last session, we all faced the same handicap. This session will not be one of equity or equality under the arbitrary new rules.
9. As an unvaccinated Member, of the House of Representatives, I can work from Olympia, however, I cannot attend in-person meetings in my Olympia House office or my local district office. I am hampered from doing my most best work, which is done in person.
10. My presence on the House Floor is critical to my success as a legislator as I can coordinate with other legislators, oppose or support bills, speak on an item. My inability to be on the House floor will result in unequal access and will make it more difficult to communicate with other legislators to work on critical issues.

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11. As an naturally vaccinated Member of the House of Representatives, I cannot currently
work from Olympia or attend in-person meetings in my House office located within my
district. I am hampered from equally representing my constituents with in-person
representation.

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12. When in Olympia, I can coordinate meetings and work with my Legislative Assistant
(L.A.) to plan for the upcoming session. I can also work with other legislators on
proposed Bill amendments and proposed Bills (pre-session). The unequal access I will
experience as a result of the Plans will directly impact my ability coordinate legislation
presently, and throughout the 2022 legislative session.

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12 EXECUTED this 22nd day of November, 2021 at Spokane, Washington.

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Virginia Graham

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; NEAL DAVIS, a voter in the 4th Legislative District; Washington State Representative JENNY GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE GRAHAM; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF RUSSELL NEFF

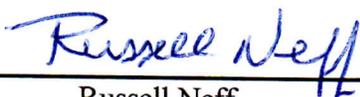
JURY DEMANDED

I, RUSSELL NEFF, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.
2. I have known and supported Representative Jenny Graham for nearly 2 years.

- 1 3. I voted for Representative Graham in the 2020 election, and I promoted her as a
2 candidate amongst my peers, although I did not formally volunteer on her campaign.
3 Throughout the pandemic, I've gotten to know Representative Graham much better. As
4 I have come to know Representative Graham, I personally endorse her and will
5 volunteer on future campaigns.
- 6 4. Throughout the pandemic, I have worked closely with Representative Graham to
7 advocate for individuals to keep their employment. Representative Graham has helped
8 me, and several other individuals who have become unemployed due to the pandemic
9 (not solely associated with vaccine status, but due to employers closing down) to obtain
10 unemployment benefits, other assistance, or re-employment.
- 11 5. Representative Graham has also helped me, and many others, advocate for children to
12 get back into school throughout the pandemic.
- 13 6. If Representative Graham is kept off the Capitol Complex, my vote will not matter as
14 my elected Representative will not be able to do her job as it is imperative that she have
15 the ability to engage with other Representatives and her staff to legislate.
- 16 7. Representative Graham's willingness to help me throughout this time has been critical.
17 Her ability to continually advocate for me and others like me is the reason I voted for
18 her. Any decision from another individual or group of individuals that disallows the
19 Representative from doing her job directly impacts me and my vote.

20 EXECUTED this 20 Day of November, 2021 at SPOKANE Washington.

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Russell Neff

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF BOB MCCASLIN

I, BOB MCCASLIN, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this

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declaration of my personal knowledge.

2. I am the representative for the 4th Legislative District of the State of Washington. I was first elected to this position in 2014.
3. On September 30, 2021, the Chief Clerk of the Washington State House of Representatives the House Executive Rules Committee, through its Clerk issued the House Interim Plan (“Plan”), which prohibits the unvaccinated members of the legislature and their staff from setting foot in the House Complex in Olympia. The Plan also forbids unvaccinated Representatives and staff from using district offices. These conditions also apply to Representatives who are vaccinated and refuse to demonstrate proof of said vaccination.
4. I am “fully vaccinated,” having received the Johnson & Johnson single shot COVID-19 administration in May 2021; I received my booster shot in August 2021. I am fully vaccinated, as presently defined.
5. I elected to become vaccinated as a matter of choice, after research and prayerful consideration. While my religion, and my connection with God lead me to this decision, I believe the decision to become vaccinated is a wholly personal matter and that individuals of my same faith or congregation can receive different answers through study and prayer, and each individual has the right to decide what is best for the his/her own body and family. A vaccine mandate is both unlawful and violates the individual’s right to privacy and constitutionally protected religious freedoms.
6. I refuse to show my vaccination card to transact business as I object to such unconstitutional, unlawful requirements. I will not show my vaccine card to transact business, including to obtain access to the Capitol Complex as it infringes on my privacy and on my religious practices (that my personal decisions with God shall not be infringed by man).

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7. I also object to the Plan as it does not offer alternative means to demonstrate one is not a risk to others while participating in a legislative session, such as a testing alternative as allowed by current Center for Disease Control and the Occupational Safety and Health Administration guidance/guidelines.

8. I need to be in Olympia in my office as my work is most effective when done in person. When in Olympia, I can effectively coordinate meetings and work with my Legislative Assistant (L.A.) to plan for the upcoming session; however, if I am barred from the Capitol Complex, I cannot have such meetings or other impromptu meetings, nor will I have the opportunity to work individually with staff. The Plan will directly impact my ability to effectively research and write legislation for the upcoming 2022 session.

EXECUTED this 22nd day of November, 2021 at Spokane Valley Washington.



Bob McCaslin

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB MCCASLIN; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative JENNY GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF GARY EDWARDS

JURY DEMANDED

I, GARY EDWARDS, declare under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.
2. I have known and supported Representative Bob McCaslin for nearly a decade.

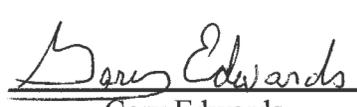
DECLARATION OF
GARY EDWARDS - 1

SILENT MAJORITY FOUNDATION
5426 N. RD. 68, STE D, BOX #105
PASCO, WA 99301

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3. I have had COVID-19 in November and December, 2020 and have recovered, even though I have Type II diabetes and Asthma, for which I receive regular medication.
4. I voted for Representative McCaslin in the 2020 election, and since 2014 elections. I have donated to Representative McCaslin's campaign. I have volunteered for Representative McCaslin's campaign for the near-decade that I've known him.
5. I know Representative McCaslin personally, and I personally and publicly endorse him.
6. Throughout the past decade, Representative McCaslin has been an advocate for me, my family, and many of our friends and colleagues on many issues.
7. If Representative McCaslin is kept off the Capitol Complex, my vote will not matter as my elected Representative will not be able to do his job and his ability to continually advocate for me and others like me is the reason I voted for him. Any decision from another individual or group of individuals that disallows the Representative from doing his job directly impacts me and my vote as I will no longer have an advocate in the legislature.

EXECUTED this 20TH Day of November, 2021 at Spokane, Washington.



Gary Edwards

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EXHIBIT I

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF JOHN HENRY MOSELAGE, III

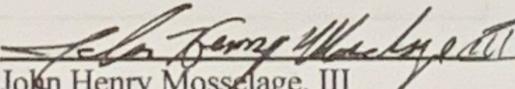
JURY DEMANDED

JOHN HENRY MOSELAGE, III declares under penalty of perjury.

1. I am an adult citizen of Washington State, am competent to o testify, and hereby make this

2. I have known and supported Representative Robert Sutherland for several years.
3. I voted for Representative Sutherland in the 2020 election; if he is unable to do his job, my vote is directly impacted.
4. During the course of the 2018 and 2020 election cycles, I spent hundreds of hours working on behalf of Representative Sutherland's campaign as a volunteer.
5. My wife and I donated to Representative Sutherland's campaigns in 2018 and 2020.
6. I maintain close contact with Representative Sutherland to follow breaking news/legislative activities in Olympia so I can be prepared to engage in the legislative process, if necessary (i.e., if a particular bill will impact me). I also share research with Representative Sutherland, as appropriate, to address bills in Olympia.
7. If Representative Sutherland is kept off the Capitol Complex, he and I will not be able to exchange ideas to benefit the legislative process, and he will not be able to connect with other legislators to share ideas or plan legislation. If Representative Sutherland is barred from accessing the House floor during the 2022 legislative session, as proposed in the 2022 House rules, his participation will be limited, and his voice will be diminished. If that is the case, my vote will be a partial vote, at best.

EXECUTED this 21st Day of November, 2021 at Granite Falls, Washington.


John Henry Mosselage, III

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF JESSIE WESTCOTT

JURY DEMANDED

INTRODUCTION

I, JESSIE WESTCOTT, declare under penalty of perjury.

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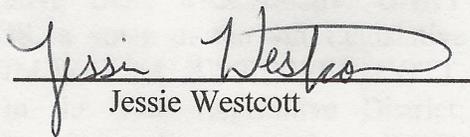
1. I am an adult citizen of Washington State, am competent to testify, and hereby make this declaration of my personal knowledge.
2. I have known and supported Representative Jim Walsh for 2 years.
3. I voted for Representative Walsh in the 2020 election; if he is unable to do his job, my vote is directly impacted.
4. During the course of the 2020 election cycles, I spent dozens of hours (possibly nearly one hundred hours) working on behalf of Representative Walsh’s campaign as a volunteer. My volunteer activities included: meeting with Representative Walsh and others who campaigned on his behalf and on behalf of other republican candidates, door-knocking (and associated travels), and participating in “red-dialing” phone banks on behalf of Representative Walsh.
5. I am a single mother of three teenage children.
6. Prior to relocating to Wahkiakum County and meeting Representative Walsh, I had a bleak outlook on my future; however, Representative Walsh has mentored and inspired me and helped me improve my situation. I have also witnessed his willingness to fight for his principles, which has emboldened me in the same fight.
7. I would have donated to Representative Walsh’s 2020 campaign had my finances been better.
8. I maintain close contact with Representative Walsh to follow breaking news/legislative activities in Olympia so I can be prepared to engage in the legislative process, if necessary (i.e., work with my community to address bills that could significantly impact our community). Through sharing this information with, and activating my community, I am empowered, and my voice is emboldened.

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9. If Representative Walsh is kept off the Capitol Complex, he and I will not be able to exchange ideas to benefit the legislative process. Equally important, my vote will not matter as my elected Representative will not be able to do his job.

10. As a single mother of three teenagers who has found her voice through politics and the mentoring of Representative Jim Walsh, Representative Walsh's ability to effectively do his job is very important to me. Any decision from another individual or group of individuals that disallows the Representative from doing his job directly impacts me and my vote.

EXECUTED this 9th Day of November, 2021 at _____, Washington.



Jessie Westcott

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EXHIBIT K

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative VIRGINIA GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF JESSE YOUNG

JURY DEMANDED

1 JESSE YOUNG declares under penalty of perjury.

- 2 1. I am an adult citizen of Washington State, am competent to testify, and hereby make this
3 declaration of my personal knowledge.
- 4 2. My deeply held religious beliefs prohibit me from violating the Word of God and my faith
5 in and to that Word. For this reason, I have elected not to receive the COVID-19 vaccination.
- 6 3. On January 9, 2021, I swore an oath to uphold the Constitution and laws of the United States
7 of America and the Constitution and laws of the State of Washington. This oath was sworn
8 before the Honorable Dave Larson, Judge of the Federal Way, Washington Municipal
9 Court.
- 10 4. During the week of October 10, 2021, House Republican Public Safety committee work on
11 fixing legislation relating to Washington State policing practices began reaching a nexus
12 with House Republican Judiciary committee efforts. On October 14, 2021, after completion
13 of the House Republican Public Safety committee caucus, I emailed Rep. Jim Walsh,
14 Ranking member of the House Judiciary Committee, to setup a meeting on October 15,
15 2021, at the Capitol, which is equidistant between our residences and legislative districts,
16 regarding proposed legislation on the above stated matter. (Exhibit A)
- 17 5. On October 14, 2021, Rep. Jim Walsh's office emailed stating that Rep. Walsh would be
18 unable to make the October 15, 2021 meeting and instead we settled upon October 19, 2021
19 as a mutually available time to meet up and discuss legislation efforts.
- 20 6. On October 16, 2021, I confirmed a meeting Rep. Robert Sutherland for October 19, 2021
21 to discuss public safety legislation. (Exhibit B)
- 22 7. On October 18, 2021, the House Interim Plan, which prohibits the unvaccinated members
23 of the legislature and their staff from setting foot in the House Complex in Olympia, took
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effect.

8. On October 19, 2021, Rep. Walsh and I, upon arriving at the Capitol campus to work on public safety issues relating to fixing policing practices, were denied access to the John L. O'Brien Building. Our keycards were deactivated, and upon inquiring with security, we are notified that we would not be permitted to access our offices or meeting facilities to conduct our legislative work.

9. On October 19, 2021, I notified Rep. Robert Sutherland that our in person meeting at the Capitol would have to be cancelled due to lack of access to the Capitol campus resources.
(Exhibit C)

10. My work is most effective when done in person. In person communication is key to collaborative success, as I work and negotiate my way through the issues and bills proposed for a given meeting. Policy is developed in unison with the needed political strategy required for successful passage of a bill. How to communicate, when to communicate, and with whom to communicate are vetted along with assignments of multi-layered synchronized tasks. I look for opportunities to understand, partner, and negotiate ideas and proposals throughout the process and in-person collaboration is paramount to timely success. When in Olympia, I can effectively coordinate and conduct such meetings with appropriate participants; however, if I am barred from the Capitol Complex, I cannot have such meetings or engage the resources that lead to successful facilitation of such meetings. Additionally, I am denied the ability to respond to new information with the haste that often leads to broader agreement and success.

11. On November 18, 2021, the Chief Clerk of the Washington State House of Representatives distributed the 2022 House Operations Plan which extends and expands the discriminatory

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provisions of the House Interim Plan from October 18, 2021. This new plan seeks to further delimit and restrain my voting duties, and by extension, abridges my constituents' constitutionally protected rights and access to the legislative and representative process.

12. As of November 21, 2021, I, and my constituents, continue to be unequally hindered, segregated, discriminated against, and harmed by these plans.

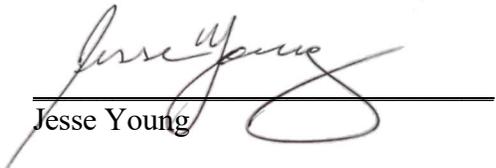
13. The Plans will directly impact the way I legislate and communicate with other Representatives and with my electorate.

14. The Plans will discriminate against me and additionally segregate and disadvantage me relative to other legislative members.

15. The Plans, thereby, discriminate against, segregate, and create disadvantages to the constituents of the 26th Legislative District of Washington State.

16. As I have sworn a Constitutional oath to faithfully and impartially discharge the duties of the office of Washington State Representative to the best of my ability, I am bound by duty to seek redress to the illegal, unconstitutional, and unethical actions of these plans.

EXECUTED this 21st Day of October, 2021 at Gig Harbor, Washington.



Jesse Young

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EXHIBIT A

HOUSE RESOLUTION NO. 2021-4610, by Representative Sullivan

1 NOW, THEREFORE, BE IT RESOLVED, That permanent House Rules for
2 the Sixty-Seventh Legislature be adopted as follows:

3 (~~TEMPORARY~~) RULES OF THE HOUSE OF REPRESENTATIVES
4 SIXTY-SEVENTH LEGISLATURE 2021-2022

5 **HOUSE RULE NO.**

- | | | |
|----|----------------|--|
| 6 | Rule 1 | Definitions |
| 7 | Rule 2 | Chief Clerk to Call to Order |
| 8 | Rule 3 | Election of Officers |
| 9 | Rule 4 | Powers and Duties of the Speaker |
| 10 | Rule 5 | Chief Clerk |
| 11 | Rule 6 | Executive Rules Committee |
| 12 | Rule 7 | Duties of Employees |
| 13 | Rule 8 | Admission to the House |
| 14 | Rule 9 | Absentees and Courtesy |
| 15 | Rule 10 | Bills, Memorials and Resolutions - Introductions |
| 16 | Rule 11 | Reading of Bills |
| 17 | Rule 12 | Amendments |
| 18 | Rule 13 | Final Passage |

1	Rule 14	Hour of Meeting, Roll Call and Quorum
2	Rule 15	Daily Calendar and Order of Business
3	Rule 16	Motions
4	Rule 17	Members Right to Debate
5	Rule 18	Rules of Debate
6	Rule 19	Ending of Debate - Previous Question
7	Rule 20	Voting
8	Rule 21	Reconsideration
9	Rule 22	Call of the House
10	Rule 23	Appeal from Decision of Chair
11	Rule 24	Standing Committees
12	Rule 25	Duties of Committees
13	Rule 26	Standing Committees - Expenses - Subpoena Power
14	Rule 27	Vetoed Bills
15	Rule 28	Suspension of Compensation
16	Rule 29	Smoking
17	Rule 30	Liquor
18	Rule 31	Parliamentary Rules
19	Rule 32	Standing Rules Amendment
20	Rule 33	Rules to Apply for Assembly
21	Rule 34	Legislative Mailings

Definitions

Rule 1. "Absent" means an unexcused failure to attend.

"Term" means the two-year term during which the members as a body may act.

"Session" means a constitutional gathering of the house in accordance with Article II § 12 of the state Constitution.

"Committee" means any standing, conference, joint, or select committee as so designated by rule or resolution.

1 "Fiscal committee" means the appropriations, capital budget,
2 finance, and transportation committees.

3 "Bill" means bill, joint memorial, joint resolution, or
4 concurrent resolution unless the context indicates otherwise.

5 **Chief Clerk to Call to Order**

6 **Rule 2.** It shall be the duty of the chief clerk of the previous
7 term to call the house to order and to conduct the proceedings until
8 a speaker is chosen.

9 **Election of Officers**

10 **Rule 3.** The house shall elect the following officers at the
11 commencement of each term: Its presiding officer, who shall be styled
12 speaker of the house; a speaker pro tempore, who shall serve in
13 absence or in case of the inability of the speaker; a deputy speaker
14 pro tempore, who shall serve in absence or in case of the inability
15 of the speaker and speaker pro tempore; and a chief clerk of the
16 house. Such officers shall hold office during all sessions until the
17 convening of the succeeding term: PROVIDED, HOWEVER, That any of
18 these offices may be declared vacant by the vote of a constitutional
19 majority of the house, the members voting viva voce and their votes
20 shall be entered on the journal. If any office is declared vacant,
21 the house shall fill such vacant office as hereinafter provided. In
22 all elections by the house a constitutional majority shall be
23 required, the members shall vote viva voce and their votes shall be
24 entered on the journal. (Art. II § 27)

25 **Powers and Duties of the Speaker**

26 **Rule 4.** The speaker shall have the following powers and duties:

27 (A) The speaker shall take the chair and call the house to order
28 precisely at the hour appointed for meeting and if a quorum be
29 present, shall cause the journal of the preceding day to be read and
30 shall proceed with the order of business.

31 (B) The speaker shall preserve order and decorum, and in case of
32 any disturbance or disorderly conduct within the chamber or
33 legislative area, shall order the sergeant at arms to suppress the

1 same and may order the sergeant at arms to remove any person creating
2 any disturbance within the house chamber or legislative area.

3 (C) The speaker may speak to points of order in preference to
4 other members, arising from the seat for that purpose, and shall
5 decide all questions of order subject to an appeal to the house by
6 any member, on which appeal no member shall speak more than once
7 without leave of the house.

8 (D) The speaker shall sign all bills in open session. (Art. II §
9 32)

10 (E) The speaker shall sign all writs, warrants, and subpoenas
11 issued by order of the house, all of which shall be attested to by
12 the chief clerk.

13 (F) The speaker shall have the right to name any member to
14 perform the duties of the chair, but such substitution shall neither
15 extend beyond adjournment nor authorize the representative so
16 substituted to sign any documents requiring the signature of the
17 speaker.

18 (G) The speaker, in open session, shall appoint committee chairs
19 as selected by the majority party caucus, and shall appoint members
20 to committees in the same ratio as the membership of the respective
21 parties of the house, unless otherwise provided by law or house
22 rules.

23 (H) The speaker shall serve as chair of the rules committee and
24 the executive rules committee.

25 (I) The speaker shall have charge of and see that all officers,
26 attaches, and clerks perform their respective duties.

27 (J) The speaker pro tempore shall exercise the duties, powers,
28 and prerogatives of the speaker in the event of the speaker's death,
29 illness, removal, or inability to act until the speaker's successor
30 shall be elected.

31 **Chief Clerk**

32 **Rule 5.** The chief clerk shall perform the usual duties pertaining
33 to the office, and shall hold office until a successor has been
34 elected.

1 The chief clerk shall perform all administrative duties related
2 to the public records obligations of members of the house.

3 The chief clerk shall employ, subject to the approval of the
4 speaker, all other house employees; the hours of duty and assignments
5 of all house employees shall be under the chief clerk's directions
6 and instructions, and they may be dismissed by the chief clerk with
7 the approval of the speaker. The speaker shall sign and the chief
8 clerk shall countersign all payrolls and vouchers for all expenses of
9 the house and appropriately transmit the same. In the event of the
10 chief clerk's death, illness, removal, or inability to act, the
11 speaker may appoint an acting chief clerk who shall exercise the
12 duties and powers of the chief clerk until the chief clerk's
13 successor shall be elected.

14 **Executive Rules Committee**

15 **Rule 6.** The executive rules committee is hereby established to
16 oversee administrative operations of the house. The committee
17 consists of four members of the majority caucus and three members of
18 the minority caucus, to be named by the speaker and minority leader
19 respectively.

20 **Duties of Employees**

21 **Rule 7.** Employees of the house shall perform such duties as are
22 assigned to them by the chief clerk. Under no circumstances shall the
23 compensation of any employee be increased for past services. No house
24 employee shall seek to influence the passage or rejection of proposed
25 legislation.

26 **Admission to the House**

27 **Rule 8.** It shall be the general policy of the house to keep the
28 chamber clear as follows:

29 (A) The sergeant at arms shall admit only the following
30 individuals to the wings and adjacent areas of the house chamber for
31 the period of time beginning one-half hour prior to convening and
32 ending one-half hour following the adjournment of the house's daily
33 session:

34 The governor or designees, or both;

35 Members of the senate;

1 State elected officials;
2 Officers and authorized employees of the legislature;
3 Former members of the house who are not advocating any pending or
4 proposed legislation;
5 Representatives of the press;
6 Other persons with the consent of the speaker.

7 (B) Only members of the house, pages, sergeants at arms, and
8 clerks are permitted on the floor while the house is in session.

9 (C) Lobbying in the house chamber or in any committee room or
10 lounge room is prohibited when the house or committee is in session
11 unless expressly permitted by the house or committee. Anyone
12 violating this rule will forfeit his or her right to be admitted to
13 the house chamber or any of its committee rooms.

14 **Absentees and Courtesy**

15 **Rule 9.** No member shall be absent from the service of the house
16 without leave from the speaker. When the house is in session, only
17 the speaker shall recognize visitors and former members.

18 **Bills, Memorials and Resolutions - Introductions**

19 **Rule 10.** Any member desiring to introduce a bill shall file the
20 same with the chief clerk. Bills filed by 10:00 a.m. shall be
21 introduced at the next daily session, in the order filed: PROVIDED,
22 That if such introduction is within the last ten days of a regular
23 session, it cannot be considered without a direct vote of two-thirds
24 (2/3) of all the members elected to each house with such vote
25 recorded and entered upon the journal. (Art. II § 36)

26 Any returning member or member-elect may prefile a bill with the
27 chief clerk commencing the first Monday in December preceding any
28 regular session or twenty (20) days before any special session.
29 Prefiled bills shall be introduced on the first legislative day.

30 All bills shall be endorsed with a statement of the title and the
31 name of the member or members introducing the same. The chief clerk
32 shall attach to all bills a substantial cover bearing the title and
33 sponsors and shall number each bill in the order filed. All bills
34 shall be printed unless otherwise ordered by the house.

35 Any bill introduced at any session during the term shall be
36 eligible for action at all subsequent sessions during the term.

1 No house bill may be introduced that is identical to any other
2 pending house bill.

3 **Reading of Bills**

4 **Rule 11.** Every bill shall be read on three separate days:
5 PROVIDED, That this rule may be temporarily suspended at any time by
6 a two-thirds (2/3) vote of the members present; and that on and after
7 the fifth day prior to the day of adjournment sine die of any
8 session, as determined pursuant to Article II, Section 12 of the
9 state Constitution or concurrent resolution, or on and after the
10 third day prior to the day a bill must be reported from the house as
11 established by concurrent resolution, this rule may be suspended by a
12 majority vote.

13 A bill may be returned to second reading for the purpose of
14 amendment by a suspension of the rules: PROVIDED, That on and after
15 the fifth day prior to the day of adjournment sine die of any
16 session, as determined pursuant to Article II, section 12 of the
17 state Constitution or concurrent resolution, or on and after the
18 third day prior to the day a bill must be reported from the house as
19 established by concurrent resolution, this rule may be suspended and
20 a bill returned to second reading for the purpose of amendment by a
21 majority vote.

22 (A) FIRST READING. The first reading of a bill shall be by title
23 only, unless a majority of the members present demand a reading in
24 full.

25 After the first reading the bill shall be referred to an
26 appropriate committee.

27 Upon being reported out of committee, all bills shall be referred
28 to the rules committee, unless otherwise ordered by the house.

29 The rules committee may, by majority vote, refer any bill in its
30 possession to a committee for further consideration. Such referral
31 shall be reported to the house and entered in the journal under the
32 fifth order of business.

33 (B) SECOND READING. Upon second reading, the bill number and
34 short title and the last line of the bill shall be read unless a
35 majority of the members present shall demand its reading in full. The
36 bill shall be subject to amendment section by section. No amendment

1 shall be considered by the house until it has been sent to the chief
2 clerk's desk in writing, distributed to the desk of each member, and
3 read by the clerk. All amendments adopted during second reading shall
4 be securely fastened to the original bill. All amendments rejected by
5 the house shall be passed to the minute clerk, and the journal shall
6 show the disposition of such amendments.

7 When no further amendments shall be offered, the speaker shall
8 declare the bill has passed its second reading.

9 (C) SUBSTITUTE BILLS. When a committee reports a substitute for
10 an original bill with the recommendation that the substitute bill do
11 pass, it shall be in order to read the substitute the first time and
12 have the same printed. A motion for the substitution shall not be in
13 order until the second reading of the original bill.

14 (D) THIRD READING. Only the last line of bills shall be read on
15 third reading unless a majority of the members present demand a
16 reading in full. No amendments to a bill shall be received on third
17 reading but it may be referred or recommitted for the purpose of
18 amendment.

19 (E) SUSPENSION CALENDAR. Bills may be placed on the second
20 reading suspension calendar by the rules committee if at least two
21 minority party members of the rules committee join in such motion.
22 Bills on the second reading suspension calendar shall not be subject
23 to amendment or substitution except as recommended in the committee
24 report. When a bill is before the house on the suspension calendar,
25 the question shall be to adopt the committee recommendations and
26 advance the bill to third reading. If the question fails to receive a
27 two-thirds vote of the members present, the bill shall be referred to
28 the rules committee for second reading.

29 (F) HOUSE RESOLUTIONS. House resolutions shall be filed with the
30 chief clerk who shall transmit them to the rules committee. If a
31 rules committee meeting is not scheduled to occur prior to a time
32 necessitated by the purpose of a house resolution, the majority
33 leader and minority leader by agreement may waive transmission to the
34 rules committee to permit consideration of the resolution by the
35 house. The rules committee may adopt house resolutions by a sixty
36 percent majority vote of its entire membership or may, by a majority

1 vote of its members, place them on the motions calendar for
2 consideration by the house. House resolutions are not subject to
3 debate, except for resolutions necessary for the operation of the
4 house, and resolutions commemorating Children's Day, Day of
5 Remembrance, Martin Luther King Jr. Day, National Guard Day, and
6 President's Day.

7 (G) CONCURRENT RESOLUTIONS. Reading of concurrent resolutions may
8 be advanced by majority vote.

9 **Amendments**

10 **Rule 12.** The right of any member to offer amendments to proposed
11 legislation shall not be limited except as provided in Rule 11(E) and
12 as follows:

13 (A) AMENDMENTS TO BE OFFERED IN PROPER FORM. The chief clerk
14 shall establish the proper form for amendments and all amendments
15 offered shall bear the name of the member who offers the same, as
16 well as the number and section of the bill to be amended.

17 (B) COMMITTEE AMENDMENTS. When a bill is before the house on
18 second reading, amendments adopted by committees and recommended to
19 the house shall be acted upon by the house before any amendments that
20 may be offered from the floor.

21 (C) SENATE AMENDMENTS TO HOUSE BILLS. A house bill, passed by the
22 senate with amendment or amendments which shall change the scope and
23 object of the bill, upon being received in the house, shall be
24 referred to the appropriate committee and shall take the same course
25 as for original bills unless a motion not to concur is adopted prior
26 to the bill being referred to committee.

27 (D) AMENDMENTS TO BE GERMANE. No motion or proposition on a
28 subject different from that under consideration shall be admitted
29 under color of amendment; and no bill or resolution shall at any time
30 be amended by annexing thereto or incorporating therein any other
31 bill or resolution pending before the house.

32 (E) SCOPE AND OBJECT NOT TO BE CHANGED. No amendment to any bill
33 shall be allowed which shall change the scope and object of the bill.
34 This objection may be raised at any time an amendment is under
35 consideration. The speaker may allow the person raising the objection

1 and the mover of the amendment to provide brief arguments as to the
2 merits of the objection. (Art. II § 38)

3 (F) NO AMENDMENT BY REFERENCE. No act shall ever be revised or
4 amended without being set forth at full length. (Art. II § 37)

5 (G) TITLE AMENDMENTS. The subject matter portion of a bill title
6 shall not be amended in committee or on second reading. Changes to
7 that part of the title after the subject matter statement shall
8 either be presented with the text amendment or be incorporated by the
9 chief clerk in the engrossing process.

10 **Final Passage**

11 **Rule 13.** Rules relating to bills on final passage are as follows:

12 (A) BUDGET BILLS. No final passage vote may be taken on an
13 operating budget, transportation budget, or capital budget bill until
14 twenty-four (24) hours after the bill is placed on the third reading
15 calendar. The twenty-four (24) hour requirement does not apply to
16 conference reports, which are governed by Joint Rule 20, or to bills
17 placed on the third reading calendar by a two-thirds (2/3) vote of
18 the members present.

19 (B) RECOMMITMENT BEFORE FINAL PASSAGE. A bill may be recommitted
20 at any time before its final passage.

21 (C) FINAL PASSAGE. No bill shall become a law unless on its final
22 passage the vote be taken by yeas and nays, the names of the members
23 voting for and against the same be entered on the journal of each
24 house, and a majority of the members elected to each house be
25 recorded thereon as voting in its favor. (Art. II § 22)

26 (D) BILLS PASSED - CERTIFICATION. When a bill passes, it shall be
27 certified to by the chief clerk, said certification to show the date
28 of its passage together with the vote thereon.

29 **Hour of Meeting, Roll Call and Quorum**

30 **Rule 14.** (A) HOUR OF MEETING. The speaker shall call the house to
31 order each day of sitting at 10:00 A.M., unless the house shall have
32 adjourned to some other hour.

33 (B) ROLL CALL AND QUORUM. Before proceeding with business, the
34 roll of the members shall be called and the names of those absent or

1 excused shall be entered on the journal. A majority of all the
2 members elected must be present to constitute a quorum for the
3 transaction of business. In the absence of a quorum, seven members
4 with the speaker, or eight members in the speaker's absence, having
5 chosen a speaker pro tempore, shall be authorized to demand a call of
6 the house and may compel the attendance of absent members in the
7 manner provided in Rule 22(B). For the purpose of determining if a
8 quorum be present, the speaker shall count all members present,
9 whether voting or not. (Art. II § 8)

10 (C) The house shall adjourn not later than 10:00 P.M. of each
11 working day. This rule may be suspended by a majority vote.

12 **Daily Calendar and Order of Business**

13 **Rule 15.** The rules relating to the daily calendar and order of
14 business are as follows:

15 (A) DAILY CALENDAR. Business of the house shall be disposed of in
16 the following order:

17 First: Roll call, presentation of colors, prayer, and approval of
18 the journal of the preceding day.

19 Second: Introduction of visiting dignitaries.

20 Third: Messages from the senate, governor, and other state
21 officials.

22 Fourth: Introduction and first reading of bills, memorials, joint
23 resolutions, and concurrent resolutions.

24 Fifth: Committee reports.

25 Sixth: Second reading of bills.

26 Seventh: Third reading of bills.

27 Eighth: Floor resolutions and motions.

28 Ninth: Presentation of petitions, memorials, and remonstrances
29 addressed to the Legislature.

30 Tenth: Introduction of visitors and other business to be
31 considered.

32 Eleventh: Announcements.

33 (B) UNFINISHED BUSINESS. The unfinished business at which the
34 house was engaged preceding adjournment shall not be taken up until
35 reached in regular order, unless the previous question on such
36 unfinished business has been ordered prior to said adjournment.

1 (C) EXCEPTIONS. Exceptions to the order of business are as
2 follows:

3 (1) The order of business may be changed by a majority vote of
4 those present.

5 (2) By motion under the eighth order of business, a bill in the
6 rules committee may be placed on the calendar by the affirmative vote
7 of a majority of all members of the house.

8 (3) House resolutions and messages from the senate, governor, or
9 other state officials may be read at any time.

10 Motions

11 **Rule 16.** Rules relating to motions are as follows:

12 (A) MOTIONS TO BE ENTERTAINED OR DEBATED. No motion shall be
13 entertained or debated until announced by the speaker and every
14 motion shall be deemed to have been seconded. A motion shall be
15 reduced to writing and read by the clerk, if desired by the speaker
16 or any member, before it shall be debated and by the consent of the
17 house may be withdrawn before amendment or action.

18 (B) MOTIONS IN ORDER DURING DEBATE. When a motion has been made
19 and seconded and stated by the chair, the following motions are in
20 order, in the rank named:

21 (1) Privileged motions:

22 Adjourn

23 Adjourn to a time certain

24 Recess to a time certain

25 Reconsider

26 Demand for division

27 Question of privilege

28 Orders of the day

29
30 (2) Subsidiary motions:

31 First rank: Question of consideration

32 Second rank: To lay on the table

1 Third rank: For the previous question
2 Fourth rank: To postpone to a day certain
3 To commit or recommit
4 To postpone indefinitely
5 Fifth rank: To amend
6

7 (3) Incidental motions:

8 Points of order and appeal
9 Method of consideration
10 Suspension of the rules
11 Reading papers
12 Withdraw a motion
13 Division of a question

14 (C) THE EFFECT OF POSTPONEMENT - MOTIONS TO POSTPONE OR COMMIT.
15 Once decided, no motion to postpone to a day certain, to commit, or
16 to postpone indefinitely shall again be allowed on the same day and
17 at the same stage of the proceedings. When a question has been
18 postponed indefinitely, it shall not again be introduced during the
19 session. The motion to postpone indefinitely may be made at any stage
20 of the bill except when on first reading.

21 (D) MOTIONS DECIDED WITHOUT DEBATE. A motion to adjourn, to
22 recess, to lay on the table and to call for the previous question
23 shall be decided without debate.

24 All incidental motions shall be decided without debate, except
25 that members may speak to points of order and appeal as provided in
26 Rule 23.

27 Motions to adopt house resolutions shall be decided without
28 debate, except as provided in Rule 11(F).

29 A motion for suspension of the rules shall not be debatable
30 except that the mover of the motion may briefly explain the purpose
31 of the motion and one member may briefly state the opposition to the
32 motion.

1 (E) MOTION TO ADJOURN. A motion to adjourn shall always be in
2 order, except when the house is voting or is working under the call
3 of the house; but this rule shall not authorize any member to move
4 for adjournment when another member has the floor.

5 **Members Right to Debate**

6 **Rule 17.** The methods by which a member may exercise his or her
7 right to debate are as follows:

8 (A) RECOGNITION OF MEMBER. When any member desires to speak in
9 debate or deliver any matter to the house, the member shall rise and
10 respectfully address the speaker and pause until recognized.

11 (B) ORDER OF SPEAKING. When two or more members arise at once,
12 the speaker shall name the one who is to speak.

13 (C) LIMITATION OF DEBATE. No member shall speak longer than ten
14 (10) minutes without consent of the house: PROVIDED, That on and
15 after the fifth day prior to the day of adjournment sine die of any
16 session, as determined pursuant to Article II, Section 12 of the
17 state Constitution or concurrent resolution, or on and after the
18 third day prior to the day any bill must be reported from the house
19 as established by concurrent resolution, no member shall speak more
20 than three (3) minutes without the consent of the house. No member
21 shall speak more than twice on the same question without leave of the
22 house: PROVIDED, That the chair of the committee or the mover of the
23 question may close debate if it is consistent with Rule 19 (Previous
24 Question).

25 **Rules of Debate**

26 **Rule 18.** The rules for debate in the house are as follows:

27 (A) QUESTION OF PRIVILEGE. Any member may rise to a question of
28 privilege and explain a personal matter, by leave of the speaker, but
29 the member shall not discuss any pending question in such
30 explanations.

31 (B) WITHDRAWAL OF MOTION, BILL, ETC. After a motion is stated by
32 the speaker or a bill, memorial, resolution, petition, or
33 remonstrance is read by the clerk, it shall be deemed to be in

1 possession of the house, but may be withdrawn by consent of the house
2 at any time before decision or amendment.

3 (C) READING OF A PAPER. When the reading of any paper is called
4 for and is objected to by any member, it shall be determined by a
5 vote of the house.

6 (D) DISTRIBUTION OF MATERIALS. Any materials of any nature
7 distributed to the members' desks on the floor shall be subject to
8 approval by the speaker and shall bear the name of at least one
9 member granting permission for the distribution. This shall not apply
10 to materials normally distributed by the chief clerk.

11 (E) ORDER OF QUESTIONS. All questions, whether in committee or in
12 the house, shall be propounded in the order in which they are named
13 except that in filling blanks, the largest sum and the longest time
14 shall be put first.

15 (F) DIVISION OF POINTS OF DEBATE. Any member may call for a
16 division of a question which shall be divided if it embraces subjects
17 so distinct that one being taken away a substantive proposition shall
18 remain for the decision of the house; but a motion to strike out and
19 to insert shall not be divided. The rejection of a motion to strike
20 out and to insert one proposition shall not prevent a motion to
21 strike out and to insert a different proposition.

22 (G) DECORUM OF MEMBERS. While the speaker is putting the
23 question, no member shall walk across or out of the house; nor when a
24 member is speaking shall any member entertain private discourse or
25 pass between the speaking member and the rostrum.

26 (H) REMARKS CONFINED. A member shall confine all remarks to the
27 question under debate and avoid personalities. No member shall impugn
28 the motive of any member's vote or argument.

29 (I) EXCEPTION TO WORDS SPOKEN IN DEBATE. If any member be called
30 to order for words spoken in debate, the person calling the member to
31 order shall repeat the words excepted to and they shall be taken down
32 in writing at the clerk's table. No member shall be held in answer or
33 be subject to the censure of the house for words spoken in debate if
34 any other member has spoken before exception to them shall have been
35 taken.

1 (J) TRANSGRESSION OF RULES - APPEAL. If any member, in speaking
2 or otherwise, transgresses the rules of the house the speaker shall,
3 or any member may, call the member to order, in which case the member
4 so called to order shall immediately sit down unless permitted to
5 explain; and the house shall, if appealed to, decide the case without
6 debate; if there be no appeal, the decision of the chair shall
7 prevail.

8 If the decision be in favor of the member called to order, the
9 member shall be at liberty to proceed; if otherwise, and the case
10 shall require it, the member shall be liable to the censure of the
11 house.

12 **Ending of Debate - Previous Question**

13 **Rule 19.** The previous question may be ordered by a two-thirds
14 (2/3) vote of the members present on all recognized motions or
15 amendments which are debatable.

16 The previous question is not debatable and cannot be amended.

17 The previous question shall be put in this form: "Representative
18 _____ demands the previous question. As many as are in favor of
19 ordering the previous question will say 'Aye'; as many as are opposed
20 will say 'No'."

21 The results of the motion are as follows: If determined in the
22 negative, the consideration goes on as if the motion had never been
23 made; if decided in the affirmative it shall have the effect of
24 cutting off all debate and bringing the house to a direct vote upon
25 the motion or amendment on which it has been ordered: PROVIDED
26 HOWEVER, That when a bill is on final passage or when the motion to
27 postpone indefinitely is pending, one of the sponsors of the bill or
28 the chair of the committee may have the privilege of closing debate
29 after the previous question has been ordered.

30 If an adjournment is had after the previous question is ordered,
31 the motion or proposition on which the previous question was ordered
32 shall be put to the house immediately following the approval of the
33 journal on the next working day, thus making the main question
34 privileged over all other business, whether new or unfinished.

35 **Voting**

1 **Rule 20.** (A) PUTTING OF QUESTION. The speaker shall put the
2 question in the following form: "The question before the house is
3 (state the question). As many as are in favor say 'Aye'; and after
4 the affirmative vote is expressed, "as many as are opposed say 'No'."

5 (B) ALL MEMBERS TO VOTE. Every member who was in the house when
6 the question was put shall vote unless, for special reasons, excused
7 by the house.

8 All motions to excuse a member shall be made before the house
9 divides or before the call for yeas and nays is commenced; and any
10 member requesting to be excused from voting may make a brief and
11 verbal statement of the reasons for making such request, and the
12 question shall then be taken without further debate.

13 Upon a division and count of the house on the question, only
14 members at their desks within the bar of the house shall be counted.

15 (C) CHANGE OF VOTE. When the electric roll call machine is used,
16 no member shall be allowed to vote or change a vote after the speaker
17 has locked the roll call machine. When an oral roll call is taken, no
18 member shall be allowed to vote or change a vote after the result has
19 been announced.

20 (D) PRIVATE INTEREST. No member shall vote on any question which
21 affects that member privately and particularly. A member who has a
22 private interest in any bill or measure proposed or pending before
23 the legislature shall disclose the fact to the house of which he is a
24 member, and shall not vote thereon. (Art. II § 30)

25 (E) INTERRUPTION OF ROLL CALL. Once begun, the roll call may not
26 be interrupted. No member or other person shall visit or remain at
27 the clerk's desk while the yeas and nays are being called.

28 (F) YEAS AND NAYS - RECORDED VOTES. Upon the final passage of any
29 bill, the vote shall be taken by yeas and nays and shall be recorded
30 by the electric voting system: PROVIDED, HOWEVER, That an oral roll
31 call shall be ordered when demanded by one-sixth (1/6) of the members
32 present. (Art. II § 21)

33 The speaker may vote last when the yeas and nays are called.

34 When the vote is by electric voting machine or by oral roll call
35 on any question, it shall be entered upon the journal of the house. A
36 recorded vote may be compelled by one-sixth (1/6) of the members

1 present. A request for a recorded vote must be made before the vote
2 is commenced.

3 (G) TIE VOTE, QUESTION LOSES. In case of an equal division, the
4 question shall be lost.

5 (H) DIVISION. If the speaker is in doubt, or if division is
6 called for by any member, the house shall divide.

7 (I) STATEMENT FOR JOURNAL. A member whose recorded vote does not
8 accurately reflect his or her intent may submit a written statement
9 for the journal clarifying their intent to vote aye or nay. The
10 statement must be submitted to the chief clerk on the same day the
11 vote is taken. A member who is excused for one or more days of
12 recorded votes may submit a written statement for the journal
13 explaining the reason for his or her absence. The statement may not
14 exceed fifty words and must be submitted to the chief clerk on the
15 same day the member returns.

16 **Reconsideration**

17 **Rule 21.** Notice of a motion for reconsideration on the final
18 passage of bills shall be made on the day the vote to be reconsidered
19 was taken and before the house has voted to transmit the bill to the
20 senate.

21 Reconsideration of the votes on the final passage of bills must
22 be taken on the next working day after such vote was taken: PROVIDED,
23 That on and after the fifth day prior to the day of adjournment sine
24 die of any session, as determined pursuant to Article II, Section 12
25 of the state Constitution, or concurrent resolution, or on and after
26 the third day prior to the day a bill must be reported from the house
27 as established by concurrent resolution, then reconsideration of
28 votes on the final passage of bills must be taken on the same day as
29 the original vote was taken.

30 A motion to reconsider an amendment may be made at any time the
31 bill remains on second reading.

32 Any member who voted on the prevailing side may move for
33 reconsideration or give notice thereof.

34 A motion to reconsider can be decided only once when decided in
35 the negative.

1 by leave of the house. In all cases of appeal, the question shall be:
2 "Shall the decision of the chair stand as the judgment of the house?"

3 **Standing Committees**

4 **Rule 24.** The standing committees of the house and the number of
5 members that shall serve on each committee shall be as follows:

6	1. Appropriations.	33
7	2. Capital Budget.	23
8	3. Children, Youth & Families.	13
9	4. Civil Rights & Judiciary.	17
10	5. College & Workforce Development.	13
11	6. Commerce & Gaming.	9
12	7. Community & Economic Development.	13
13	8. Consumer Protection & Business.	7
14	9. Education.	13
15	10. Environment & Energy.	13
16	11. Finance.	17
17	12. Health Care & Wellness.	15
18	13. Housing, Human Services & Veterans.	9
19	14. Labor & Workplace Standards.	7
20	15. Local Government.	7
21	16. Public Safety.	13
22	17. Rules.	27
23	18. Rural Development, Agriculture & Natural Resources.	15
24	19. State Government & Tribal Relations.	7
25	20. Transportation.	29

26 Committee members shall be selected by each party's caucus. The
27 majority party caucus shall select all committee chairs.

28 **Duties of Committees**

29 **Rule 25.** House committees shall operate as follows:

30 (A) NOTICE OF COMMITTEE MEETING. The chief clerk shall make
31 public the time, place and subjects to be discussed at committee
32 meetings. All public hearings held by committees shall be scheduled
33 at least five (5) days in advance and shall be given adequate
34 publicity: PROVIDED, That when less than eight (8) days remain for
35 action on a bill, the Speaker may authorize a reduction of the five-

1 day notice period when required by the circumstances, including but
2 not limited to the time remaining for action on the bill, the nature
3 of the subject, and the number of prior hearings on the subject.

4 (B) COMMITTEE QUORUM. A majority of any committee shall
5 constitute a quorum for the transaction of business.

6 (C) SESSION MEETINGS. No committee shall sit while the house is
7 in session without special leave of the speaker.

8 (D) DUTIES OF STANDING COMMITTEES.

9 (1) Only such bills as are included on the written notice of a
10 committee meeting may be considered at that meeting except upon the
11 vote of a majority of the entire membership of the committee to
12 consider another bill.

13 (2) A majority recommendation of a committee must be signed by a
14 majority of the entire membership of the committee in a regularly
15 called meeting before a bill, memorial, or resolution may be reported
16 out: PROVIDED, That by motion under the eighth order of business, a
17 majority of the members elected to the house may relieve a committee
18 of a bill and place it on the second reading calendar.

19 Majority recommendations of a committee can only be "do pass,"
20 "do pass as amended," or that "the substitute bill be substituted
21 therefor and that the substitute bill do pass."

22 (3) Members of the committee not concurring in the majority
23 report may prepare a written minority report containing a
24 recommendation of "do not pass" or "without recommendation," which
25 shall be signed by those members of the committee subscribing
26 thereto, and submitted with the majority report.

27 (4) All committee reports shall be spread upon the journal. The
28 journal of the house shall contain an exact copy of all committee
29 reports, together with the names of the members signing such reports.

30 (5) Every vote to report a bill out of committee shall be taken
31 by the yeas and nays, and the names of the members voting for and
32 against, as well as the names of members absent, shall be recorded on
33 the committee report. Any member may call for a recorded vote, which
34 shall include the names of absent members, on any substantive
35 question before the committee. A copy of all recorded committee votes

1 shall be kept by the chief clerk and shall be available for public
2 inspection.

3 (6) All bills having a direct appropriation shall be referred to
4 the appropriate fiscal committee before their final passage.

5 (7) No standing committee shall vote by secret written ballot on
6 any issue.

7 (8) During its consideration of or vote on any bill, resolution,
8 or memorial, the deliberations of any standing committee of the house
9 of representatives shall be open to the public.

10 (9) A standing committee to which a bill was originally referred
11 shall, prior to voting the bill out of committee, consider whether
12 the bill authorizes rule-making powers or requires the exercise of
13 rule-making powers and, if so, consider:

14 (a) The nature of the new rule-making powers; and

15 (b) To which agencies the new rule-making powers would be
16 delegated and which agencies, if any, may have related rule-making
17 powers.

18 (10) Insofar as practicable, testimony in public hearings should
19 be balanced between those in support of and in opposition to proposed
20 legislation, with consideration given to providing an opportunity for
21 members of the public to testify within available time.

22 **Standing Committees - Expenses - Subpoena Power**

23 **Rule 26.** Regardless of whether the legislature is in session,
24 members of the house may receive from moneys appropriated for the
25 legislature, reimbursement for necessary travel expenses, and
26 payments in lieu of subsistence and lodging for conducting official
27 business of the house.

28 The standing committees of the house may have the powers of
29 subpoena, the power to administer oaths, and the power to issue
30 commissions for the examination of witnesses in accordance with the
31 provisions of chapter 44.16 RCW. Before a standing committee of the
32 house may issue any process, the committee chairperson shall submit
33 for approval of the executive rules committee a statement of purpose
34 setting forth the name or names of those subject to process. The
35 process shall not be issued prior to approval by the executive rules
36 committee. The process shall be limited to the named individuals.

1 **Vetoed Bills**

2 **Rule 27.** Veto messages of the governor shall be read in the house
3 and entered upon the journal. It shall then be in order to proceed to
4 reconsider the bill, refer it, lay it on the table, or postpone its
5 consideration to a day certain.

6 The merits of the bill may be debated before the vote is taken,
7 but the vote on a vetoed bill cannot be reconsidered.

8 In case of a bill containing several sections or items, one or
9 more of which has been objected to by the governor, each section or
10 item so objected to shall be voted upon separately by the house.
11 Action by the house upon all vetoed bills shall be endorsed upon the
12 bill and certified by the speaker.

13 Vetoed bills originating in the house, which have not been passed
14 notwithstanding the veto of the governor, shall remain in the custody
15 of the officers of the house until the close of the term, after which
16 they shall be filed with the secretary of state.

17 **Suspension of Compensation**

18 **Rule 28.** (1) Any member of the house of representatives convicted
19 and sentenced for any felony punishable by death or by imprisonment
20 in a Washington state penal institution shall, as of the time of
21 sentencing, be denied the legislative salary for future service and
22 be denied per diem, compensation for expenses, office space
23 facilities, and assistance. Any member convicted of a felony and
24 sentenced therefor under any federal law or the law of any other
25 state shall, as of the time of sentencing, be similarly denied such
26 salary, per diem, expenses, facilities, and assistance if either (a)
27 such crime would also constitute a crime punishable under the laws of
28 Washington by death or by imprisonment in a state penal institution,
29 or (b) the conduct resulting in the conviction and sentencing would
30 also constitute a crime punishable under the laws of Washington by
31 death or by imprisonment in a state penal institution.

32 (2) At any time, the house may vote by a constitutional majority
33 to restore the salary, per diem, expenses, facilities, and assistance
34 denied a member under subsection (1). If the conviction of a member
35 is reversed, then the salary, per diem, and expense amounts denied

1 the member since sentencing shall be forthwith paid, and the member
2 shall thereafter have the rights and privileges of other members.

3 **Smoking**

4 **Rule 29.** Smoking of cigarettes, pipes, or cigars shall not be
5 permitted at any public meeting of any committee of the house of
6 representatives or within House facilities.

7 "No smoking" signs shall be posted so as to give notice of this
8 rule.

9 **Liquor**

10 **Rule 30.** The House of Representatives shall strictly adhere to
11 the liquor laws of the state of Washington, including provisions
12 relating to banquet and special occasion permits. The proper permits
13 must always be obtained before consumption of liquor in any house
14 facility.

15 **Parliamentary Rules**

16 **Rule 31.** The rules of parliamentary practice comprised in Reed's
17 Parliamentary Rules shall govern all cases in which they are not
18 inconsistent with the standing rules and orders of the house.

19 **Standing Rules Amendment**

20 **Rule 32.** Any standing rule may be rescinded or changed by a
21 majority vote of the members elected: PROVIDED, That the proposed
22 change or changes be submitted at least one day in advance in writing
23 to the members together with notice of the consideration thereof. Any
24 standing rule may be suspended temporarily by a two-thirds (2/3) vote
25 of the members present except as provided in Rule 11.

26 **Rules to Apply for Assembly**

27 **Rule 33.** The permanent house rules adopted at the beginning of
28 the term are to govern all acts of the house during the course of the
29 term unless amended or repealed.

30 **Legislative Publications**

31 **Rule 34.** The House of Representatives directs the house executive
32 rules committee to adopt procedures and guidelines to ensure that all
33 legislative publications at public expense are for legitimate
34 legislative purposes.

1 **Appendix to House Rules**

2 The House of Representatives of the sixty-seventh legislature
3 acknowledges that the COVID-19 pandemic requires the adoption of
4 extraordinary rules of procedure that protect the health of members,
5 staff, and the public, and ensure transparency and openness in house
6 proceedings.

7 Pursuant to Article II, section 9 of the state Constitution, the
8 House of Representatives hereby adopts the following Appendix Rules
9 A-1 through A-10 to govern its proceedings during the COVID-19 state
10 of emergency.

11 **Application of Rules**

12 Rule A-1. Reed's Parliamentary Rules and the Rules of the House
13 of Representatives are hereby superseded to the extent they are
14 inconsistent with the rules set forth in this appendix.

15 **Remote Participation and Voting Authorized**

16 Rule A-2. House members shall participate remotely in official
17 house proceedings, including committee meetings and floor sessions,
18 and when doing so, shall be considered present for purposes of a
19 quorum and voting.

20 Members are encouraged to use computers provided by the house to
21 participate in committee meetings and are encouraged to use the
22 virtual background provided by the house in their video display.
23 Members are required to use computers provided by the house to cast
24 votes in remote floor sessions and are required to use the virtual
25 background provided by the house for their video display.

26 Reasonable accommodations provided to a member due to a
27 disability must include provisions necessary to facilitate
28 participation in remote proceedings.

29 **Admittance to House Facilities**

30 Rule A-3. Admittance to house facilities is permitted only as
31 follows:

32 (1) (~~Presiding officers, the minority leader, floor leaders, and~~
33 ~~staff essential to floor operations are permitted in the chamber~~
34 ~~during floor proceedings.~~

1 ~~(2))~~ The speaker, the speaker pro tempore, the deputy speaker
2 pro tempore, the minority leader, the majority floor leader, the
3 minority floor leader, and staff essential to floor operations are
4 permitted in the chamber during floor proceedings.

5 (2) The executive rules committee may authorize additional
6 members to be admitted to the chamber during floor proceedings.

7 (3) Including the above referenced members (~~identified in~~
8 ~~subsection (1) of this rule~~)), each caucus may designate 15 members
9 to participate remotely from their assigned legislative offices. Each
10 caucus must prioritize members with technological problems that
11 preclude remote participation.

12 ~~((3))~~ (4) The executive rules committee may authorize
13 additional members of the house to participate remotely from their
14 assigned legislative offices upon a showing that technological
15 problems preclude participation from the member's home or an
16 alternate district location.

17 ~~((4))~~ (5) Staff may access house facilities only with prior
18 approval of the chief clerk.

19 (6) Any person permitted access to house facilities must comply
20 with public health requirements both on and off campus, and any other
21 restriction established by executive rules and/or the chief clerk.

22 (7) The chief clerk shall continue to review public health data
23 and guidance and periodically update the executive rules committee.
24 The executive rules committee may modify provisions relating to
25 admittance to house facilities as conditions warrant.

26 **House Resolutions**

27 Rule A-4. House resolutions are not subject to debate, except for
28 resolutions necessary for the operation of the house, and resolutions
29 commemorating Day of Remembrance, Martin Luther King Jr. Day,
30 President's Day, and National Guard Day(~~, and Navy Day~~). Floor
31 debate on commemorative resolutions is limited to 10 minutes for
32 members of the majority caucus and 10 minutes for members of the
33 minority caucus.

34 **Members Right to Debate**

1 Rule A-5. Any member who desires to speak may request to be
2 recognized by use of the request to speak function in the remote
3 floor activity system.

4 No member may speak longer than 10 minutes without consent of the
5 house, PROVIDED, that on and after the fifth day prior to the day of
6 adjournment Sine Die of any session, as determined by Article II,
7 section 12 of the state Constitution or concurrent resolution, and on
8 and after the fifth day prior to the day any bill must be reported
9 from the house as established by concurrent resolution, no member may
10 speak more than three minutes without consent of the house.

11 **Amendments**

12 Rule A-6. To facilitate the orderly consideration of legislation,
13 the speaker, after consultation with the minority leader, may
14 establish a deadline for submission of amendments.

15 **Voting**

16 Rule A-7. The speaker shall divide the house on all motions not
17 requiring a recorded roll call vote. A member is not required to
18 participate in a division vote.

19 All members present in the remote floor proceedings shall vote
20 when the question is put on any motion requiring a recorded roll call
21 vote. Before locking the roll call machine, the (~~presiding officer~~)
22 speaker shall call the name of any member not voting. If a member is
23 unable to vote using the remote voting function, the member may vote
24 orally. If a member is unable to vote using the remote voting
25 function or orally, the rostrum staff shall contact the member by
26 telephone and the member's vote may be taken by telephone to rostrum
27 staff after the member answers security questions to verify the
28 identity of the member. The rostrum staff will announce the vote of
29 the member, which shall be recorded.

30 Any member who was unable to vote using the remote voting
31 function, orally, or by telephone may require reconsideration of the
32 vote on the same day the vote is taken or submit a statement for the
33 journal within 48 hours indicating their intent to vote yea or nay.

34 **Distribution of Materials**

35 Rule A-8. Any requirement to distribute materials to members'
36 desks is satisfied by distribution through electronic means.

1 **Duties of Committees**

2 Rule A-9. Every notice of a committee meeting shall include a web
3 address for information about viewing and providing public testimony
4 at committee meetings in lieu of a physical location.

5 Every member participating remotely in a committee meeting shall
6 be considered present for purposes of quorum and roll call voting.

7 Only such bills as are included on the written notice of a
8 committee meeting may be considered at that meeting.

9 Every report and recommendation shall be made by members of the
10 committee during a regularly called meeting of the committee. No
11 signatures are required.

12 Every vote to report a bill out of committee shall be taken by
13 the yeas and nays, with nays specifying "do not pass" or "without
14 recommendation."

15 A member who is unable to vote on a bill in committee for
16 technical reasons may submit a statement for the bill file indicating
17 their intent to have voted aye, nay-do not pass, or nay-without
18 recommendation. The statement must be submitted to the chief clerk on
19 the same day the vote is taken.

20 A meeting shall be considered open to the public if an alternate
21 and broadly accessible means for the public to view the meeting is
22 available.

23 **Term of Appendix Rules**

24 Rule A-10. The rules in this appendix expire on the termination
25 of the COVID-19 state of emergency, or when rescinded by the
26 executive rules committee, whichever occurs first.

27
28 I hereby certify this to be a true and correct copy of
29 Resolution 4610 adopted by the House of Representatives
30 February 25, 2021
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36 _____
Bernard Dean, Chief Clerk

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EXHIBIT B

State of
Washington
House of
Representatives



COVID-19
2021 Interim Operations Plan
Updated Sept 2021

I. OVERVIEW

The Washington State House of Representatives (House) is committed to doing the people's work while reducing the risk of spreading COVID-19. This document provides guidelines for House during the 2021 interim.

The following imperatives guided the development of this document:

- Ensuring accountable and transparent operations of the House;
- Preserving and enhancing public participation; and
- Protecting the health and safety of the public, House members, and staff.

This document relies on the latest guidance from the U.S. Centers for Disease Control (CDC), local public health authorities, the Department of Labor and Industries (L&I), and the Department of Health (DOH). Changes will be communicated and implemented as we receive new information or guidance.

II. INTERIM OPERATIONS

Interim operations guidelines are outlined in this document. Failure to adhere to the guidelines may result in such actions as removal from House facilities or disciplinary action.

Beginning on October 18, 2021, access to House facilities (the Capitol Campus and district offices) is limited to members and staff who have provided documentation of being fully vaccinated against COVID-19. Absent verification of being fully vaccinated, members and staff will not be permitted into House facilities and will continue to work remotely. Only staff who have provided documentation may be approved for travel or participate in in-person meetings. Committee meetings will continue to be held virtually.

Modified House operations are being followed to keep members, staff, and the public safe and to prevent the spread of COVID-19. Anyone who has questions or concerns is encouraged to contact the Chief Clerk's Office or House Counsel.

The following applies to anyone accessing House facilities on the Capitol Campus or in-district:

1. Members and staff must have previously confirmed their vaccination status through the House verification process before accessing House facilities on the Capital Campus or accessing district

offices. Being fully vaccinated means that an individual is at least two weeks past their final dose of an authorized COVID-19 vaccine regimen.

2. Everyone must continue to self-screen, regardless of vaccination status, prior to entering any House facility. Signs regarding symptoms are posted at each House Facility entrance. [See House Screening Questionnaire.]
3. Everyone must wear a mask, regardless of vaccination status, while in public settings such as common areas and hallways or when interacting in person with anyone else, regardless of vaccination status.^{1,2} This includes in district offices as well as those located in Olympia. Masks must be worn properly over one's nose and mouth and secure under one's chin.^{3,4} Those staff who need an accommodation to mask wearing need to notify their supervisor and/or House ADA coordinator Kyle Overmiller (x7271).
4. While masks are not required to be worn if an individual is working onsite alone in an enclosed work area, if anyone else enters the work area, all individuals must wear a mask, regardless of vaccination status. If a workstation does not have a door, such as a cubicle, a person must wear their mask anytime another person is working in the same area, including in a cubicle that shares an entry way. Those staff who need an accommodation to mask wearing need to notify their supervisor and/or House ADA coordinator Kyle Overmiller (x7271).
5. Exceptions to this mask wearing requirement may be made if an individual is deaf or hard of hearing, or is communicating with someone who relies on language cues such as facial markers and expression and mouth movements as a part of communication; or if an individual has a medical condition or disability that makes wearing a mask inappropriate. Please contact House ADA coordinator [Kyle Overmiller](#) (x7271) or [House Security](#) (x7771), if an accommodation regarding masks is needed while on the Capitol Campus.
6. Six-foot distancing must be maintained in all spaces, at all times, regardless of vaccination status, and members and staff will continue to follow respiratory etiquette, hand washing guidelines, and disinfecting of shared spaces (kitchen and copiers) after use. People must disperse if a situation arises that makes adequate distancing impossible.⁵

III. EXPECTATIONS FOR HOUSE OPERATIONS

Everyone is asked to continue efforts to keep each other safe by reducing the likelihood for transmission of COVID-19. These include the following:

1. The House is operating under a temporary telework policy that permits staff to entirely telework. Additionally, staff who have provided verification of being fully vaccinated may opt to work a blended schedule with one or more days onsite. Staff must select a set schedule indicating telework and onsite days within the work schedules system. Schedules are subject to supervisor approval.
2. If a person in an at-risk category is in need of a work accommodation (for example, a need to continue to telework when they would otherwise be directed to work in a building facility) they must notify their supervisor and/or the House ADA coordinator, Kyle Overmiller.⁶
3. Most importantly, anyone who is sick, not feeling well, or displaying symptoms, should plan to stay home and help prevent the spread of illness. Before entering House facilities for any purpose, individuals must self-screen using public health criteria. [See House Screening].

4. In-person meetings between members and staff whose vaccination status has been verified may occur offsite or in House facilities. In-person meetings must be held in spaces that accommodate six-foot distancing between attendees. The House encourages meetings to be conducted virtually, irrespective of where the member or staff is working from or their vaccination status. However, any in-person meeting that includes staff must not exceed five members of the public. Staff may decline in-person meeting requests.
5. Conference room capacity is lower to support adequate distancing. Revised capacity for rooms can be found on the House intranet.
6. Staff whose vaccination status has been verified may be approved for House travel that aligns with this operational plan. All staff travel, regardless of worksite, requires advance approval.
7. Hearing Rooms, break rooms, and the workout room remain closed.
8. Avanti Market services are available in the JLOB basement or in the Pritchard Building.
9. Food sharing, communal meals, and consuming food in common/public areas indoors is not permitted.
10. If anyone becomes ill with COVID-19 like symptoms during the workday, that person must immediately notify their supervisor and leave the building. They should not return to a House facility until cleared by a healthcare provider or as otherwise set out in CDC guidelines. Contact House Counsel at x7767 with any questions regarding return to work timelines
11. If anyone accesses a House facility, and later has or develops signs/symptoms of COVID-19 (fever, cough, shortness of breath, fatigue, muscle aches or new loss of taste or smell) or is themselves found positive or has been in close contact with someone who is experiencing symptoms or is confirmed positive, they must report the development of symptoms, positive diagnosis, or close contact to the House Counsel and, if an employee, to the employee's staff director. Information must be provided to House Counsel on what areas they occupied and who they had close contact with, as defined by the CDC. Information will only be shared as appropriate and allowed by law.
12. In the event someone becomes diagnosed with COVID-19 and accessed House facilities, the workspace will be disinfected according to CDC guidelines.⁷
13. All vendors, staff, or elected officials of the legislative branch must be vaccinated to access House facilities.

IV. MOVING FORWARD

House Administration, in collaboration with others, continue to take the following steps in preparation for interim operations:

House Counsel provides:

- Assistance and advice to employees and management with issues related to work conditions and building access, including information for staff regarding accommodations, leave options, and work with local public health authorities in the event of exposure.

For staff and members who are on-site, House Administration, in collaboration with others, will:

- Ensure availability and proper placement of sanitizing materials (e.g., wipes and hand sanitizer), protective equipment, tissues, and wastebaskets.

ITEM	House Session Operations Plan	
COVID Protocols	Members Staff Public	Social distancing, masks unless alone in an office, increase access to disinfectant and hand sanitizer. Continue adjustments to HVAC filters and cleaning cycle.
COVID Symptoms Screening	Members Staff Public	Applies to anyone entering building: All individuals must self-screen based on list of symptoms. No longer temp. checking (public health does not require/suggest onsite temp screening). Everyone signs an attestation confirming no symptoms.
Vaccination Verification	Members Staff Public	Use secure House process for verification for members and staff. Show accepted vaccine verification for access for gallery access. Also see Testing.
Testing	Members Staff Public	Require negative test three days a week for unvaccinated members who opt to be onsite. Testing services offered onsite, members to pay for test from member expense accounts. House covers administration (staffing cost of contracted service). Not offered to staff. Public must provide proof of negative test within prior 72 hours or proof of vaccination to access gallery. Also see vaccination.
Gallery	Public	Either have provided verification or negative test within 72 hours. See Screening, Verification and Testing. Reduced gallery capacity for social distancing (n=17).
Floor	Members Staff Public	Members who have verified vaccination will be allowed on the floor. Total number of members on the floor will be maximized based on needs for social distancing and line-of sight for presiding officer, likely resulting in the need for cohorting. Only Security, Rostrum, and IT Staff Permitted on House floor. Additionally see Press below. No guests/visitors.
Access to offices/ conference rooms	Members Staff Public	Any member who has provided vaccination verification or a negative COVID test (administered within the established testing period). Conference rooms with reduced capacity can be reserved. JLOB and House offices in LEG remain closed for meetings involving the public. All staff encouraged to work remotely. Staff directors can provided additional guidance. Staff who have provided vaccination verification may be permitted onsite. Staff Directors should develop staff plans that support remote work. No public access to JLOB or offices. House will identify potential meeting spaces.
Wings	Members Staff Public	Limited to members authorized for the floor that day. Limited to staff who work on the third floor and staff directors or designees. Not permitted.
Caucus Room	Members Staff Public	Access to room would be limited to capacity (16-17 people roughly) and those authorized access on the floor. Limited to staff authorized to be in wings. Not permitted.
In-Person or Hybrid Caucuses		Space with the adequate technology and spacing needs will be provided to accommodate members. Members must have verified vaccination.
Committees Operations		Remote - committee rooms remain closed for public meetings.

ITEM	House Session Operations Plan
Press	Access limited to designated seating at the rear of the floor (2-3 seats) and seats in either gallery (can reserve a row if desired).

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EXHIBIT C

Probable cause / Police reform legislation review

Young, Rep. Jesse </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C406685D69C4A0FB78E006C9EF8FC3D-YOUNG, REP.>

Fri 10/15/2021 3:15 PM

To: Walsh, Rep. Jim <Jim.Walsh@leg.wa.gov>

Cc: Dodson, Kari <Kari.Dodson@leg.wa.gov>

Bcc: zzJLOB 402 Conf Rm <zzJLOB402ConfRm@leg.wa.gov>

Jim,

I've finished with my stakeholder meetings around this issue earlier in the week. I've reviewed my calendar and it looks like I can make it down to Olympia to meet up and go over the varying options for fixing this policy issue in a way that the democrats will accept but can't manipulate and screw up again.

Looks like 402 is available. Hi Kari, if you could please verify 402, and if need adjust to one of the other rooms on the 4th floor. We'll just need access to whiteboards.

Veritas sine timore,
Jesse

Accepted: Public Safety and Law Enforcement Reform

Young, Rep. Jesse </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C406685D69C4A0FB78E006C9EF8FC3D-YOUNG, REP.>

Sat 10/16/2021 8:51 AM

To: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>

Today's meeting on Public Safety

Young, Rep. Jesse </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C406685D69C4A0FB78E006C9EF8FC3D-YOUNG, REP.>

Tue 10/19/2021 11:32 AM

To: Sutherland, Rep. Robert <Robert.Sutherland@leg.wa.gov>

Robert,

We're going to have to cancel our meeting for later today. I had a meeting scheduled from last week with representative Walsh that we had to reschedule to this morning and upon arrival we were denied access to the building.

It would have been beneficial to be able to do this in person and map everything out on a whiteboard, etc. but I'll just call you instead.

Veritas sine timore,
Jesse

Get [Outlook for Android](#)

Probable cause / Police reform legislation review

Young, Rep. Jesse </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C406685D69C4A0FB78E006C9EF8FC3D-YOUNG, REP.>

Fri 10/15/2021 1:32 PM

To: Walsh, Rep. Jim <Jim.Walsh@leg.wa.gov>

Cc: Dodson, Kari <Kari.Dodson@leg.wa.gov>

Bcc: zzJLOB 402 Conf Rm <zzJLOB402ConfRm@leg.wa.gov>

Jim,

I've finished with my stakeholder meetings around this issue earlier in the week. I've reviewed my calendar and it looks like I can make it down to Olympia to meet up and go over the varying options for fixing this policy issue in a way that the democrats will accept but can't manipulate and screw up again.

Looks like 402 is available. Hi Kari, if you could please verify 402, and if need adjust to one of the other rooms on the 4th floor. We'll just need access to whiteboards.

Veritas sine timore,
Jesse

- Provide signage, reconfigure spaces to reinforce safe practices including installing physical barriers, increase disinfecting, and change HVAC filters.
- Address accessibility needs and requests for accommodations.

The Chief Clerk's Office will continue to monitor public health guidance and adjust operations as necessary. This may also include returning to more restricted access of House facilities if staff or operations are compromised. House member and staff diligence and flexibility are essential.

Thank you all for your assistance.

¹ See, <https://www.lni.wa.gov/forms-publications/F414-179-000.pdf>

² See, <https://www.governor.wa.gov/sites/default/files/COVID19%20Professional%20Services%20Guidance.pdf>

³ See, <https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/Employervisitorscreeningguidance.pdf>.

⁴ See, <https://www.cdc.gov/coronavirus/2019-ncov/your-health/effective-masks.html>

⁵ See, <https://www.lni.wa.gov/forms-publications/F414-164-000.pdf>

⁶ See, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

⁷ See, <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

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EXHIBIT L

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

Washington State Representative ROBERT J. SUTHERLAND; JOHN HENRY MOSELAGE, III a voter in the 39th Legislative District; Washington State Representative ROB CHASE; LUKE DAVIS, a voter in the 4th Legislative District; Washington State Representative JENNY GRAHAM; RUSSELL NEFF, a voter in the 6th Legislative District; Washington State Representative BOB MCCASLIN; GARY EDWARDS, a voter in the 4th Legislative District; JIM WALSH; JESSIE WESTCOTT, a voter in the 19th Legislative District; Washington State Representative JESSE YOUNG; CRAIG WELLBROCK, a voter in the 26th Legislative District

Plaintiffs,

v.

BERNARD DEAN, the Chief Clerk of the House of Representatives; LAURIE JINKINS; PAT SULLIVAN; LILLIAN ORTIZ-SELF; and MONICA STONIER as members of Washington House Executive Rules Committee.

Defendants.

CASE NO.:

DECLARATION OF CRAIG WELLBROCK

JURY DEMANDED

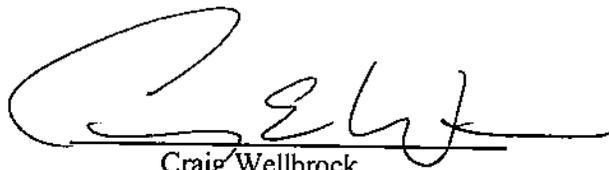
1 I, CRAIG WELLBROCK, declare under penalty of perjury.

- 2 1. I am an adult citizen of Washington State, am competent to testify, and hereby make this
3 declaration of my personal knowledge.
- 4 2. I have known and supported Representative Jesse Young for nearly 1 year.
- 5 3. I voted for Representative Young in the 2020 election, and I donated to his 2020
6 campaign. As I have come to know Representative Young, I personally endorse him
7 and will volunteer on future campaigns.
- 8 4. Throughout the past year, I have gotten to know Representative Young very well as he
9 has been an advocate for individuals to keep their employment, regardless of
10 vaccination status. As an unvaccinated firefighter, I am one of the individuals helped
11 by Representative Young, directly and indirectly.
- 12 5. Representative Young directly helped me through his advocacy for unvaccinated
13 individuals to maintain employment; he also assisted me in drafting my religious
14 exemption and accommodation request.
- 15 6. Representative Young has also advocated for natural immunity (i.e., for individuals
16 who test positive for antibodies from prior COVID-19 infection) as an exemption. I
17 have had COVID-19 and have tested positive for the COVID-19 antibodies; such an
18 exemption would greatly benefit me.
- 19 7. Throughout this time, Representative Young's Gig Harbor office has been a common
20 place, or head quarter, for individuals like me; Representative Young has many people
21 in my situation.
- 22
- 23 ///
- 24 8. If Representative Young is kept off the Capitol Complex, my vote will not matter as
25 my elected Representative will not be able to do his job.

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9. As someone facing potential loss of employment associated with COVID-19, Representative Yong's willingness to help me throughout this time has been critical. His ability to continually advocate for me and others like me is the reason I voted for him. Any decision from another individual or group of individuals that disallows the Representative from doing his job directly impacts me and my vote.

EXECUTED this 10th Day of November, 2021 at KITSAP COUNTY Washington.



Craig Wellbrock