



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

J.R. v. Ventura Unified School District

Nos. 25-334 & 25-5247 (4/22/26)

The Ninth Circuit Court of Appeals reversed a district court decision which had held a special education student's claims under the IDEA timely despite the two-year statute of limitations, determining that the student's parents knew that the District failed to evaluate their student for autism and thus should have known that it denied him a FAPE, thereby triggering the two-year statute of limitations long before the lawsuit's filing. J.R. (Student) was a student at the Ventura Unified School District (District) from 2012 to 2021. In 2012, when Student was six years old, the District conducted an initial psychoeducational assessment of Student with his parents' consent. The District school psychologist documented significant behavior ratings in hyperactivity, attention, and atypicality, as well as lower-extreme academic ranges, among other things. The District psychologist also noted Student's teacher's concerns about his maturity, his ability to follow directions, and his ability to stay on task. The District concluded Student had a "specific

learning disability" but did not assess him for autism or discuss it as a possibility. Over the years, Student continued to exhibit behavioral and social deficits, but the District still did not assess him for autism. Student was still not making progress as documented in his 2018 assessment, which was the first to mention autism as a possibility. However, the District concluded that Student did not appear to meet the eligibility criteria for autism. Student received a private evaluation in 2018, which again did not mention autism as a possibility. During Student's fourth triennial evaluation in 2021, the Parents asked the District psychologist if she ever considered assessing Student for autism. The District psychologist told Parents that there was no information in Student's assessment that indicated an autism assessment was necessary. Later that year, Student was diagnosed with autism by an outside clinical psychiatrist. Parents filed a due process complaint against the District in 2021 following Student's diagnosis. An ALJ held a fourteen-day hearing and issued a 97-page decision finding that the IDEA's two-year statute of limitations barred Student's claims predating 2019, as the assessments of Student and his IEP meetings from 2012-2019 put Parents "on notice of the very behaviors which [Parents] argued were indicative of autism," and that Parents should have known that the District had not assessed Student for autism. As to the period from 2019-2021, the ALJ found that the District denied Student FAPE and ordered the District to furnish a

monetary award to Student for compensatory education and to reimburse Parents for the independent evaluations they commissioned. Parents filed a complaint in federal court seeking a review of the ALJ’s decision as to educational services prior to 2019. The district court ruled in Parents favor, finding that the District denied Student FAPE since 2012. Further, the district court held that Parents could not have known the basis of their claims until Student was diagnosed with autism in 2021, rendering Student’s claims extending back to 2012 timely. The District appealed the district court decision to the Ninth Circuit Court of Appeals. On appeal, the Court reversed the district court, explaining that the IDEA requires parents to challenge their child’s allegedly inadequate special education within two years of the date the parents either knew or should have known of the inadequacy. Further, the Court noted that the statute of limitations begins to run when the parents know or should know (1) the fact of the school district’s action or inaction, such as the failure to assess, and (2) that their child is being denied a FAPE. Here, because Parents knew that the District had not assessed Student for autism and Parents had sufficient reason to believe Student’s education was inadequate given their expressed concerns and independent evaluations, the Court determined that claims predating 2019 were time-barred by the statute of limitations.

Washington Court of Appeals

Public Records Act

Hood v. City of Prescott

No. 41159-1-III (4/7/26) (unpublished)

The Washington Court of Appeals affirmed a superior court order imposing a \$500 penalty against the City of Prescott (City) for violation of the Public Records Act (PRA), rejecting the requestor’s claim that the superior court should have instead ordered the City to conduct a new search. Eric Hood submitted a PRA request to the City seeking all records related to a 2019 audit by the Washington State Auditor’s Office (SAO). The City sought clarification from Hood, who then narrowed the scope of his request to only encompass records of the City’s responses to the SAO’s

accountability report, any communications between the City and the SAO, and any internal records of the City’s response to the SAO or the auditor’s report for a specific time range. After the City produced the responsive records, Hood filed a PRA lawsuit, alleging that the City withheld documents and failed to conduct an adequate search. The superior court dismissed Hood’s complaint on summary judgment. On appeal, the Court of Appeals found that there was a genuine issue of material fact as to whether the City’s interpretation of Hood’s request was reasonable and ordered a judicial review hearing in superior court. On remand, the City provided sworn declarations from the City Attorney and City Clerk detailing the City’s search for responsive records, as well as sworn declarations from City councilmembers declaring that they were not involved in the audit and had no responsive records. The superior court found that the City’s interpretation of Hood’s request was reasonable, but that its search for responsive records was inadequate because the City did not search for records held by City councilmembers in response to Hood’s request. The superior court imposed a \$500 penalty for this “narrow violation.” Hood appealed, and the Court of Appeals affirmed, holding that the City’s failure to search for responsive records from City councilmembers, while a violation of the PRA, did not require the City to conduct a new search. The Court reasoned that the superior court’s order was supported by the declarations from the City councilmembers stating that they were not involved in the audit and possessed no related records, and it further held that the superior court applied the correct legal standard in only imposing a \$500 penalty for the narrow violation. As a result, the Court affirmed the superior court’s penalty award.

Unfair Labor Practice

Zarate v. Washington Public Employment Relations Commission

No. 40835-3-III (4/21/26) (unpublished)

The Washington State Court of Appeals affirmed dismissal of an unfair labor practice (ULP) complaint filed by a former employee of the Department of Children, Youth, and Families (DCYF), upholding a

PERC Examiner’s finding that her termination was not pretextual or based on union animus. Silvia Zarate, a social services specialist employed by the DCYF and registered foster parent, was investigated by Child Protective Services (CPS) following allegations of physical abuse and neglect of a foster child. The investigation resulted in a finding of physical abuse and neglect, and Zarate was criminally charged with assault of a child. The charges also rendered Zarate disqualified from serving as a social service specialist, and as a result, DCYF placed her on alternative assignment. An investigation into another DCYF employee revealed that Zarate had been misusing her employee credentials to access her and other foster parents’ licensing files in the DCYF’s child welfare database. The DCYF subsequently terminated Zarate’s employment. Following her termination, Zarate filed a ULP complaint with PERC, alleging that her termination was due to union animus and was in retaliation for her filing a prior grievance against her supervisor. A PERC hearing examiner found that the DCYF had articulated a legitimate, nondiscriminatory reason for Zarate’s termination and dismissed her ULP complaint. The PERC examiner’s underlying decision is summarized in the May 2023 edition of the Washington School Law Update. Zarate appealed to PERC and later to the superior court, both of which affirmed the hearing examiner’s decision. The Court of Appeals affirmed, holding in part that: (1) PERC’s findings and conclusions were supported by substantial evidence; and (2) PERC did not misapply or misinterpret the law. First, in response to Zarate’s arguments that PERC should have come to a different conclusion based on the evidence before it, the Court noted that it must defer to the agency’s broad discretion in weighing the evidence, and that its review is limited to determining whether there was substantial evidence to support the findings. The Court reviewed each of the findings challenged by Zarate against the evidence in the record and concluded that each finding and conclusion was supported by substantial evidence. Second, in response to Zarate’s contention that PERC misinterpreted and misapplied the legal standard for evaluating pretext, the Court rejected Zarate’s argument that DCYF had “exaggerated” her misconduct, noting the evidence that DCYF had

terminated other employees for similar misconduct. The Court ultimately held that PERC correctly applied the law, and as a result, the Court affirmed PERC’s underlying decision dismissing the complaint.

Open Public Meetings Act

Arthur West v. Burien City Council et al.
No. 87686-4-I (4/27/26) (unpublished)

The Washington State Court of Appeals reversed dismissal of an Open Public Meetings Act (OPMA) lawsuit against the City of Burien (City), holding that the City’s “press conference” was a meeting subject to the OPMA’s notice requirements. In 2024, City mayor and councilmember Kevin Schilling held a “press conference” to address the Sherriff’s Office’s public refusal to enforce the City’s anti-camping ordinance. Schilling sent email invites to fifteen individuals affiliated with various media outlets that bore the subject line “City of Burien Mayor, Councilmember, and Business Owner Press Conference.” Schilling stated that the purpose of the press conference was to discuss the Sherriff’s Office’s refusal to enforce the ordinance, which he alleged to be in violation of an interlocal agreement. Schilling also stated that the conference would be attended by himself as mayor and councilmember, other councilmembers, and business owners impacted by encampments. At the press conference, Schilling made statements critical of the Sherriff’s Office, invited community members and business owners to describe their experiences and concerns regarding the lack of enforcement of the camping ban, and responded to questions from the press, who recorded the press conference. Arthur West filed a lawsuit against the City, the City Council, and individual councilmembers (collectively “City”), alleging violation of the OPMA. West alleged that there was a quorum based on the presence of four councilmembers, and that the City Council took action on official business without providing proper notice and posting an agenda as required by the OPMA. The City filed a motion for summary judgment, arguing that there was no quorum because one councilmember attended solely in her personal capacity as a business owner and another only attended for 15 minutes. The City also argued that even

if there was a quorum, the councilmembers did not collectively intend to meet and transact official business or receive public testimony, and therefore the conference was not subject to the requirements of the OPMA. The trial court granted the City’s motion for summary judgment and dismissed West’s complaint with prejudice. West appealed, and the Court of Appeals reversed, holding that the press conference was subject to the OPMA’s notice requirement. The Court noted that it construes the meaning of the OPMA liberally to effectuate its purpose of ensuring that the actions and deliberations of public officials and agencies are done openly and with public access. The Court held that a “meeting” is subject to the OPMA when a majority of the governing body meets and takes action, and that a “meeting” occurs when the purpose of the gathering is to “discuss or act on matters” in which the attendees have a “common interest” relating to “the official business” of the governing body. Applying that broad interpretation, the Court held that the City took action when it discussed the Sheriff’s Office’s stance on the ordinance and considered next steps. Specifically, the Court found that the meeting included substantive exchanges between the press and Schilling with input from other City councilmembers, as well as discussion about the future of the ordinance, which was eventually revised. Further, the Court held that the declarations of the councilmembers proving their awareness of the meeting’s purpose, the invitation to the press to attend, and the video footage of the meeting created a reasonable inference that the councilmembers intended to meet collectively, were present as councilmembers (even if attending in more than one capacity), and were apprised that the event was related to official council business. Taken together, the Court held that the evidence supported a violation of the OPMA and reversed the trial court’s order granting summary judgment and remanded to the trial court for further proceedings.

Public Records Act

Gray v. City of Seattle

No. 88542-1-I (4/27/26) (unpublished)

The Washington State Court of Appeals affirmed the dismissal of a Public Records Act (PRA) lawsuit filed against the City of Seattle (City), holding that the City complied with the PRA by performing an adequate search and providing the fullest assistance to the requestor. Danielle Gray, a tenant of an apartment building in Seattle, submitted two public records requests to the City within the span of one month. Gray’s first request sought documents related to rent increase policies and historical data regarding the apartment building in which she resided. Gray’s second request sought copies of the apartment’s management plan submitted to the City, as well as copies of any performance letters or inspection reports issued to the apartment by the City. When the City provided a first installment to Gray, she inquired as to why specific records were not included, to which the City replied that the records were not found in the search and did not appear to be in the City’s custody. For the second request, when providing records, the City explained that there had been a reporting backlog due to the impacts of the COVID-19 pandemic, such that the requested records did not exist at the time of the records request. The City closed Gray’s request, stating that it could not locate the requested management plan and determined that it had no additional responsive records. Gray sued the City, alleging violations of the PRA. The City moved for summary judgment, which the court granted and Gray appealed. On appeal, the Court of Appeals affirmed the lower court’s order granting summary judgment, holding that the City complied with the PRA because (1) the City completed an adequate search using reasonable search terms that did not improperly narrow the scope of the request; (2) the City was not required to produce records that did not exist; and (3) the City provided the fullest assistance to Gray. First, the Court explained that for a search to be adequate, it need not be perfect, but the agency must search in places where the records are reasonably likely to be found. Here, because the City used search terms relevant to Gray’s request and consulted subject

matter experts to determine where to search for the records, the Court determined that the City’s search was adequate. Second, the City’s backlog of creating reports following the pandemic meant that it could not produce the inspection reports that Gray requested because they had not yet been created. In finding no violation of the PRA, the Court explained that the City was not required to produce records that did not exist. Finally, the Court found that the City provided Gray with the fullest assistance as required under the PRA. The Court highlighted that the City explained the records beyond what the PRA requires as well as explained why certain records were missing, all the while providing Gray updates on the search. The Court found no error in the trial court’s ruling and affirmed dismissal of Gray’s action.

Disability Discrimination

Hoyt v. County of Skagit

No. 87933-2-I (4/27/26) (unpublished)

The Washington State Court of Appeals affirmed the lower court’s dismissal of a lawsuit filed against Skagit County (County) alleging disability discrimination, retaliation, and wrongful termination because the employee failed to produce admissible evidence that the County’s stated, legitimate reason for the employee’s termination was pretextual. Lacey Ruddell Hoyt was employed by the Skagit County District Court as a services assistant. Hoyt had numerous chronic health conditions, which required her to take regular leave. The County initially approved the intermittent leave requests Hoyt filed under the Family Medical Leave Act (FMLA), which Hoyt often took as leave without pay. However, the County informed Hoyt that moving forward, unless she had prior approval, Hoyt had to exhaust her vacation and sick leave balances before taking FMLA leave as leave without pay. The County did not deny Hoyt’s FMLA leave but merely informed her about the type of leave it would apply when she requested FMLA leave consistent with the above-referenced procedure. Hoyt informed her union representative and objected to this alleged change to County policy. Concurrently, the County interviewed Hoyt about a shoplifting incident. The County terminated Hoyt shortly after, citing her

untruthfulness during the investigation as the basis. Hoyt sued the County, claiming that it had committed disability discrimination, retaliation, and wrongful termination. The lower court granted the County’s motion for summary judgment and dismissed Hoyt’s action entirely, and she appealed. The Court of Appeals affirmed the dismissal, finding no genuine issue of material fact and that the lower court did not err. The Court explained that there are three steps in determining whether there is sufficient evidence for claims of discrimination, retaliation, or unlawful termination to survive summary judgment: (1) the employee must offer evidence meeting the elements necessary to make a prima facie case; (2) the employer must respond with evidence of a lawful reason for its challenged action; and (3) the employee must offer some evidence that the employer’s stated reason was a pretext, or that an impermissible motive for the action remained. The Court determined that Hoyt failed to present any evidence that the County’s proffered reason for terminating her was pretextual, or that the County terminated Hoyt based on her disability or opposition to its leave policy, and affirmed the dismissal of her action.

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



Reid Roberts
reid@pfrwa.com



Liz Robertson
elizabeth@pfrwa.com



Jay Schulkin
jay@pfrwa.com

May Masthead Photo Credit



Children Learning Letters and Words at Artondale School, 1920. Courtesy of the Gig Harbor Peninsula Historical Society. 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

Lance Andree
Lynette Baisch
Chase Bonwell
Collin Burns
Cliff Foster

Olivia Hagel
Josh Halladay
Parker Howell
Rachel Miller
Buzz Porter
Reid Roberts

Liz Robertson
Jay Schulkin
Greg Swanson
Christina Weidner
Lorraine Wilson