



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

Individuals with Disabilities Education Act

L.B. v. San Diego Unified School District
No. 24-5543 (2/27/26)

The Ninth Circuit Court of Appeals reversed a district court’s ruling that a student was not entitled to reimbursement under the Individuals with Disabilities Education Act (IDEA) for expenses incurred while attending private residential treatment centers during the COVID-19 pandemic. L.B. was a middle school student in the San Diego Unified School District (SDUSD) with a history of serious mental health diagnoses. L.B.’s parents met with SDUSD in December 2019, and SDUSD prepared L.B.’s first individualized education program (IEP), which offered him specialized academic instruction, mental health services, and behavioral intervention services. SDUSD also offered L.B. placement at Riley Alternative School (“Riley”), an SDUSD school that provides intensive mental health services for students with severe emotional or social challenges. L.B. began his eighth-grade school year at Riley in fall 2020, but due to the COVID-19 pandemic, all instruction and services were provided virtually and asynchronously. L.B. struggled

to engage, missed classes, and became aggressive toward his family members and himself during school hours. In September 2020, less than one month into the school year, the parents notified SDUSD that L.B. would be attending a residential wilderness therapy program in North Carolina that offers in-person services. The school district emailed the parents in October, asking if they wanted to schedule an IEP meeting to discuss their concerns. SDUSD also informed the parents that L.B. was being marked as absent while he attended the private placement and was at risk of receiving failing grades with SDUSD. In response, L.B.’s mother asked to “schedule an IEP meeting” as soon as possible. The IEP team met in November, and at the meeting, the parents confirmed that L.B. would be unenrolled from SDUSD. Following the meeting, SDUSD provided L.B.’s parents with a final copy of the IEP and informed the family it would take the next steps of disenrolling him. L.B. attended the wilderness program for three months and then the parents enrolled him in a second residential treatment center located in South Carolina. The parents requested that SDUSD fund the residential placements, which SDUSD declined. Instead, SDUSD sent officials to South Carolina to assess L.B. at the residential treatment center as part of a reevaluation. SDUSD completed its reevaluation in November 2021, and it offered the family an updated IEP, which included placement at a day treatment center. Parents consented to the new proposed IEP,

and L.B. returned to SDUSD. In August 2022, L.B. filed a due process hearing request seeking full reimbursement from SDUSD for tuition and costs associated with the two residential placements. The case proceeded to an evidentiary hearing and the presiding administrative law judge (ALJ) denied L.B.’s claims for relief. The ALJ did not assess whether SDUSD had offered L.B. a free appropriate public education (FAPE) when the parents decided to place him in the private residential treatment centers. Instead, the ALJ concluded that SDUSD had “no duty” to offer L.B. a FAPE because the parents had not “expressly requested an IEP” during this period. The district court affirmed, reasoning that the parents had only requested IEP “meetings” during the relevant time period, but had not requested an IEP “document,” and therefore, the SDUSD had no obligation to prepare an IEP for L.B. The Ninth Circuit Court of Appeals reversed, holding that the ALJ and district court’s reasoning misapplied existing caselaw regarding a school district’s obligations under the IDEA. The Court reasoned that the purpose of an IEP meeting is to develop and offer an IEP that provides a child FAPE. Therefore, the parents’ participation in the IEP meetings created a continuous obligation during the period at issue to offer L.B. a FAPE, even if the parents did not specifically ask for an “IEP document.” The Court held that the district court should have analyzed whether the public placement offered by SDUSD provided a FAPE, and if not, whether the private school placements were appropriate under the IDEA. The Court remanded the case to the district court with instruction to analyze whether the placement offered provided L.B. a FAPE.

four State agencies, including the Department of Fish and Wildlife, seeking the production of various documents, including Teams messages. In response, the Department of Fish and Wildlife informed Nixon that the agency deletes its Teams chats after seven days, and therefore, there were likely no responsive records. The practice is consistent across State agencies, as the State determined that Teams messages are “transitory,” and under the record retention schedule, transitory records may be retained until no longer needed for agency business and then destroyed. Nixon filed a lawsuit against 33 State agencies, including the four agencies that received his public record requests. The lawsuit asserted claims under the Uniform Declaratory Judgments Act (UDJA), and it also sought a writ of mandamus, alleging that the State’s policy of deleting Teams messages after seven days violated the records retention schedules. The trial court dismissed Nixon’s claims, ruling that his attempts to enforce State record retention laws raised only theoretical rights and therefore were not justiciable. The court further ruled that state law does not provide Nixon with a general right to enforce retention requirements, and that Nixon did not have standing under the UDJA. The Court of Appeals affirmed, first holding that in order to hear a case under the UDJA, the party must be within the “zone of interests” to be protected or regulated by the statute and the party must have suffered an injury in fact. The Court held that this standard was not met because the record retention laws provide specific guidelines for how State agencies must preserve records, but they do not provide any person with an individual right to a particular retention schedule. The Court further held that statutes governing record retention do not provide a private right of action for a person to challenge an agency’s retention procedures, and instead, provide criminal penalties for violations. The Court further held that Nixon had not established injury in fact, reasoning that his assertion that he may want to view records in the future was too speculative or abstract to constitute a cognizable injury. As to the specific agencies from which Nixon had sought records, the Court held that he had already pleaded a viable PRA claim against those agencies, and therefore, declaratory relief based upon the statutes governing

Washington Court of Appeals

Records Retention

Nixon v. State of Washington

No. 60265-2-II (2/18/26) (unpublished)

The Washington Court of Appeals affirmed dismissal of a lawsuit challenging the State’s determination that its internal Microsoft Teams chats could be deleted after seven days under the applicable records retention schedule. Jamie Nixon made public record requests to

records retention was not appropriate. Finally, the Court denied Nixon’s request for a writ of mandamus—an order compelling another branch of government to take specific action—reasoning that this is a rare, extraordinary vehicle for relief available only when there is no adequate remedy in the ordinary course of legal process. Because the relevant record retention laws do not define with precision and certainty when a record should be considered transitory and how long transitory messages should be retained, the Court held that granting a writ of mandamus would not be appropriate here. As a result, the Court affirmed dismissal of Nixon’s lawsuit in its entirety.

PERC

Duty to Bargain

King County

Decision 13984-A (PECB, 2026) (2/3/26)

The Public Employment Relations Commission (PERC) held that King County’s decision to place adult detainees in a different correctional facility was not a mandatory subject of bargaining, reversing an earlier decision of a PERC Examiner. The County provides public defense services to adults and juveniles charged with crimes through its Department of Public Defense (DPD). Service Employees International Union Local 925 (SEIU) represents a bargaining unit of employees working for DPD, including attorneys who provide legal representation to detainees. The County historically housed adult inmates in one of two correction centers. Both facilities are close to DPD offices and courthouses, which allows attorneys to efficiently meet with clients and attend court hearings throughout the day. SEIU learned of the County’s intent to contract with the South Correctional Entity (SCORE) located in Kent to house some adult inmates. This change would require some DPD attorneys to drive up to 60 minutes from their office to meet with clients housed at SCORE. Upon learning of the change, SEIU demanded to bargain about the decision and to maintain the status quo during bargaining. The County asserted that the decision to contract with SCORE was a management right, and therefore, it did

not have a duty to bargain over that decision. That said, the County agreed to bargain with SEIU regarding the impact of the decision. Over SEIU’s objection, the County implemented a pilot program with SCORE in June 2023, and it transferred 31 inmates to the facility. SEIU filed an unfair labor practice complaint, alleging in part that the County had failed to meet its bargaining obligation by unilaterally implementing the SCORE contract without reaching agreement with SEIU. The case proceeded to hearing before PERC Examiner Christopher Casillas, who determined that the County’s decision to house inmates at SCORE was a mandatory subject of bargaining. The Examiner acknowledged the County had a significant management interest in ensuring the viability of its operations, but applying the balancing test articulated in the *City of Richland* case, he held that the impact to the employees’ working conditions outweighed the County’s management interest. A complete discussion of the Examiner’s decision is available in the December 2024 edition of the *Washington School Law Update*. The County appealed, and the Commission reversed the Examiner’s decision. The Commission held that the County’s decision to place some detainees at SCORE lies at the core of entrepreneurial control, reasoning that the County provides various services to the public, including providing custody of detainees accused of criminal offenses. The Commission acknowledged that the changes significantly impacted the attorneys’ working conditions, but it nonetheless held that the impact did not sufficiently outweigh the County’s management right to determine the capacity and location of its detention centers and to ensure safe and secure facilities. The Commission agreed that the County had an obligation to bargain over the impact of its decision, which the County had met by meeting with SEIU multiple times to bargain over the impact on attorney working conditions. As a result, the Commission vacated the Examiner decision in part and dismissed the complaint.

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