

WASHINGTON SCHOOL LAW UPDATE



PORTER FOSTER RORICK
LLP

September 2020

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

Washington Supreme Court

Associational Standing

Wash. State Nurses Ass'n v. Cmty. Health Sys. Dist.
No. 97532-9 (8/13/20)

The Washington State Supreme Court held that a union lacks standing to bring a claim on behalf of its members when it must rely on the representative testimony of its members to establish the damages its members suffered. Yakima Regional operated a home care agency staffed by nurses represented by the Washington State Nurses Association (WSNA). The nurses were expected to complete several daily tasks during their 8-hour day, but the tasks regularly could not be completed within that timeframe. The nurses' requests for overtime were frequently denied or granted in insufficient increments, and they often had to perform work during their mandated meal breaks or at other times outside of their 8-hour day. After Yakima Regional refused to adjust these productivity requirements, WSNA sued on behalf of the nurses seeking damages for unpaid working hours, unpaid overtime, and missed meal periods. The trial court denied Yakima Regional's motion for summary judgment dismissal filed on the grounds that

WSNA lacked associational standing to bring the claim. The Court of Appeals then denied a motion for discretionary review because it was not yet known whether WSNA's evidence for establishing damages would not meet the requirements for associational standing. The trial court then determined that WSNA had associational standing to bring the claims, awarded damages based on nine nurses' testimony indicating an overwhelming amount of missed meal periods and significant unpaid working hours, and awarded WSNA attorney fees and court costs. The Supreme Court reversed and dismissed, holding that WSNA lacked associational standing because the damages requested were not certain, easily ascertainable, and within the knowledge of the defendant as required by the associational standing test, and uncertain damages established through representative testimony do not meet that standard. Instead, the damages could only have been established through the testimony of the organization's individual members.

Washington Court of Appeals

Payroll Deductions

Freedom Foundation v. Bethel School District
No. 53430-4-II (8/4/20)

The Washington State Court of Appeals held that the Freedom Foundation ("the Foundation")

lacked authority to bring a citizen's action challenging the Bethel School District's practice of processing payroll deductions to political action committees, and held that the Foundation lacked standing to seek judicial review of the Public Disclosure Commission's (PDC) dismissal of the Foundation's complaint to the PDC regarding the District's conduct. In June of 2018, the Foundation filed a complaint with the PDC alleging that the District's practice of processing employee-requested payroll deductions for contributions to Washington Education Association and National Education Association political action committees violated the Fair Campaign Practices Act (FCPA), Chapter 42.17A RCW. The PDC dismissed the complaint within 90 days of receiving it, concluding that there was no evidence to support a finding that the District violated the FCPA. The Foundation then filed a citizen's action complaint against the District, which the superior court dismissed on summary judgment. The Foundation then filed an action seeking judicial review of the PDC's determination, but the superior court granted both the PDC's 12(b)(6) motion to dismiss and the District's motion for summary judgment. The Court of Appeals held that the Foundation lacked authority to bring the citizen's complaint action—that the PDC failed to act within 90 days of receiving a complaint—could not be satisfied since the PDC timely considered and dismissed the Foundation's initial complaint. The Court also held that the Foundation lacked standing to challenge the PDC's administrative dismissal of the initial complaint because the Foundation was merely a complainant rather than an actual party to the complaint and could not show that it suffered specific and perceptible harm from the PDC's dismissal.

Porter Foster Rorick LLP

WASHINGTON SCHOOL LAW UPDATE is published electronically on or about the 5th of each month. To be added to or removed from our e-mail 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



Elliott Okantey
elliott@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
Cliff Foster
Tevon Edwards
Jeff Ganson
Kathleen Haggard

Parker Howell
Lauren McElroy
Rachel Miller
Elliott Okantey
Buzz Porter

Liz Robertson
Mike Rorick
Jay Schulkin
Valerie Walker
Christina Weidner
Lorraine Wilson



PORTER FOSTER RORICK
LLP