

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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CLERK

No. 95262-1

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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WASHINGTON PUBLIC EMPLOYEES ASSOCIATION, et al.,

Respondent,

v.

WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS  
AND HEARING LOSS, et al.,

Respondent,

and

FREEDOM FOUNDATION,

Petitioner.

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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

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The American Civil Liberties Union of Washington (“ACLU”) respectfully moves, pursuant to RAP 10.1(e) and 10.6, to file a brief as *Amicus Curiae* regarding whether employee birthdates are private and protected from public disclosure. In support of this motion, *amicus* offers the following information:

**I. IDENTITY AND INTEREST OF AMICUS**

The American Civil Liberties Union of Washington (“ACLU”) is a statewide, nonpartisan, nonprofit organization of over 80,000 members and supporters, dedicated to the preservation of civil liberties; it has long sought to protect both privacy rights and the public’s right to oversight of government. The ACLU has participated in numerous cases involving the Public Records Act as *amicus curiae*, as counsel to parties, and as a party itself; it has similarly participated in numerous cases involving the privacy guaranteed by Article 1, Section 7 of the Washington State Constitution. In addition to litigation, the ACLU has participated in legislative and rule-making processes involving privacy, public records, and the intersection of the two.

**II. FAMILIARITY WITH ISSUES**

*Amicus* has obtained copies of, and is familiar with, the briefing submitted by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. *Amicus* is familiar with the scope of the argument presented by the parties and will not unduly repeat arguments raised by any of the parties.

### **III. ISSUES TO BE ADDRESSED BY AMICUS**

- 1) Whether Article 1, Section 7 protects the privacy of personal information contained in public records.
- 2) Whether the combination of employee names and birthdates is exempt from disclosure pursuant to the Public Records Act (PRA), Chapter 42.56 RCW.

### **IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT**

The Court's decision on the issues in this case will significantly impact the law on both constitutional and statutory privacy of personal information held by public agencies. Agencies hold an ever-increasing amount of sensitive personal information, and there are ever-increasing public requests for that information. A fully informed decision from Washington's highest court is essential, and the additional argument provided by *amicus* will be helpful to the Court. RAP 10.6(a). The parties are naturally most interested in establishment of a rule that addresses the particular facts of this case and provides a favorable result to their clients. *Amicus* can provide a wider perspective, helping in the establishment of a rule that goes beyond the needs of the specific parties in this case.

### **V. CONCLUSION**

For the foregoing reasons, the ACLU respectfully requests that the Court grant leave to file the attached *amicus* brief.

Respectfully submitted this 27th day of April 2018.

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## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95262-1  
**Appellate Court Case Title:** WA Public Employees Assn., et al., v. WA State Center For Childhood deafness & Hearing Loss, et al.  
**Superior Court Case Number:** 16-2-01573-2

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### Comments:

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