WASHINGTON SCHOOL LAW UPDATE

PORTER FOSTER RORICK LLP

June 2021

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

Washington Supreme Court

Public Records Act

Green v. Pierce County
No. 98768-8 (5/27/21)

The Washington State Supreme Court held that an individual's YouTube channel is not "news media" for purposes of the Public Records Act (PRA). After Brian Green was arrested for an altercation with a Pierce County deputy sheriff, Green requested records from the County related to all deputies on duty at the time and place of the altercation, including photographs and dates of birth. The County provided 11 pages of records but withheld employees' photographs and dates of birth under an exemption for information related to public employees, RCW 42.56.250(8). Green sued the County for violating the PRA by withholding the photographs and dates of birth, alleging that his "Libertys Champion" YouTube channel qualified as "news media" and that he was therefore entitled to the unredacted records. The County argued that the YouTube channel did not satisfy the statutory definition of "news media" found in RCW 5.68.010(5) and referenced in RCW 42.56.250(8). The trial court determined that Green and his YouTube channel were "news media" because Green published weekly videos on the YouTube channel with the purpose of gathering and disseminating news and because the statutory definition of "news media" did not require a specific corporate form. The Supreme Court then accepted immediate appeal of the trial court's ruling and reversed in part. The Court held that neither the Libertys Champion YouTube channel nor Green himself were "news media." The Court reasoned that the YouTube channel was not an entity engaged in the type of traditional media activities listed by the legislature in RCW 5.68.010(5)(a), and that Green therefore could not be an employee, agent, or independent contractor of "news media" under RCW 5.68.010(5)(b) in his individual capacity.

Washington Court of Appeals

Negligence, Discrimination

Hill v. WIAA
No. 80233-0-I (5/10/21) (unpublished)

The Washington State Court of Appeals held that although the Washington Interscholastic Activities Association (WIAA) was not immune under RCW 4.25.510 to claims that it conducted investigations in a negligent and racially discriminatory manner, WIAA was ultimately not liable for negligence or discrimination. The Bellevue School District asked

WIAA to investigate claims that Bellevue High School's football program violated rules by improperly recruiting players and subsidizing their expenses. Two former federal prosecutors retained by WIAA to conduct the investigation interviewed seven students using a prepared list of limited questions in the presence of a parent and a school administrator. After the interviews, three of the students—Antonio Hill, Isaiah Ifanse, and Eron Kross—accused the investigators of using aggressive, bullying mannerisms and asking inappropriate questions beyond the scope of the investigation about the students' socioeconomic circumstances. Hill and Ifanse also alleged that the investigators targeted them because they were students of color. The students then sued the District and WIAA, alleging that the investigation had subjected them to negligently inflicted emotional distress. Hill and Ifanse also sought damages under the Washington Law Against Discrimination and the prohibition against discrimination in public schools in Chapter 28A.642 RCW. The trial court granted summary judgment in favor of the District because it was not acting in loco parentis at the time of the interviews and therefore owed no duty to the students. The trial court then granted partial summary judgment in favor of WIAA by dismissing the negligent infliction of emotional distress and racial discrimination claims after rejecting WIAA's assertion of immunity under RCW 4.24.510, which protects a person who communicates a complaint to a government agency from civil liability for claims based upon that communication. The Court of Appeals then affirmed. The Court held that WIAA was not immune under RCW 4.24.510 because the students' claims arose from the investigators' direct conduct with the students rather than from any WIAA communication to the District about rules violations. The Court also held that the students' claims were properly dismissed because the students failed to offer evidence of objective symptoms necessary for a negligent infliction of emotional distress claim and produced no evidence that the investigators were disproportionately rude and aggressive to them because of their race.

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