PORTER FOSTER RORICK LLP

April 2026

Washington School Law Update

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

United States Supreme Court

First Amendment

Mirabelli v. Bonta
No. 25A810 (3/2/26)

The United States Supreme Court issued an emergency order that reinstated an injunction that prohibits California from enforcing state policies addressing students' gender presentation at school. The California Department of Education developed model policies for school districts to adopt, which set out guidelines for schools and staff to follow in addressing the needs of transgender and gender nonconforming students. The policies require staff to use a child's preferred names and pronouns at school and prevent disclosure of the child's gender identity to their parents without the child's consent (unless otherwise required by law). In 2023, a group of teachers and parents of California school children filed a lawsuit challenging California's policy in federal court, alleging in part that the policies violate parents' religious rights and due process right to direct the upbringing of their children. The parent plaintiffs asserted that they had religious objections to "gender transitioning," and that school staff did not inform them that their children were using names and pronouns at school that did not match their children's sex assigned at birth. Following discovery, the district court granted summary judgment for all plaintiffs and entered a permanent injunction that prevents California schools from "misleading" parents about their children's gender presentation at school. The injunction also required schools to follow parents' directions regarding their children's names and pronouns. The defendants appealed, and the Ninth Circuit stayed the district court's injunction, preventing it from being enforced during the pendency of the appeal. The Ninth Circuit held that the district court's injunction appeared overly broad because it covered all California parents, and the court expressed doubt as to the district court's decision on the merits. Plaintiffs filed an application with the U.S. Supreme Court seeking emergency relief vacating the Ninth Circuit's stay pending appeal, which the Court granted with respect to the plaintiff parents. In granting emergency relief, the Court held that the parents were likely to succeed in their due process claims, reasoning that California's policies substantially interfere with the constitutional right of parents to guide the religious development of their children. The Court further held that California's policies likely intruded on parents' free exercise of religion because the policies resulted in "unconsented facilitation of a child's gender transition." The Court further held that parents, not the state, have primary authority with respect to the

upbringing and education of their children, including making decisions regarding their children's mental health when their children exhibit "symptoms of gender dysphoria at school." The Court emphasized that this emergency ruling is limited in scope and only provides injunctive relief to California parents who object to the challenged policies or seek religious exemption. Justice Kagan wrote a dissent, in which Justice Jackson joined, criticizing the majority for its use of the emergency docket and effectively deciding this case on the merits (without the benefit of adequate briefing or full review of the record) while it is still proceeding through the lower courts.

Ninth Circuit Court of Appeals

First Amendment

B.B. v. Capistrano Unified School District
No. 24-1770 (3/10/26)

The Ninth Circuit Court of Appeals reversed dismissal of an elementary student's free speech lawsuit against the Capistrano Unified School District (District), holding that there remained disputed issues of material fact regarding the impact of a drawing she handed to a Black classmate, which contained the words "any life" next to "Black Lives Mat[t]er." After her teacher read the class a story about Dr. Martin Luther King, Jr., first-grade student B.B. created a drawing that depicted her friends holding hands with the words "Black Lives Mat[t]er any life." B.B. later explained that she did not know what "Black Lives Matter" meant but had included it because it was at the end of the book the teacher read to class. She also explained that she included the phrase "any life" in the drawing because "all lives matter." B.B. gave the drawing to M.C., a Black classmate, who thanked her and placed the drawing in her backpack. M.C.'s parents later discovered the drawing, and M.C.'s mother emailed the principal, expressing concern with the phrase "any life," and stating that she did not want more messages given to her daughter based on her daughter's race. The next day, the principal took B.B. aside and told her the drawing was "not appropriate" and directed her to not give her drawings to other students. B.B. later recalled that the principal described the drawing as "racist" during their conversation and that she was barred from recess for two weeks. B.B.'s parents learned of the incident more than 11 months later and filed a complaint with the District. After the complaint proceeded through the District's administrative process, B.B., through her parents, filed a lawsuit in federal court, alleging that the District's actions violated B.B.'s constitutional free speech rights. The district court dismissed the lawsuit on summary judgment, ruling that B.B.'s drawing was not protected by the First Amendment because it interfered with M.C.'s right "to be let alone." The district court further reasoned that although B.B.'s intentions were innocent, teachers were better equipped than federal courts to determine when speech crosses the line to impermissible harassment. The Ninth Circuit reversed, first holding that under *Tinker*, schools may regulate students' speech only when it materially disrupts classwork or involves substantial disorder, or invades the rights of others. Second, the Court held that the *Tinker* standard applies to elementary school students, and that the age of the students is a factor in evaluating the school's restriction of speech because young students are more vulnerable than students approaching adulthood. However, in viewing the evidence in the light most favorable to B.B., which the Court was required to do on summary judgment, the Court held that there were disputed issues of material fact as to whether the District reasonably believed that the drawing invaded M.C.'s right to be "secure and let alone at school." The Court specifically cited the evidence that M.C. was "unaffected" by the drawing based on her mother's testimony that M.C. did not understand what "any life" meant, which suggested that M.C. did not experience the kind of expressive race-based attack that would justify the District's speech restriction. The Court held that the students' very young ages gave the District broader discretion, but the Court nonetheless held that there was conflicting evidence as to whether the District could reasonably conclude that the drawing interfered with M.C.'s rights and whether the restrictions were reasonably necessary. As a result, the Court reversed dismissal of the lawsuit and remanded to the district court for further proceedings.

Americans with Disabilities Act

Payan v. Los Angeles Community College District
No. 24-1809 (3/11/26)

The Ninth Circuit Court of Appeals held that emotional distress damages are not available under Title II of the Americans with Disabilities Act (Title II), but plaintiffs may still seek compensatory damages for lost educational opportunities. Roy Payan and Portia Mason are two blind individuals who enrolled as students in a college campus that is part of the Los Angeles City College District (LACCD). Both students were approved for disability accommodations, but both students had trouble accessing their accommodations. Payan testified that he received the necessary chapters of his math textbook *after* the materials were discussed in class, making it difficult for him to keep up with the course material, and he could not access the online learning platforms for his math and psychology courses. The students also testified that they were not provided with accessible textbooks and course materials, and they both reported instances in which LACCD failed to honor their approved accommodations. After a trial, the jury found that LACCD had intentionally violated Title II in several instances, including the accessibility issues related to classroom software programs, textbooks and testing accommodations. The jury awarded Payan $218,500 in damages plus attorney fees, and it awarded Mason $24,000 in damages plus attorney fees. LACCD filed a motion for remittitur, asking the district court to reduce the jury's damages award. The district court granted LACCD's request and reduced the damages to $1,650 for Payan and $0 for Mason, reasoning that the jury's award could only have been attributed to emotional damages or lost educational opportunities, which the court ruled were not available under Title II. The students appealed, and the Ninth Circuit Court of Appeals reversed. The Court agreed with the district court that emotional distress damages are not recoverable under Title II, reasoning that the remedies available under Title II are defined by reference to the Rehabilitation Act, which was enacted pursuant to Congress's Spending Clause power. Relying on existing precedent, the Court held that emotional distress damages would not be available under Title II because those damages are not recoverable under antidiscrimination laws enacted pursuant to Congress's Spending Clause power. Nonetheless, the Court held that the students could still seek compensatory damages for their loss of educational opportunities and that the jury instructions supported such an award. The Court held that it must uphold a jury's verdict unless the amount is clearly not supported by the evidence, and here, there was testimony from the students that they could not learn the class material or engage in discussions as a result of LACCD's violations. As a result, the Court reversed the district court's order and instructed it to reinstate the jury's damages award. Judge Lee dissented in part, agreeing that emotional distress damages are not recoverable under Title II, but concluding that the evidence was insufficient to support an award of more than $200,000 in damages.

Washington Court of Appeals

Public Records Act

Roberts v. City of Seattle
No. 88277-5-I (3/9/26) (unpublished)

The Washington Court of Appeals affirmed dismissal of a Public Records Act (PRA) lawsuit filed against the City of Seattle (City), holding that the City did not have fair notice that the requestors intended to invoke the PRA when they asked the City for certain records during settlement discussions. After the Seattle Department of Transportation (SDOT) denied multiple permit applications related to their driveway, Elizabeth and Jonathan Roberts (collectively "Roberts") met with SDOT and both parties' land use attorneys. The parties all agreed that the meeting constituted confidential settlement discussions, and during the meeting, Roberts's land use attorneys provided printouts of other private driveways that the City had approved. One of the attorneys noted the difficulty in finding permit records in SDOT's permit portal, and a SDOT representative agreed to research the permit records for the other properties identified and provide courtesy copies of the permit records once found. Following the meeting, Roberts's attorney sent three follow-up email messages to SDOT, asking

whether it had found the permitting history of the properties identified at the meeting and whether those records were available. After their permit application was again denied, Roberts filed a lawsuit against the City, alleging violations of the PRA based on the SDOT's failure to provide permitting records for the properties discussed at the settlement meeting. The trial court dismissed the lawsuit on summary judgment, ruling that the attorney's oral request for the records and follow-up emails did not provide the City with fair notice that the request was being made pursuant to the PRA. Roberts appealed, and the Court of Appeals affirmed, holding that the PRA only applies when a request is sufficiently clear to give the agency fair notice that it had received a public records request. The Court acknowledged that the PRA does not require a specific format or reference to the PRA, but it held the request needs to be "recognizable" as a PRA request after considering the request's language, format, and the recipient of the request. Applying that standard here, the Court held that the evidence showed Roberts's attorney spontaneously asked for copies of permits during an information-sharing meeting, and given the casual nature of the request and follow-up emails, the City was not on fair notice that the attorney was intending to invoke the PRA when asking for the permitting records. The Court further held that the fact the Roberts made the request to an agency staff member, not the public records officer, supported the City's claim that the Roberts had not specifically made a request pursuant to the PRA. As a result, the Court affirmed the trial court's dismissal of the lawsuit.

Public Records Act

unDivided Media LLC v. City of Seattle
No. 87628-7-I (3/23/26) (unpublished)

The Washington State Court of Appeals held that the City of Seattle violated the Public Records Act (PRA) by failing to provide a reasonable time estimate for providing a second installment of a city councilmember's communication records, and by failing to diligently respond to the records request. In June 2023, Brandi Kruse (owner of unDivided Media LLC) submitted a public records request to the City's legislative department, seeking 10 hours of communication records involving a city councilmember. The legislative department's public disclosure officer (PDO) notified Kruse that an initial installment of records would be provided around August 18, 2023, a time estimate that was based on the PDO's current workload and staffing within the legislative department. Consistent with that estimate, on August 18, the PDO notified Kruse the first installment containing 578 responsive records was available for inspection. The PDO informed Kruse that a second installment would be provided on November 10. The PDO was processing more than 50 open requests at the time, and he was also out of the office for two weeks in September. After providing the second installment containing 395 records, Kruse asked the PDO why the City needed nearly six months to complete her request, and the PDO responded that the timeframe was partially due to staffing shortages. In October 2023, unDivided Media filed a lawsuit against the City, alleging that its time estimates were not reasonable and violated the PRA. The superior court dismissed unDivided Media's lawsuit in its entirety on summary judgment. The Court of Appeals reversed in part, first holding that the City's estimated August 18 timeline for the first installment was reasonable as a matter of law. The Court reasoned that the PRA requires agencies to provide a reasonable, not precise estimate, and the PDO had testified that he worked on requests in the order he received them, which placed unDivided Media's request "at the end of the line." The Court held that the City's August 18 time estimate for providing the first installment was reasonable as a matter of law given the undisputed testimony related to the time needed for the PDO to respond to the pending requests. However, the Court held that the City's second installment estimate of November 10 was unreasonable as a matter of law because the City presented no evidence to satisfy its burden to establish it reasonably needed that additional time to produce the remaining 395 records. The Court held that the City presented no evidence of changed circumstances that resulted in the extended time estimate of nearly three months, reasoning that the PDO had already accounted for staffing shortages and department workload when he provided the August 18

first installment estimate. The Court similarly held that the City failed to meet its burden to show that the circumstances warranted the estimated timeframe for the second installment, and as a result, the City did not act with reasonable diligence in producing the second installment. The Court reversed and remanded to the trial court with instruction to enter partial summary judgment in unDivided Media's favor as to the second installment, to award reasonable attorney fees, and to consider daily penalties.

PERC

Discrimination

Stevenson-Carson School District
Decision 14308 (3/19/26) (unpublished)

A PERC Examiner dismissed an unfair labor practice (ULP) complaint filed by an elementary school teacher, holding that access to a third-grade classroom over the summer was not an ascertainable right, benefit, or status within the meaning of PERC's discrimination case law. Lena Goudy is a teacher in the Stevenson-Carson School District (District) and is represented by the Stevenson-Carson Education Association (SCEA). During the 2023-24 school year, Goudy was employed as a math specialist, and during the 2024-25 school year, Goudy was approved for a leave of absence. In spring 2025, the District engaged in a reduction in force (RIF), which resulted in the elimination of the math support specialist position Goudy held before her leave. The SCEA and District agreed that Goudy would be assigned to teach either second or third grade, depending on reorganization decisions, upon her return. In May 2025, Goudy filed a grievance asserting that the District had improperly allowed teachers with less seniority to choose their placement before her as part of the RIF process. On July 16, the parties agreed to settle the grievance by placing Goudy in a third-grade classroom, but the parties did not sign the settlement agreement until August 11. While the District and SCEA were still discussing the terms of the written settlement agreement, Goudy requested the keys to a third-grade classroom, which the District declined because the settlement (which would dictate Goudy's assignment) was not finalized. The District provided Goudy the keys to her classroom on August 14, which was three days after they finalized the written grievance settlement agreement. Goudy filed a ULP complaint on August 13, alleging that she was denied access to her classroom in retaliation for the protected union activity of filing a grievance. PERC Examiner Sean Leonard dismissed the complaint on summary judgment, holding that the District did not deprive Goudy of an ascertainable right, benefit, or status as a matter of law when it denied her access to a third-grade classroom over the summer, a necessary element to establish a discrimination ULP. The Examiner further held that even if Goudy could establish a prima facie case of discrimination, the District met its burden of producing a legitimate nondiscriminatory reason for not providing access to the classroom: the grievance settlement which would dictate Goudy's placement had not yet been finalized. As a result, the Examiner dismissed the complaint in its entirety.

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