

No. 83024-0

**IN THE SUPREME COURT OF THE STATE OF
WASHINGTON**

Bellevue School District, Petitioner

v.

E.S., Respondent

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
IN SUPPORT OF RESPONDENT**

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Representation and Civil Legal Equality (CIRCLE), and
Northwestern University School of Law's Children and Family
Justice Center (CFJC)

I. RELIEF REQUESTED

TeamChild, the Committee for Indigent Representation and Civil Legal Equality (CIRCLE), and Northwestern Law School's Children and Family Justice Center (CFJC) request permission to file an *Amicus Curiae* brief in the above-captioned case pursuant to RAP. 10.6. The brief will be in support of Respondent, E.S., and is filed herewith.

II. IDENTITY AND INTERESTS OF AMICUS CURIAE

A. TeamChild

TeamChild is a nationally recognized, non-profit civil legal advocacy program for children involved with the juvenile justice system in Washington state. With offices in King, Snohomish, Yakima, Pierce and Spokane counties, TeamChild lawyers advocate for low-income youth across the state to help them access their basic rights to education, health care, and other social services.

TeamChild provides a significant amount of educational advocacy for low-income children in Washington. Many children are referred to TeamChild because they have been out of school for periods of time, and need help reengaging with school after discipline or attendance problems. TeamChild lawyers have also occasionally represented children in truancy

fact-findings in districts across the state, as well as helped children avoid truancy petitions by advocating for appropriate interventions.

In addition to working with many youth across the state who are experiencing chronic absenteeism, TeamChild sponsored an Equal Justice Fellow for two years who worked specifically with youth involved in the truancy system in Snohomish County. This Fellow provided advocacy for truant youth in order to help them avoid further contact with Juvenile Court and also co-authored a manual on effective representation of children in truancy proceedings.

TeamChild attorneys' work with children, courts, and schools ground their belief that the appointment of lawyers for children is the only way to fulfill the promise of the truancy statute: effective interventions to help children reengage in school and avoid court further court involvement.

B. CIRCLE

CIRCLE is a committee comprised of individuals and organizations who are committed to the principle that equal justice for all is fundamental to the justice system. CIRCLE embraces the principle that the right to representation by competent counsel in judicial proceedings is fundamental and cannot be denied for want of adequate funds.

CIRCLE is committed to ensuring the rights of indigent persons to competent representation in non-criminal judicial proceedings in Washington. CIRCLE joins TeamChild as amicus to inform this Court on the need for counsel for children in truancy proceedings - proceedings in which the fundamental right to educational services is at stake - in order to ensure their effective and meaningful access to justice.

C. The Children and Family Justice Center

The Children and Family Justice Center (CFJC) is a comprehensive children's law center representing young people on matters of delinquency and crime, family violence, school discipline, immigration and asylum. The CFJC also collaborates with communities and child welfare, educational, mental health and juvenile justice systems in Illinois and across the country to develop fair and effective policies and solutions for reform. The CFJC has been a catalyst for local and national efforts to provide greater fairness and due process protections for children. CFJC works to keep children in effective schools, helps support community-based programs, and engages in local and national reform to improve the administration of justice for children.

III. APPLICANTS' FAMILIARITY WITH THE ISSUES

The Applicants are keenly aware of the issues affecting children in truancy cases, especially the importance of interventions to help children

reengage with school, as well as the difference competent counsel makes in all aspects of the proceedings. Because TeamChild provides educational advocacy in multiple counties around the state, it also has intimate knowledge about what children actually experience when they are summoned to truancy court. CIRCLE has significant knowledge and expertise on the importance of counsel in high stakes civil proceedings and the unmet legal needs of low income persons generally. CFJC provides a national perspective on issues relating to children, their involvement in the court system, and the role schools play in their lives. Applicants have reviewed the briefing in this matter and have taken care to not unduly repeat the arguments made in this matter.

IV. ISSUES ADDRESSED BY AMICI

The *Amicus Curiae* brief will address the rights at stake in truancy proceedings, focusing on educational rights, and how children without counsel in truancy proceedings are denied a meaningful opportunity to be heard. The applicants will discuss the complicated social, educational, and legal issues that underlay nonattendance, and why children involved in truancy proceedings are often more vulnerable and wholly less capable than other litigants in representing themselves not only because they are children, but also because of the special challenges they face that likely underlie their problems with attendance. The applicants will illustrate that

a child's lawyer protects and advocates for access to important educational rights ensuring that these barriers to school attendance and underlying causes of truancy are addressed throughout the truancy process. The applicants will also discuss the risk of error and negative consequences on a child's education that may occur when children are left without counsel at truancy fact-findings.

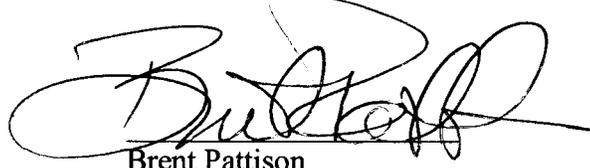
V. NEED FOR ADDITIONAL ARGUMENT

The applicants believe that their experience, perspective, and additional arguments will assist the Court in deciding this case. While E.S.'s brief appropriately focuses on the specific facts in the record below, the applicants are uniquely positioned to provide the Court with the perspective of advocates who work with children like E.S, and who are familiar with state and federal education laws and the impact of these laws on children. The applicants' analysis, supported by their experience, will provide greater context for Respondent's legal argument that due process requires the appointment of counsel. The applicants TeamChild and CIRCLE were previously granted leave to file an *Amicus Curiae* brief in the Court of Appeals in this matter. This brief will supplement the amicus brief filed below.

VI. CONCLUSION

For the reasons set forth above, applicants respectfully request this Court to grant leave to file an *Amicus Curiae* brief.

Respectfully submitted this 18th day of December, 2009

A handwritten signature in black ink, appearing to read "Brent Pattison", written in a cursive style.

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