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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 UNITED STATES DEPARTMENT OF
13 HOMELAND SECURITY;
14 IMMIGRATION AND CUSTOMS
15 ENFORCEMENT; CHAD F. WOLF, in
16 his official capacity as Acting Secretary
17 of the U.S. Department of Homeland
18 Security; and MATTHEW ALBENCE, in
19 his official capacity as Acting Director of
20 U.S. Customs and Immigration
21 Enforcement,

22 Defendants.

NO. 2:20-cv-01070

**DECLARATION OF
JANICE LEE YOSHIWARA**

23 I, Janice Lee Yoshiwara, declare as follows.

24 1. I am over the age of 18, competent to testify as to the matters herein, and make this
25 declaration based on my personal knowledge.

26 2. I submit this declaration in support of Washington's litigation challenging the
policies announced on July 6, 2020 by "Broadcast Message" and to be published as a Temporary
Final Rule to amend requirements of the Student and Exchange Visitor Program (the "Rule").

3. I have compiled the information in the statements below through my personal
knowledge or based on the documents that I have reviewed. I have familiarized myself with the

1 information contained in the Rule in order to understand its immediate impact on our member
2 institutions.

3 4. I have served as the Executive Director for the Washington State Board of
4 Community and Technical Colleges (SBCTC) since July 1, 2017. Prior to that, I worked as Deputy
5 Director for the Education Division at SBCTC, Associate Director for Information Technology and
6 Assistant Director for Student Services and Minority Affairs at SBCTC. Prior to SBCTC I served
7 as the Director for Minority Affairs at Pierce College Fort Steilacoom.

8 5. As Executive Director, I manage an agency that oversees Washington state's unified
9 community and technical college system, which is comprised of 34 community and technical
10 colleges. Under the direction of our Board of Directors, I oversee the staff, resources, policies and
11 procedures to carry out the vision and strategic plan set by our Board of Directors. This involves
12 distributing state and federal resources to colleges; working with State Board members, presidents
13 and trustees on unified approaches that strengthen our students and institutions; coordinating with
14 K-12 and university partners; and managing legislative and state agency relations.

15 6. The SBCTC is led by a 9-member Board of Directors appointed by the Governor
16 with the consent of the Senate. As a state agency, the SBCTC administers the Community
17 College Act of 1967 and provides leadership and coordination for Washington State's system of
18 34 public community and technical colleges. The agency supports and empowers community
19 and technical colleges through advocacy, resources, information, leadership and accountability.
20 In doing so, the State Board serves an essential role in increasing higher education opportunities
21 for the people of Washington and meeting statewide educational attainment goals.

22 7. Each year, about 363,000 students attend a community or technical college to
23 train for the workforce, prepare to transfer to a university, gain basic math and English skills, or
24 pursue continuing education. As open access institutions, we serve students of all ages, races and
25 backgrounds across Washington State. Our colleges create upward mobility for the people of our
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1 state and build a skilled workforce for a vibrant and inclusive economy well equipped to compete
2 in a global marketplace.

3 8. Of our approximately 363,000 students, approximately 13,000 students have
4 either F-1 or M-1 visas. In 2018-2019, our international full-time enrollment was 11,385
5 students. These students come from more than 40 countries across the world and contributed
6 approximately \$107,673,637 in tuition to our member institutions in 2018-19.

7 9. Bellevue College, for example, enrolls approximately 970 international students
8 from China, Taiwan, South Korea, Vietnam, Japan, Congo (Kinshasa), Indonesia, Hong Kong,
9 Brazil Russia and other countries.

10 10. Green River College, had an annual F-1 student enrollment headcount of 4,154 in
11 2019-2020. This summer term, 750 international students from 46 countries are currently studying
12 at Green River College. This includes students from Bangladesh, Cambodia, Democratic Republic
13 of Congo, Eritrea, India, Iraq, Iran, Kenya, Kyrgyzstan, Madagascar, Myanmar, Nigeria, Papua
14 New Guinea, Swaziland, Tunisia, West Bank, and Zambia.

15 11. Edmonds Community College enrolls students from China, Indonesia, S. Korea,
16 Vietnam, as well as students from the MENA (Middle East Northern Africa) Region, such as Libya,
17 Burundi, Gambia, Saudi Arabia and Jordan. The college also serves students from Latin America,
18 including Brazil and Costa Rica.

19 12. At Everett Community College, 131 international students are studying in the
20 United States, and 89 are currently outside the U.S.

21 13. At the two Community Colleges of Spokane, 125 international students are
22 currently in the U.S. and 35 are outside of the U.S.

23 14. Our international students bring much more to our community and technical
24 colleges than financial benefits. They introduce diverse perspectives into classroom discussions,
25 break stereotypes and make our campus more vibrant. As a result, all students learn different
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1 interpersonal and communication styles, learn to make more informed opinions, and gain a better
2 understanding of international issues and foreign affairs.

3 15. By bringing diversity and cultural awareness to their fellow students,
4 international students help all students prepare for the diverse world in which they will live, work
5 and compete. They help create positive cultural, racial and ethnic relations in communities big
6 and small here in Washington and across the globe.

7 16. Throughout the COVID-19 pandemic, our community and technical college
8 system has worked diligently to continue to provide educational opportunities for all our students
9 so they can complete their studies, enter jobs and universities, and create a skilled workforce that
10 reinvigorates our economy.

11 17. In late February, one of our 34 community and technical colleges, Lake
12 Washington Institute of Technology in Kirkland, found itself at the epicenter of the COVID-19
13 outbreak in the United States. Nursing faculty and students participating in clinical rotations
14 were at the senior assisted living facility and exposed to patients with COVID 19. Immediately
15 what had once seemed like a distant concern, became an immediate threat. College leadership in
16 the system began to dial in the gravity of the situation and started conversations on their
17 respective campuses about “what if” scenarios.

18 18. Within two weeks of the outbreak at the senior assisted living facility, the state
19 issued several executive orders resulting in cancelling in-person K-12 and higher education
20 instruction. The executive orders formed Governor Inslee’s March 23 Stay Home, Stay Healthy
21 order.

22 19. Like higher education institutions across the nation, COVID-19 threw
23 Washington’s 34 community and technical colleges into uncharted waters. Fortunately, our
24 system of colleges was able to draw upon decades of experience with online learning. All 34
25 colleges have eLearning directors who share best practices through a system-wide eLearning
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1 Council. Through the council, faculty share information about designing instructional content
2 for online classes.

3 20. The colleges also share a common Learning Management System and other tools
4 that allow faculty to create virtual classrooms, complete with lecture capture, online test
5 proctoring, captioning, and tutoring. Most colleges require faculty to go through free training
6 courses offered by the State Board. Information is also available 24-7 on a web-based resource
7 page.

8 21. The COVID-19 crisis hit Washington right as students were finishing up winter
9 quarter. Colleges used spring break to shift instruction and services online. Virtual rooms were
10 set up so students could drop in and get real-time help from faculty and staff.

11 22. This Herculean shift to move everything online also meant that students had to
12 have computers and access to WiFi. Colleges responded by distributing laptops, Chromebooks
13 and WiFi hotspots, and by expanding the reach of their internet access to parking lots.

14 23. Foundations stepped up to offer grants to help students in emergency situations,
15 and colleges distributed federal CARES funding to help students make ends meet.

16 24. Collectively with our K-12 and university partners, we addressed issues around
17 grading, college admissions, dual-credit, and university transfer, with a shared understanding
18 that students should not be penalized for the disruptions caused by COVID-19. All of this was
19 accomplished in strict compliance with the Governor's Phase 1 and Phase 2 higher education
20 safety protocols.

21 25. In May, the governor's office granted a request by the State Board for Community
22 and Technical Colleges to allow small groups of students in certain training programs—like
23 Allied Health—to access labs and equipment on campus. The programs were limited to those
24 attached to a list of essential occupations that are exempt from the Stay Home, Stay Healthy
25 order. Governor Inslee, in consultation with the Department of Health and the Department of
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1 Labor and Industries, later issued a proclamation allowing colleges to teach the hands-on
2 component of any prof-tech class on campus. By that time, our system had gained valuable,
3 demonstrable, experience in teaching the hands-on portion of professional-technical classes
4 within health safety standards.

5 26. On June 24, Governor Inslee announced a plan to reopen in-person instruction
6 and services for higher education for fall quarter 2020. The plan was based on months of
7 collaborative work by executive leadership from higher education sectors, businesses, and other
8 government. The plan is effective August 1 and colleges are preparing their respective campuses
9 for fall quarter based on the guidelines outlined in the plan. The reopening plan encourages
10 remote learning when possible, and social distancing and personal protective equipment when it
11 is not possible. The necessarily rigorous nature of the health and safety protocols have led some
12 colleges to withhold offering certain professional-technical programs altogether until the
13 governor reopens higher education on August 1, 2020.

14 27. Throughout this pandemic, SBCTC leadership has convened regular “check in”
15 meetings with personnel from specific areas of college governance—presidents, chief academic
16 officers, vice presidents for student services, etc. These meetings provide an efficient way for
17 our entire system to jointly monitor updates, address new challenges, and provide solutions.
18 Colleges also meet regularly (daily in many cases) with their own leadership teams to best
19 operationalize safety standards. SBCTC also staff meets regularly with the Governor’s staff,
20 Department of Health, Nursing Commission, the Department of Labor and Industries, the
21 Council of Presidents (4-year public higher education institutions), Independent Colleges of
22 Washington (4-year private higher education institutions), the Office of Superintendent of Public
23 Instruction, and the Washington Student Achievement Council.

1 28. Every decision made since early March has focused on the health and safety of
2 our students and college employees and with great collaboration across all sectors of higher
3 education.

4 29. Given our high respect for the role international students serve in creating an
5 excellent educational community for students, SBCTC was initially relieved when ICE indicated
6 in March that F-1 and M-1 visa holders could attend classes remotely without losing their status,
7 and that this exemption would be “in effect for the duration of the emergency.” Our colleges
8 followed and continued their reliance on March guidance from ICE in preparing for the fall
9 semester because it was put in place “for the duration of the emergency.” Based on this
10 representation, we assumed this guidance would be in place for the fall term.

11 30. We were shocked to learn that on July 6, 2020, ICE sent out a “Broadcast
12 Message” reversing this previous guidance. In this “Broadcast Message,” ICE announced that it
13 was rescinding the March 13 exemption, requiring all students on F-1 visas whose university
14 curricula are entirely online to depart the country, and barring any such students currently outside
15 the United States from entering or reentering the United States (the “July 6 Directive”).

16 31. The July 6 Directive requires every institution of higher education to decide, by
17 Wednesday July 15, 2020—nine days after its issuance—whether it will fully or partly resume
18 in-person education, and to submit an “operational change plan” if classes will be online-only.
19 Schools adopting a “hybrid” system of online and in-person instruction must, by August 4, 2020,
20 certify for each and every F-1 visa student that the student is not taking an entirely online course
21 load for fall 2020, and that the student is taking “the minimum number of online classes required
22 to make normal progress in their degree program.” The July 6 Directive states that the
23 “procedures and responsibilities” therein will be published “in the near future as a Temporary
24 Final rule in the Federal Register.” But the Directive itself establishes “procedures and
25 responsibilities” with which schools and students “must” comply as early as July 15, 2020.
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1 32. The July 6 directive has fundamentally disrupted our institutions' reopening plans
2 for fall 2020. Planning for fall term re-opening at all our colleges was based on the flexibility
3 provided by SEVS during the emergency. However, without much warning, ICE/SEVP
4 rescinded some of the most critical exemptions and put students and schools in a scramble.
5 International students enrolled in colleges choosing to remain online for health and safety
6 reasons will need to abruptly leave the U.S. or change schools, disrupting their educations.
7 Although most colleges are offering hybridized/in-person options for all students, some colleges,
8 such as Shoreline Community College and Yakima Valley College, plan to remain
9 predominantly or all online in fall 2020 given the continued prevalence of the COVID-19
10 pandemic. Community and technical college students who stay in the United States and take the
11 hybrid courses, which are highly recommended under safety protocols, will need to take at least
12 one class face-to-face, with no allowances for if the class has to pivot back to all online learning
13 due to a spike in the pandemic.

14 33. Moreover, the July 15 and August 1 submission dates for operational plans are
15 unreasonable and antithetical to effective planning for re-opening. This Directive harms our
16 institutions' enrollments and financial health, and create costly administrative burdens. Many
17 students looking forward to a chance to study in the U.S. will likely disenroll or not enroll at all
18 in fall 2020. Others will lose their ability to obtain OPT/CPT work visas. A large number may
19 try to switch colleges, resulting in administrative and financial challenges for the students and
20 the institutions themselves.

21 34. Travel and visa challenges are already making it hard for international students
22 to come here, learn and contribute. Compounding the problem are travel bans instituted in June
23 2020. International enrollments are already falling, and the new rule makes the problem worse
24 during an extremely challenging time for our entire country. Shoreline Community College, for
25 example, faces a difficult challenge with its students. If Shoreline decides to do a hybrid option,
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1 that would mean that the 299 students physically outside of the U.S. would be out of status and
2 would have to go through an extremely cumbersome process to return to the U.S. in the future
3 to take at least one class in person. If the college does not offer hybrid courses, and conducts all
4 classes fully online, 413 students who are physically in the U.S. would need to leave the U.S.,
5 or transfer to another college or university. Shoreline has at least 21 students in ESL levels who
6 would need to be 100% enrolled in face to face courses to remain in the U.S. Students at
7 Shoreline and other colleges are reporting much frustration and anxiety, and many indicate they
8 are likely to abandon plans to study in the U.S. altogether.

9 35. Everett Community College (EvCC) currently enrolls 250 international students
10 across 42 programs; all will be negatively impacted by the Department of Homeland Security's
11 decision to modify the temporary SEVIS procedures put in place in response to COVID 19. Like
12 Shoreline, EvCC has a mix of students studying in the United States. Of the 250 international
13 students, 131 are studying in Washington state. Unless EvCC can find a way to offer hybrid or
14 face-to-face classes that meet their educational needs and are consistent with CDC guidelines,
15 all 131 stand to lose their immigration status and would need to leave the US immediately. The
16 131 students represent 27 different countries, many of which have limited travel access for
17 students to return. Because EvCC is operating according to a limited hybrid model, the remaining
18 international students, currently outside the US, would also lose their current immigration status.
19 In order to complete their studies when fully face-to-face classes eventually resume, these 89
20 students would need to either reactivate or completely restart their immigration status. Further,
21 students among this group who are close to graduation and who had hoped to transfer to a 4-year
22 American college or to take advantage of temporary work opportunities in the United States may
23 no longer be permitted to do so.

24 36. The impact on institutions' already-strained budgets would be significant.
25 College expenses have increased dramatically due to the necessary measures in place for
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1 distancing, sanitation, and general contamination containment. Anticipated budget cuts at the
2 state level will compound these concerns. For instance, Shoreline Community College had
3 already anticipated and planned for a \$2.2 million budget reduction this year. Because of the
4 pandemic, Shoreline is now anticipating an additional \$4.5 to \$7.3 million in budget reductions
5 for 20-21. This new ICE rule has the potential to impact Shoreline even more so given that the
6 college has maintained an international student enrollment over 800 students for the past 5 years.
7 Shoreline Community College estimates that the potential loss of the approximately 723 of its
8 students affected by the rule (including loss in tuition, housing, food service, and bookstore
9 revenues) would eclipse \$9,085,154.

10 37. Everett Community College would also experience a devastating financial
11 impact. The college stands to lose \$850,000 in the next biennium in housing revenue with 34
12 students currently living in student housing. The college could lose up to \$5.2 million in lost
13 international contract revenue in the next biennium if all 250 students believed to be affected are
14 unable to study online after losing their immigration status.

15 38. Bellevue College estimates it would lose approximately \$850,000 in the next
16 biennium in housing revenue. It is conceivable that the college would lose up to \$5.2 million in
17 lost international contract revenue in the next biennium as a result of the SEVS determination.

18 39. Pierce College projects lost tuition revenue of \$2.7 million, while Cascadia
19 College projects \$1.9 million in lost tuition revenue. Edmonds College projects deep losses in
20 bookstore revenue and food purchases.

21 40. At Skagit Valley College, international tuition revenue in the past has accounted
22 for up to 10% of the total revenue. Like other colleges, these funds are part of the operational
23 budget. Under this scenario, international revenue would drop to 2-4% of total revenue at Skagit
24 Valley College.

1 41. Community Colleges of Spokane predicts an immediate impact of over \$250,000,
2 and the potential permanent loss of these students for the year would be roughly \$1 million.

3 42. At every college, not having International students could cause loss of
4 employment for those who teach, advise and work in the International Programs departments of
5 a college.

6 43. The rule would also put extra administrative burdens on our colleges. Most
7 colleges do not have international management software, so the ruling would require a time-
8 consuming process of recording and verifying information, reissuing the I-20 forms,
9 electronically sign them, and then sending them to students. Colleges would need to reissue the
10 I-20 form for each student on F-1 status and within short order. The rule also requires extensive
11 communication with our students, their parents, and external recruiting partners. Global teams
12 are reaching out across time zones to host live informational sessions and personally speak with
13 each student.

14 44. Executive staff costs are not inconsiderable, as our chancellors, presidents and
15 numerous chief officers have had to redirect their accountabilities to reviewing and responding
16 to the needs of colleagues, students, and constituents at a time when those resources were already
17 strained by the effects of COVID-19.

18 45. Actions such as ICE's rule would not only impact short-term enrollment, but
19 would, without a doubt, impact our member institutions for many years to come. The ICE
20 directive threatens to tarnish our colleges' accurate reputation as safe places and could negatively
21 impact their future recruitment efforts overseas. The credibility and trust that colleges have built
22 with parents, alumni, education partners and agents would be in jeopardy if they are unable to
23 deliver on their promise of delivering an excellent education that leads to a certificate or degree.
24 International students, families and partners are expressing bewilderment and disappointment at
25 the U.S. and are looking for other destination countries such as Canada and Australia for their
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1 students. Shoreline Community college, for instance, estimates that it would take at least 10
2 years to rebuild its program after it is severely damaged by the proposed ICE ruling.

3 46. Centralia College has heard from international students about how they would be
4 impacted if they are asked to leave the United States. Those impacts include:

- 5 a. Stress of moving/leaving their campus apartments or host families where they
6 have been able to stay safe AND continue to pursue their degrees (fully online
7 due to Covid restrictions);
- 8 b. Finding flights to take them home (every country is wary of in-bound flights
9 from the U.S.);
- 10 c. The high cost of international flights (when available);
- 11 d. Grave fear risking their health to take these long-haul flights;
- 12 e. Fear of infecting their loved ones at home (elderly parents, relatives who are
13 immunocompromised);
- 14 f. Disappointment/frustration to not be able to complete their degree (some are so
15 close to graduation) due to time differences and the quality of wifi/internet
16 access; and
- 17 g. Fear of visa expiring and new one not being issued by U.S. Consulates, if not in
18 all, definitely in some countries.

19 47. Community Colleges of Spokane expects to face an increased need for mental
20 health counseling in some instances. Students also report feeling marginalized and devalued.

21 48. The rule would also have a cascading effect on the local economies that support
22 our institutions. According to the NAFSA International Student Economic Value Tool, the
23 financial contribution from international students was \$956.1 million during the 2018-2019
24 academic year in the state of Washington with supporting 8,818 jobs.

1 49. This effect is magnified on the local level. For instance, International student FTE
2 makes up almost 20% of the whole student body at Shoreline Community College. 50% of
3 students living in the Residence Hall are international students. Shoreline Community College
4 projects that its students alone contributed \$25.9 million to the Washington Economy and
5 supported 132 jobs. Shoreline estimates that the loss of the 732 students currently affected by
6 the rule would remove \$19,600,730 from the local economy.

7 50. Centralia College expects host families would lose the stipends received from
8 students they host and local restaurants would lose money spent when students frequent them.
9 Other businesses would also be impacted, such as car insurance/rental companies; health
10 insurance companies (students are required to purchase student health insurance, healthcare
11 facilities (students buy memberships to local gyms), local grocery stores and big-box stores.

12 51. Cascadia College is located in the city of Bothell, WA. The Bothell economy is
13 greatly bolstered by the presence of international students at Cascadia. A conservative estimate
14 of 200 students enroll in college courses every year. This translates into a \$2,000,000 annual
15 infusion into the local economy as measured by apartment rentals and patronage at grocery
16 stores, restaurants, and local shops. This income is also directed to insurance companies, banks,
17 commuter transit, and other travel. The joint campus of Cascadia College and University of
18 Washington, Bothell is among the top 10 major employers in the area. A loss of international
19 students would trigger a reduction in college staff, further contributing to the erosion of the
20 economy on the NE side of Lake Washington.

21 52. Community Colleges of Spokane estimates the impact of international students
22 to the Spokane economy to be \$6.6M per year. In a situation of over 15% unemployment in
23 Spokane County and similar unemployment rates in the other counties of the service area, the
24 loss of these students would deal measurable damage to the local economy.

1 53. Green River College points to a 2018 economic impact of \$35.8 million and 181
2 jobs, as estimated by NAFSA: Association of International Educators.

3 54. The Rule would also likely have a disastrous effect on the lives of our students,
4 and would likely cause major disruptions to their education. Students who lose their status
5 because of this rule face the loss of professor-student communications and collaboration; loss of
6 interaction with and learning with other students; loss of involvement in campus life – clubs,
7 organizations, sports, social interactions; and loss of opportunity to improve/attain English
8 language fluency for many.

9 55. Students also likely face health consequences as a result of the rule. Students who
10 lose their status may not be able to leave the U.S. safely, as some may be experiencing pandemics
11 in their own home countries. Moreover, our institutions welcome students from dozens of
12 different countries, and the logistics and risks of transport make travelling back home a practical
13 impossibility. For instance, students from Burundi, Madagascar, and Jordan cannot fly back to
14 their home countries, as according to the IATA flights are indefinitely suspended to those
15 countries. Students from India or Colombia cannot book flights back to those countries until
16 August 31 at the earliest. Higher education institutions are reporting that Chinese students face
17 extreme difficulty finding flights and are paying exorbitant prices to get home. Students' ability
18 to leave the U.S. safely during the midst of a pandemic is similarly likely to be significantly
19 constrained.

20 56. The Rule creates a number of impacts on the health of our universities'
21 community. For instance, many of our students, staff, and faculty are now forced to choose
22 between their health and safety and their education.

23 57. Finally, we anticipate that our mission and those missions of our institutions
24 would be harmed by ICE's July 6 Directive. As many community colleges in the U.S. have
25 developed international education programs that include both incoming students, but also study
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1 abroad opportunities, these programs serve our institutions through the diversity of thought,
2 experience, education, and cultural perspectives that influence the world.

3 58. In Shoreline, for instance, about 75% of student leaders in the Associated Student
4 Government and Arts and Entertainment Board are international students. International students
5 play an active leadership role in managing the many registered student clubs, working closely
6 with domestic students. In addition, their participation in the many activities on campus
7 contributes greatly to the academic learning and the diverse cultural experience.

8 59. At Skagit Valley College, U.S. students learn about international students and
9 their countries through their interactions in classes. In this ever-increasing interrelated world we
10 live in, this experience would be removed from the college culture if the school didn't have any
11 international students on campus.

12 60. When the government acts to deny international students the ability to
13 simultaneously pursue their studies and remain safe from COVID 19, the decision cuts at the
14 heart of community and technical colleges' mission and our educational values. American
15 students, staff and faculty lose the opportunity to learn from the diverse students who come to
16 the US to pursue their educational goals. Moreover, our collective ability to create an equitable
17 and just community of learners would inevitably suffer. Our colleges understand that we are all
18 harmed when any learner is denied the right to pursue their education.

1 I declare under penalty of perjury under the laws of the State of Washington and the United
2 States that the foregoing is true and correct.

3
4 DATED this 10th day of July, 2020, at Olympia, Washington.

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7 JANICE LEE YOSHIWARA
8 Executive Director