

WASHINGTON SCHOOL LAW UPDATE



PORTER FOSTER RORICK
LLP

December 2018

A brief summary of legal developments relevant to Washington public school districts from the previous calendar month.

PFR Announcements

21st Century Bargaining Skills Workshop

January 11—Tukwila

January 25—Spokane

PFR is once again partnering with the Washington School Personnel Association to present a one-day workshop on collective bargaining skills. A basic track will provide a foundation for all school administrators sitting on a management bargaining team. An advanced track will focus on expanding the skills of experienced bargainers. The workshop will be offered on both the east and west side of the state. Registration is currently available at www.wspa.net.

United States Supreme Court

Employment Discrimination

Mount Lemmon Fire District v. Guido

No. 17-587 (11/6/18)

The U.S. Supreme Court held that the Age Discrimination in Employment Act (ADEA) prohibits age discrimination by public entities even

if they employ fewer than twenty people. The plaintiffs sued the Mount Lemmon Fire District under the ADEA, alleging the District laid them off because of their age. The ADEA defines an “employer” as “a person engaged in an industry affecting commerce who has twenty or more employees . . . the term also means . . . a State or political subdivision of a State.” The District claimed it was not an “employer” under the ADEA because it employed fewer than twenty employees. The Court disagreed, holding that the definition includes local governments, even if they employ fewer than twenty people.

Washington Supreme Court

Negligence

Hendrickson v. Moses Lake School District

No. 94898-4 (11/1/18)

The Washington Supreme Court held that a school district does not owe a heightened duty of care to students under the supervision of a teacher. During a high school wood shop class, Hendrickson injured herself on a saw while the teacher was with other students in the hallway. Hendrickson sued the District for her injuries, alleging vicarious liability and negligent supervision. The trial court denied Hendrickson’s request to include a jury instruction providing that a school district has a

“heightened duty of care to protect” a student from foreseeable harm, and instead provided an instruction with the definition for ordinary care. On appeal, the Supreme Court held that despite school districts’ special relationship to students in their custody, they do not owe students a “heightened” duty of care, and instead only owe ordinary, reasonable care under the circumstances. Therefore, because Hendrickson’s proposed jury instruction was misleading and legally inaccurate, the trial court properly rejected it.

Washington Court of Appeals

Worker’s Compensation

Brucker v. Pasco School District
No. 35355-9 (11/6/18)

The Washington Court of Appeals held that an employee seeking worker’s compensation due to illness need not present expert testimony to establish that the conditions of employment caused the illness. A District employee filed a claim for worker’s compensation alleging that she developed debilitating allergic rhinitis and asthma due to the presence of mold in Pasco High School. The trial court found that Ms. Brucker failed to present sufficient expert testimony to support the conclusion that the claimed conditions arose naturally out of her employment. But the Court of Appeals explained that although a worker must prove that her condition “arises naturally” from employment conditions, this is a nonscientific question that can be established without expert medical opinion. Because Brucker was not required to present expert medical testimony, the Court of Appeals reversed the trial court’s order and remanded the case for further proceedings.

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This information is intended for educational purposes only and not as legal advice regarding any specific set of facts. Feel free to contact any of the attorneys at Porter Foster Rorick with questions about these or other legal developments relevant to Washington public schools.

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