ALLIANCE DEFENDING FREEDOM

November 10, 2026

Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street N.E.
Washington, D.C. 20543

Re: *K.M.K. v. Washington Interscholastic Activities Association*, No. 26A458

Dear Mr. Harris,

I write with an update regarding Initiative Measure No. IL26-638, a proposal to protect women's sports that Washington voters overwhelmingly approved on November 3, 2026,[1] and which is scheduled to go into effect on December 3, 2026.

Late last night, the Seattle Public Schools Board convened a special meeting, the sole purpose of which was to consider action regarding Initiative 638. At the meeting, the Board adopted a resolution that (a) reinforced the Board's previously expressed opposition to the Initiative, (b) pronounced the Board's view that the Initiative "conflicts" with the "Constitution of United States and the Constitution and laws of the State of Washington," (c) asserted that the Initiative would "create barriers to participation in school activities, contrary to the Washington Interscholastic Athletic Association's inclusionary policy in sports that has successfully supported equitable access to participation," (d) authorized the Seattle Public Schools' "Superintendent to undertake appropriate legal actions consistent with this resolution to protect the interests of the District and prevent harm to District students that implementing" the Initiative would purportedly cause, and (e) unanimously approved "the Superintendent or their designee to engage legal counsel on behalf of the District to represent the District in carrying out the legal actions authorized by this resolution." Seattle School District #1 Board Resolution No. 2026/27-11, perma.cc/5AEZ-SATV; Seattle Public Schools Special Board Meeting – Nov. 9, 2026, www.youtube.com/watch?v=zvJ4L7C2ph4 (39:17–47:18).

[1] Wash. Sec. of State Unofficial Results, Nov. 3, 2026 General Election, bit.ly/4iza9lZ.

In support of the Resolution, one Board member commented that the Initiative "raises serious questions about equal protection [and] student privacy," and that the Board has "a system for resolving those conflicts, and that's called the courts." Special Board Meeting (40:56–41:15). According to that board member (and no other members disagreed), authorizing litigation to invalidate the Initiative was effectively "protecting students and respecting the will of voters." *Id.* (41:38–41:41). So the Board "authoriz[ed] the superintendent, working with our legal counsel, to ask the courts to help resolve" the conflicts. *Id.* (42:10–42:16).

Moreover, even as this letter was being finalized for filing, it was announced publicly that TransFamilies, the Washington Education Association, and parents of public-school students sued to block the Initiative's implementation in King County Superior Court. Jake Goldstein-Street, *Parents, groups sue over transgender student athletes initiative*, Washington State Standard (Nov. 10, 2026), perma.cc/HV88-KGMA. These plaintiffs allege the Initiative violates state constitutional privacy, equal-protection, right-to-education, and procedural provisions, and they seek to enjoin the initiative from going into effect on December 3rd. Compl., *J. Doe A* v. *Washington* (King County Superior Court, Nov. 9, 2026), perma.cc/3R73-4693.

In light of these circumstances, it is highly unlikely that Initiative 638 will (a) change or resolve the policy that is the subject of the application, (b) materially affect whether any interim relief is needed so that K.M.K. can wrestle this season without being matched against a male, or (c) otherwise affect the propriety of interim relief in this case. Accordingly, this Court should grant K.M.K.'s motion for an injunction pending appeal. That injunction would protect K.M.K. during the impending wrestling season. And other Washington girls who suffer similar injuries could rely on the Court's decision to seek the emergency relief they likewise need.

Respectfully submitted,

s/*John J. Bursch*
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Counsel for Applicants

cc: Rachel Tallon Reynolds, Counsel for Respondent Washington Interscholastic Activities Association, rachel.t.reynolds@wilsonelser.com;
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