

WASHINGTON SCHOOL LAW UPDATE



PORTER FOSTER RORICK
LLP

March 2022

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

Washington Court of Appeals

Negligence

Harris v. Federal Way Public Schools
No. 81179-7-I (2/28/22)

The Washington State Court of Appeals held that a special relationship exists between public school districts and their students, including student athletes, which creates a duty of reasonable care owed by the district to protect those students from all foreseeable harms. Federal Way High School student Allen Harris suffered a fatal cardiac arrest during a summer football conditioning workout in July 2018. Allen collapsed during practice and began having what appeared to be seizures. The supervising coaches called 911, but no one performed CPR or obtained the school's automated external defibrillator (AED), which would have taken approximately 15 to 20 seconds to retrieve. The EMTs arrived approximately 12 minutes after Allen collapsed, and immediately began to administer CPR and AED shocks. Allen died in the hospital approximately two hours later. Allen's estate brought a negligence action against the Federal Way School District, alleging that the District breached its enhanced duty of reasonable

care owed to its students by not creating a medical emergency response plan, failing to properly train its coaches, failing to provide prompt medical attention, and generally failing to protect student athletes from foreseeable harm. The District unsuccessfully moved for summary judgment on the theory that because the coaches were acting within the scope of employment, the Estate could only bring claims for vicarious liability, but could not bring direct claims for negligence against the District. On discretionary review, the Court of Appeals affirmed, holding that the District had a distinct, direct, and nondelegable duty to protect Allen from foreseeable harm because of the special relationship that exists between school districts and their student athletes. As a result, the Court held that regardless of whether the Estate could bring causes of action against the coaches, or vicariously against the District based on the actions of its coaches, the Estate could still maintain a separate cause of action against the District based on its common law special relationship, and it affirmed denial of the District's motion for summary judgment.

Public Records Act

West v. Dep't of Fish and Wildlife
No. 54872-1-II (2/8/22) (unpublished)

The Washington State Court of Appeals held that an agency's alleged failure to produce its rulemaking files in accordance with the

Administrative Procedure Act (APA) is not actionable under the Public Records Act (PRA), and that the agency's response time was reasonable. In May 2019, Arthur West requested from the Washington Department of Fish and Wildlife (WDFW) the official rulemaking files for certain rules adopted or proposed by the agency. Two key staff members involved with West's request left the WDFW, and the agency notified West that it required additional time to process his request. The agency provided West a number of installments before closing the request in June 2020. The time needed to respond to West's request was due to several factors, including the agency's personnel turnover, the voluminous nature of the records, the disruption caused by the COVID-19 pandemic, and the high volume of PRA requests the agency was simultaneously processing. While the agency was still providing West installments, he filed an action in superior court, alleging that WDFW's estimate of time needed to respond to the request was unreasonable because the APA requires agencies to maintain rulemaking files in a way that permits prompt release to the public. West claimed that based on this APA requirement, the agency's response time was unreasonable, and it should have disclosed the rulemaking files on request in May 2019. The superior court determined that WDFW's response was reasonably diligent and complied with the PRA, and it dismissed West's claims on summary judgment. The Court of Appeals affirmed, holding that an agency's alleged violation of its duty to maintain a rulemaking file under the APA cannot form the basis of a cause of action under the PRA. The Court further held that given the unique circumstances of this case, the agency's estimated response times were reasonable.

Porter Foster Rorick LLP

WASHINGTON SCHOOL LAW UPDATE is published on or about the 5th of each month. To be added to or removed from our distribution list, simply send a request with your name, organization and e-mail address to info@pfrwa.com.

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.

Update Editors



Liz Robertson
elizabeth@pfrwa.com



Jay Schulkin
jay@pfrwa.com



PORTER FOSTER RORICK
LLP

601 Union Street | Suite 800
Seattle, Washington 98101
Tel (206) 622-0203 | Fax (206) 223-2003
www.pfrwa.com

Lance Andree
Lynette Baisch
Chase Bonwell
Macaulay Dukes
Tevon Edwards
Cliff Foster

Olivia Hagel
Josh Halladay
Parker Howell
Rachel Miller
Buzz Porter

Liz Robertson
Mike Rorick
Jay Schulkin
Greg Swanson
Christina Weidner
Lorraine Wilson



PORTER FOSTER RORICK
LLP