PORTER FOSTER RORICK LLP

February 2026

Washington School Law Update

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

Ninth Circuit Court of Appeals

COVID-19 Restrictions

McGuire v. Roseville Joint Union High School District
No. 23-16169 (1/6/26) (unpublished)

The Ninth Circuit Court of Appeals held that a California school district's face-covering requirement during the COVID-19 pandemic did not violate a student's right to public education, nor did the requirement interfere with her parent's constitutional right to determine her child's care, custody and control. Desiree McGuire and her daughter, Cadence DeVault, filed a lawsuit against the Roseville Joint Union High School District, challenging the district's implementation and enforcement of a face-covering requirement during the COVID-19 pandemic. The complaint alleged that the face-covering requirement violated the student's "substantive due process right to in-person, public education," and that the district's policy further violated the parent's right under the due process clause of the Fourteenth Amendment to direct the care and custody of her child. The district court dismissed the lawsuit in its entirety for failure to state a cause of action upon which relief could be granted. The Ninth Circuit affirmed, first holding that there is no fundamental right to public education, and therefore, the district's policy only needed to be rationally related to a legitimate government objective in order to survive constitutional scrutiny. The Court held that that standard was readily met given that the California Department of Public Health had issued guidance that face coverings would decrease the risk of COVID-19 infection, and the district had a legitimate interest in protecting the health and safety of its students and employees. The Court next affirmed dismissal of the plaintiffs' due process claims, holding that the district's decision to impose a face-covering requirement was an operational decision, similar to a school's disciplinary process, which falls under the district's purview. The Court held that while the parent had the right to choose the educational forum for her child, she did not have the right to direct the school's internal operational decisions, and therefore, the Court affirmed dismissal of her constitutional due process claim.

First Amendment

Northwest Association of Independent Schools v. Labrador
No. 25-2491 (1/29/26)

The Ninth Circuit Court of Appeals enjoined enforcement of an Idaho law that prohibited schools and public libraries from making "harmful" content available to minors, holding that the law was overly broad and likely in violation of the First Amendment.

In 2024, Idaho enacted the Children's School and Library Protection Act, which established a multi-step regulatory framework for identifying content that is obscene for minors and prevented schools and libraries from disseminating such content. A non-profit association of independent private schools and some of its member schools filed a lawsuit challenging the law under the First and Fourteenth Amendments, and moved for a preliminary injunction, seeking to prevent enforcement of the law statewide. The district court denied plaintiffs' motion for a preliminary injunction, concluding that they failed to show a likelihood of success on the merits of their constitutional challenges to the law. The Ninth Circuit reversed, holding that a provision of the law requiring the material to be considered in the "context in which it is used," rendered the law constitutionally overbroad. The Court first considered existing U.S. Supreme Court precedent governing obscenity laws, under which sexually explicit materials may retain First Amendment protection when the work, when taken as a whole, possesses "serious literary, artistic, political, or scientific value." The Idaho law attempted to incorporate this standard, but as written, only allowed materials that when "considered as a whole, and in context" possessed serious literary, artistic, political or scientific value for minors. The Court held that the limitation of considering the work "in context" did not allow assessment of the work's value according to a national standard, and instead, provided government officials subjective discretion to prohibit works the individual reviewer subjectively finds offensive at that time. The Court also held that the State's intent to consider the age of the minor when determining whether the work had serious value likely burdened the plaintiffs' right to provide non-obscene material to older minors. Because the law did not set guardrails around the implementation of the "context clause," the Court held that the law likely prohibited content protected by the First Amendment, and therefore, the plaintiffs were likely to succeed in showing that the law was unconstitutionally overbroad. As a result, the Court reversed and remanded for the district court to consider the scope of the preliminary injunction that should be issued in this case.

Washington Court of Appeals

COVID-19 Restrictions

Arreola-Martinez v. State of Washington
No. 87438-1-I (1/12/26) (unpublished)

The Washington Court of Appeals affirmed dismissal of a parent's proposed class action lawsuit against the State of Washington, which sought compensation for parents who supervised their children while in-person learning was suspended during the COVID-19 pandemic. In an effort to curtail the spread of COVID-19, in March 2020, Governor Jay Inslee issued a proclamation that prohibited K-12 schools statewide from conducting in-person educational and recreational programs in school facilities. The governor extended and amended the proclamation multiple times over the next two years, and the restrictions around in-person learning ended in October 2022. In November 2023, Monica Arreola-Martinez filed a proposed class action lawsuit in superior court, asserting that the State had violated its constitutional duty to provide basic education to students by prohibiting in-person learning. Arreola-Martinez later amended her complaint to add claims for unjust enrichment, wage-related violations, and a claim that the State's actions constituted an unconstitutional taking of her property and labor. The superior court dismissed the lawsuit in its entirety for failure to state a claim upon which relief could be granted. The Court of Appeals affirmed dismissal, holding that Arreola-Martinez failed to support any cause of action for unjust enrichment given that the primary beneficiary of her supervisory activities was her own child, not the State. The Court further rejected Arreola-Martinez's theory that the State owed her wages for the time spent caring for her own child during the COVID-19 pandemic, holding that her activities did not transform her into a school employee entitled to compensation. Finally, the Court affirmed dismissal of Arreola-Martinez's constitutional claims, rejecting her claim that the State had unconstitutionally "taken" physical possession of her home by lending her child a school laptop to access remote learning, and also holding her remaining claims

related to the provision of basic education were moot given that the proclamation at issue was no longer in effect.

PERC

Interference

Pasco School District
Decision 13979-A (1/9/26)

A PERC Examiner dismissed seven unfair labor practice (ULP) claims the union had raised related to staff interactions with various administrators in the Pasco School District, but held that the District committed a ULP when one of its building principals made comments to a teacher suggesting that he should be held to a higher standard than other employees given his leadership role with the union. The Pasco Association of Educators (PAE) is the exclusive bargaining representative of certificated nonsupervisory employees in the District. In 2024, the PAE filed a ULP complaint with PERC alleging multiple causes of action, including allegations that an elementary school principal had interfered with union activity through her interactions with various staff members, including a fifth-grade teacher, who also served as a union building representative. The teacher had expressed concerns to a coworker that Associated Student Body (ASB) funds were used to purchase a book vending machine, which he believed improper as those funds were intended only for extracurricular activities. The teacher also made a comment to another fifth-grade teacher during a professional development meeting, stating that if the District were to downsize, the other teacher would be leaving because she would be "the low person on the totem pole." The principal scheduled a meeting with the teacher to discuss his interactions with staff related to the ASB fund and comments related to potential staff reductions. During the meeting, the principal told the teacher that his comments had made the ASB teacher feel as though she had done something illegal or wrong in purchasing the vending machine, and regarding the staffing conversation, the principal stressed that as a PAE representative, the teacher is in a highly-respected leadership position and needs to be careful what he says. Following the meeting, the principal emailed the teacher and reiterated that his words "carry weight" given his leadership role, and she encouraged the teacher to share concerns of process and fund use directly with the principal rather than "stress out" colleagues. PERC Examiner Jessica Bradley held that the comments the principal made to the fifth-grade teacher could reasonably be perceived as a threat of reprisal or force in connection with union activity, and therefore, constituted an interference ULP. The Examiner reasoned that the statements and email implying that the teacher was held to a higher standard because of his leadership role in the union could reasonably be perceived as reprisal for engaging in union activity. The Examiner further held that instructing the teacher to come directly to management with his concerns regarding process or ASB funds interfered with protected union activity, reasoning that the teacher had a right to have conversations with his colleagues about workplace concerns without first having to share those concerns with management. The Examiner further held that the teacher had the right to discuss seniority and the impact on potential layoffs with his colleagues, and that discouraging him from doing so constituted interference with protected union activity. The Examiner dismissed the other seven ULP claims raised by the PAE, and among other standard remedies, ordered the principal to retract her April 23 email.

Washington School Law Update

The **Washington School Law Update** is published by Porter Foster Rorick LLP 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.

Update Editors

Liz Robertson
elizabeth@pfrwa.com

Jay Schulkin
jay@pfrwa.com

February Masthead Photo Credit

Students writing on chalkboard at Magnolia School, Seattle, February 1942. Seattle Post-Intelligencer Collection, Museum of History & Industry, Seattle. All rights reserved.

PORTER FOSTER RORICK LLP

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