Supreme Court No. 99143-0

Court of Appeals, Division I, No. 80218-6-1
[Consolidated With No. 80310-7-1]

SUPREME COURT OF THE STATE OF WASHINGTON

HALEY A. ANDERSON, DEAN ANDERSON, and JODIE ANDERSON,

Plaintiffs/Petitioners,

v.

SNOHOMISH SCHOOL DISTRICT NO. 201, a municipal corporation, PETER WILSON and JANE DOE WILSON, husband and wife and their marital community, WENDY NELSON and JOHN DOE NELSON, wife and husband and their marital community,

Defendants/Respondents.

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Plaintiffs Haley, Dean, and Jodie Anderson ("plaintiffs") ask this court to accept review of the Court of Appeals decision terminating review in part B of this petition.[1]

B. COURT OF APPEALS DECISION

Plaintiffs seek review of the unpublished Court of Appeals decision affirming summary judgment in favor of Defendants/Respondents Snohomish School District No. 201 ("District"), Peter Wilson ("Wilson"), and Wendy Nelson ("Nelson"). *See Anderson v. Snohomish School District No. 201*, -- Wn.App. --, -- P.3d --, 2020 WL 4938395 (Wn.App., Div. 1, Aug. 24, 2020). (Motion for Reconsideration denied Sept. 22, 2020). A copy of the decision is in the Appendix at pages A-1 through A-17. A copy of the order denying petitioners' motion for reconsideration is in the Appendix at page A-18.

C. ISSUES PRESENTED FOR REVIEW

This action arises from personal injuries suffered by Haley after she suffered a concussion while on a school field trip. The Court of Appeals decision raises the following issues:

1. Whether a reasonable juror could determine, based on the facts presented by the plaintiffs, that the District failed to act with ordinary and reasonable care in response to Haley's injury. In particular:

[1] When referenced individually in the brief, the plaintiffs are referred to by their first name.

a. Whether a genuine issue of material fact exists regarding whether Nelson's actions were that of an ordinarily responsible and prudent person, given her lack of medical training and/or ability to properly diagnose concussion.

b. Whether the District complied with its duty of care when its agent Nelson unquestionably gave a student in its custody incorrect information about whether she was concussed, and the student relied upon that incorrect information to her detriment.

2. Whether a question of fact exists for the jury to determine when the parties offer differing District policies to evidence whether the District acted with ordinary care. In particular:

a. Whether it is a question of fact for a jury to determine the applicability of District policies when the defendants seek to apply one policy (3431) and the plaintiffs argue different policies (2320P and Duties and Responsibilities of Adult Supervisors/Chaperones Accompanying Students on Instructional Field Trips) should apply to the set of facts giving rise to the injury and subsequent determination of ordinary care.

b. Whether the District's duty under its own policies can be discharged to a minor student who has, prior to discharge of the duty, been provided incorrect information about an injury by a District agent, and was suffering from a concussion.

3. Whether the District's knowledge regarding head injuries, which it possessed prior to Haley's injuries, can inform foreseeability as it relates to

Haley's injuries, even if that knowledge was possessed because of a non-related statute; and whether foreseeability of the harm suffered by Haley creates an issue of fact as to the District's duty of ordinary care.

4. Whether the appellate court's ruling touches upon an issue of such substantial public interest – protecting students in the custody of a school from avoidable head injuries – that it should be resolved by the Washington Supreme Court.

What is not at issue here is any alleged negligence of the plaintiffs, either by way of Haley's actions while on the field trip or Dean/Jodie's response to information from Haley.

D. STATEMENT OF THE CASE

1. Restatement of Incident Facts

Haley suffered a concussion while at Disneyland on a school band trip on April 8, 2014. At the time, Haley was in the custody of the District. She suffered the initial concussion while riding the Matterhorn ride. Adult supervisor, chaperone, and/or Trip Coordinator Nelson knew Haley complained of hitting her head and having a headache on April 8, 2014. Nelson is, without dispute, an agent of the District and the District is liable for her actions relevant to this matter. After the initial report of a head injury on April 8, 2014, Haley did not make additional complaints while on the trip and continued to participate in some field trip activities. Upon her return to Washington, Haley sought treatment for and was diagnosed with a concussion. Haley did not return to school for most of the remainder of

the school year. Haley's child neurologist opined that Haley suffered from second impact syndrome after her initial concussion because she remained physically and cognitively active between April 8 and April 13. The appellate court acknowledged that Haley suffered severe and lasting symptoms that continue to affect her life.

The band trip was planned by Nelson and Wilson. Nelson led many of the pre-trip meetings and she prepared meeting minutes/agendas to be given to students and chaperones during the meetings. There is no indication that the District, Nelson, or Wilson provided any District forms, policies, or procedures were provided or discussed in preparation for the trip. CP960-963, CP965-968, CP974-976. Nelson has no recollection of discussing concussions, head injuries, or other student illnesses during the planning meetings. CP976, CP974.

On April 8, 2014, Haley hit her head while riding on the Matterhorn ride at Disneyland. After she hit her head, Haley did not feel well and had difficulty walking from the park to her hotel room at the end of the night. CP916-922; CP928. Another student, Ciara Benson, informed Nelson that Haley had hit her head. This information was passed to Nelson while the group of students and chaperones walked to their hotel at the end of the night on April 8, 2014. CP934-935, CP937, CP940-941. Haley went to her hotel room upon returning to the hotel, with assistance from her then-boyfriend, student Mitchell Gibbs. CP916-922. Student Gibbs informed Nelson that Haley had been having difficulty walking to the hotel, that she

had not been feeling well, that she appeared uncomfortable, that she had fallen asleep at the park and was difficult to awaken, and that she had said she was dizzy. CP942-946.

Nelson came into Haley's hotel room and took her into the courtyard of the hotel where she had a conversation with her. CP916-922. Haley's group chaperone, Julie Bailey, was present at the conversation as well. Id.

Nelson mentioned to Haley that Nelson's husband had a job that required first-aid training, possibly a paramedic or firefighter, but Haley could not recall what job. Id. In her deposition, Nelson revealed that her husband was a police officer at the time of the 2014 band trip. CP988. Nelson stated that she had called her husband regarding concussion symptoms and then looked into Haley's eyes and stated that Haley did not "look concussiony." CP916-922. Nelson has no medical training. CP980. CP916-922. Mitchell Gibbs observed, but did not hear, the conversation between Haley and Nelson. CP942-946. Nelson told Haley to contact her parents, and Haley sent the following text to Dean:

> "Hey, I hit my head pretty hard while I was on the Matterhorn today about 2-3 hours ago. I'm just texting to let you know in case you get a call from [band director Peter] Wilson or [Nelson] tomorrow about me. I didn't call because I don't want to wake you all up. I'm sure I'm fine, but I wanted to let you know just in case. Good night. I love you all and I'll call you tomorrow."

Nelson took no further action with respect to Haley's injury. She did not contact Haley's parents, she did not attempt to have her evaluated by a medical professional, she did not discuss the issue with other chaperones on the trip, and she did not inform the Staff Member in Charge

on the trip Wilson. CP969-973, CP985, CP987. Nelson did not specifically follow-up with Haley about the injury, other than generic questions to groups of students that included Haley. CP983-984.

After April 8, 2014, Haley continued to participate in trip activities. She continued to have symptoms as well. She did not report the matter further to Nelson, Wilson, her parents, or her assigned chaperones. She testified that while she continued to have symptoms, she did not report them because the Trip Coordinator had said she did not appear to have a concussion. CP923-924. She was 17 years old at the time.

In addition, there was a nurse who attended the trip. Wilson believed that "everyone would have known that" a nurse was on the trip. CP992-994. Nelson did not discuss the head injury with the nurse.

Nelson prepared a written statement several months after the trip. In the statement, she admitted knowing that Haley had hit her head and that she had a headache. CP998. In her statement, Nelson describes Haley's injury as a "non-issue." The District has since testified that it does not agree with this characterization. CP1001.

Haley was diagnosed with a concussion upon returning home from the field trip. A concussion protocol was developed by the District. Haley also suffered from second impact syndrome after her initial injury. Haley's head injury on the Matterhorn was increased, prolonged, and exacerbated by the fact that her concussion was not diagnosed properly, and she continued activity in the days following the concussion CP1056-1057. A

second impact syndrome can be caused by physical activity in the days after a concussion because of increased cerebro-vascular flow. Id. This is precisely what occurred with Haley after she was told by Nelson that she was not "concussiony."

Haley's life after returning to school was impaired. Prior to the injury, Haley was in advanced placement classes and earning college credit. These courses were equal to a 200-level college courses. CP677. Her school transcript shows that she was going to attend university. After her injury, her class load had to be decreased because she was having difficulty. CP682. She was placed on a 504[2] plan. Id. She did not have a 504 plan prior to the concussion. Her plan indicated that she was in post-concussion care and needed accommodations. Id. Her schedule during her senior year was limited and accommodations were made for her. Id. Her absences from school increased markedly. CP683.

She graduated high school on time but did not attend university which was her plan. Instead, she has struggled to earn an associate's degree at Everett Community College ("ECC"). She is currently on an accommodation plan at ECC to assist with her continuing post-concussive symptoms. CP23-24.

[2] Section 504 of the Rehabilitation Act of 1973, which allows accommodation for students with medical disabilities.

2. Relevant School Policies

2320. "Carefully planned, skillfully supervised, and wisely interpreted field trips are valuable extensions of the classroom experience." "The safety of students has primary consideration." CP1026, A-19

2320P. "Field trips provide a valuable contribution to a child's education when they are well planned and enhance the classroom experience." "Trips to water parks will not be approved, even when in conjunction with another approved educational or athletic activity." "When a student emergency occurs away from school, the student will be evaluated by the staff member in charge. The staff member in charge will notify the building administrator." The *Duties and Responsibilities of Adult Supervisors Form* will be provided to each chaperone by the staff member in charge. CP1028-1030, A-20.

Duties and Responsibilities of Adult Supervisors/Chaperones Accompanying Students on Instructional Field Trips. CP1034. "Help ensure prompt medical care if anyone becomes injured or ill." This form is required to be provided by policy 2320P, A-23.

3431. "[S]chools are responsible for providing first aid or emergency treatment in case of sudden illness or injury to a student," "further medical attention is the responsibility of the parent or guardian." "When a student is ill or injured it is the responsibility of the staff to see that immediate care and attention is given the injured party until relieved by a supervisor, a nurse or a doctor. Word of the illness or accidents should be

sent to the principal's office and to the nurse. The principal or designated staff should immediately contact the parent so that the parent can arrange for care or treatment of the ill or injured." CP1036, A-24.

2151F4 – Concussion Form. "A concussion is a brain injury and all brain injuries are serious. They are caused by a bump, blow, or jolt to the head. They can range from mild to severe and can disrupt the way the brain normally works. Even though most concussions are mild, **all concussions are potentially serious and may result in complications including prolonged brain damage and death if not recognized and managed properly**. In other words, even a "ding" or a bump on the head can be serious. You can't see a concussion and most sports concussions occur without loss of consciousness. Signs and symptoms of concussion may show up right after the injury or can take hours or days to fully appear. If your child reports any symptoms of a concussion, or if you notice symptoms or signs of concussion yourself, seek medical attention right away." "Athletes with signs and symptoms of concussion should be removed from play immediately. Continuing to play with the signs and symptoms of a concussion leaves the young athlete especially vulnerable to greater injury. There is an increased risk of significant damages from a concussion for a period of time after that concussion occurs, particularly if the athlete suffers another concussion before completely recovering from the first one. This can lead to prolonged recovery, or even to severe brain swelling (second impact syndrome) with devastating and even fatal consequences. It is well

known that adolescent or teenage athlete will often under report symptoms of injuries. And concussions are no different. As a result, education of administrators, coaches, parents, and students is the key for a student-athlete's safety." CP1043-1044, A-25.

The Superior Court dismissed plaintiffs' claims. The Court of Appeals affirmed. A-1 through A-17. The appellate court determined that there was no evidence to indicate that the District had a duty to seek medical attention for Haley on April 8 or 9, 2014. The appellate court's opinion limits its inquiry to those two dates for reasons that remain unclear. The appellate court also determined that Dean and Jodie were notified of Haley's injury, fulfilling the duty outlined in District policy 3431, but they did not take further action regarding the injury. The appellate court indicates that Haley did not require emergency medical care at the time she reported her concussion, which is not in dispute. Instead, Haley's neurological expert opines that proper care would have been to limit her activity. The appellate court does not opine regarding Nelson's intervention and analysis of Haley, which culminated in Nelson providing undisputably incorrect information to Haley, a minor, about her concussion. Instead, it appears the appellate court considers Haley's text to her parents after Nelson's incorrect analysis to have cured this defect. The appellate court did not consider the District's Concussion Form (2151F4) to have evidenced foreseeability of non-athlete brain injuries because the District promulgated the form under the auspice of RCW 28A.600.190, which applies only to student athletes. Ultimately,

the appellate court determined there was no evidence the District breached its duty to Haley.

E. ARGUMENT – WHY REVIEW SHOULD BE ACCEPTED

1. The decision below conflicts with precedent from this Court regarding the questions of breach of duty of ordinary care, as it applies to a school District's duty to a student in its custody, and whether determination of breach is properly for a jury when genuine issues of material fact exist.

The duty owed by a school to a student in its custody has been repeated throughout the briefing in this matter.

As the appellate court stated, regarding the District's duty to Haley:

> In Washington, school districts have "an enhanced and solemn duty to protect minor students in [their] care." Christensen v. Royal Sch. Dist. No. 160, 156 Wn.2d 62, 67, 124 P.3d 283 (2005). They must exercise the care that an ordinarily responsible and prudent person would exercise under the same or similar circumstances. N.L., 186 Wn.2d at 430." A-9-10.

Once a duty is determined to exist, including the duty of reasonable care, it is usually for a jury to decide whether a defendant has breached. *Moore v. Hagge*, 158 Wash.App. 137, 241 P.3d 787 (Div. 1 2010) *review denied* 171 Wash.2d 1004, 249 P.3d 181 (2011). This includes the jury question of a school District's duty of ordinary care. *N.L. v. Bethel Sch. Dist*. 186 Wn.2d 422, 378 P.3d 162 (2016). It is the fact finder who must determine what constitutes reasonable care under the given circumstances of a case unless no reasonable mind could differ. The appellate court has determined in this case this question should not be answered by a jury. Plaintiff respectfully contends that the appellate court has disregarded

significant evidence that a jury could rely on to determine the District breached its duty of ordinary care.

First, the actions of Nelson were not within the scope of ordinary care. Haley was concussed when she encountered Nelson on April 8, 2014. Nelson was told by Haley and two other students that Haley had hit her head and she was experiencing symptoms. Nelson was not trained to determine whether Haley had a concussion and had no medical experience. Nelson evaluated Haley and indicated to her that she did not appear concussed. Haley relied upon that information both when she communicated her injury to Jodie and Dean, and throughout the remainder of the band trip. The District, through its agent, misinformed Haley. It is certainly within the realm of reason that a jury could determine the District failed to act with ordinary care because of the actions of Nelson.

Nelson was an agent of the District. She had a duty to act in the manner a reasonably prudent person would act. She made the situation worse than if she had done nothing, because Haley relied on Nelson's incorrect information. It is analogous to a person who undertakes to give aid in a rescue situation. Even if Nelson owed no other duty to Haley, once she determined to render aid, she must do so without negligence. In rendering aid to Haley, Nelson had a duty to not make the situation worse

or mislead Haley into believing she was not in danger. See generally *Folsom v. Burger King*, 135 Wash.2d 658, 958 P.2d 301 (1998).[3]

Second, there is a dispute between the parties as to which District policy would apply to the circumstances of Haley's injuries. Evidence of a breach of District policy could be used by a jury to determine whether the District acted with ordinary care in its response to Haley's injury. The District wants to apply policy 3141, which is a policy of general applicability. The District seeks to use this policy to argue that it owes no duty to provide for student medical care in a non-emergent situation and to argue that its duty was discharged when Haley informed her parents of her injury (even in the context of an out-of-state field trip involving a concussed student). Plaintiffs allege that the applicable duty for response to student injury <u>while on a field trip</u> is promulgated under policy 2320P and the <u>Duties and Responsibilities of Adult Supervisors/Chaperones Accompanying Students on Instructional Field Trips</u> document. A question exists, which should be determined by the jury, as to which of these policies apply, and whether the District met its duty under the applicable policy. Because of Nelson's action and inaction, both on April 8, 2014 and thereafter, a jury may determine she breached the field trip policy and, thereby, her duty of ordinary care, by failing to help ensure prompt medical care in response to Haley's injury.

[3] The question of whether Nelson's intervention with Haley created a duty for her to act with reasonable care in that response was briefed to the appellate court, but not discussed in its ruling.

Third, even if the District's chosen policy is the applicable to Haley's injury, a reasonable juror could determine that the District failed to act with ordinary care in attempting to discharge its duty after Nelson gave Haley wrong information about her concussion. The District has argued that it met its duty under policy 3141 through Haley when she contacted her parents after her injury. Ignoring the field trip policies entirely, and assuming policy 3141 can be effectuated by instructing a concussed minor student to communicate with parents instead of the school District, the information the District gave Haley about her concussion in this case was unquestionably wrong. Nelson led Haley to believe she was not concussed, which is what she told her parents. A jury could certainly find that the District did not act with ordinary care, even under the auspice of policy 3141, when its agent poisoned the well and sent Haley to speak to her parents with bad information.

Based on the foregoing, the appellate court has disregarded evidence that a jury could rely on in determining the District failed to act with ordinary care in responding to Haley's injuries. In doing so, the decision below conflicts with precedent, especially precedent which secures this question for the jury to determine.

2. The decision below conflicts with precedent from this Court regarding questions of foreseeability of harm.

As the appellate court stated:

> "[S]chool districts must take certain precautions to protect the students in their custody from dangers reasonably to be anticipated. Hendrickson v. Moses Lake Sch. Dist., 192 Wn.2d 269,

> 276, 428 P.3d 1197 (2018). If the harm at issue was reasonably foreseeable, a school district may be liable if it failed to take reasonable steps to prevent that harm. Id. When foreseeability is a question of whether the harm was within the scope of the duty owed, it is a question of fact for the jury. McKown v. Simon Prop. Grp., Inc., 182 Wn.2d 752, 764, 344 P.3d 661 (2015). The question is whether the actual harm fell within a general field of danger that should have been anticipated.[10] Hendrickson, 192 Wn.2d at 276. A-10.

Where an issue exists as to whether an injury to the plaintiff is foreseeable, the jury may be required to decide issues of fact. *See Joyce v. State*, 155 Wash.2d 306, 119 P.3d 825 (2005). When a plaintiff submits sufficient evidence of foreseeability, summary judgment is not appropriate. *Id.*

Here, the appellate court's decision does not take into account evidence presented by the plaintiff establishing the District's duty to protect Haley from foreseeable harm. As such, it conflicts with precedent set forth by this Court establishing a school District's duty as a product of harm that is reasonably foreseeable to it. Further, the appellate court breaks with precedent which requires the question of whether the harm suffered falls within the scope of duty to be determined by a jury. Here, what the school District knew about head injuries, the need for medical intervention following a head injury, the seriousness of all head injuries, and the potential for serious injury following seemingly minor head injuries is known because the school District outlined it in a written form – 2151F4. While it is possible that form was created because of the adoption of the RCW 28A.600.190, the statute is completely immaterial to the question of

what harm was reasonably foreseeable to the District and whether it met its duty of ordinary care in responding to Haley's head injury.

The question is not why a harm is reasonably foreseeable, but whether a harm is reasonably foreseeable. The source of the knowledge possessed by the District is immaterial. The District knew, unquestionably, that "all brain injuries are serious." The District knew, unquestionably, "[t]here is an increased risk of significant damages from a concussion for a period of time after that concussion occurs"…..which "can lead to prolonged recovery, or even to severe brain swelling (second impact syndrome) with devastating and even fatal consequences." The District knew that students under-report symptoms of head injury. This harm is exactly what befell Haley when District agent Nelson improperly assessed her and wrongly informed her she was not concussed. Allowing the District to disavow the foreseeability of this harm because it knew of the harm in the scope of student athletics allows the District to put its head in the sand and escape liability for harm it expressly knew was possible.

This conflicts with precedent establishing a District's duty to protect students from reasonably foreseeable harm. For example, this Court held that the question of whether students skipping practice and leaving campus together was foreseeable, was ultimately a question for the jury in *N.L. v. Bethel Sch. Dist.* The evidence of foreseeability of student activity and harm caused thereby is arguable much stronger than in N.L.. In *McLeod v. Grant County Sch. Dist. No. 128*, 42 Wash.2d 316, 255, P.2d 360 (1953),

this Court held that sexual assault "fell withing the general field of danger which should have been anticipated" by the defendant school District. *McLeod* 42 Wash.2d at 321-2 (1953).

3. The question of whether the response of a school District to the report of a head injury suffered by a student in its custody presents a substantial question of public interest that should be decided by this Court.

The appellate court below declined to recognize that the District, by and through its agents, breached the duty or ordinary care owed to a student in its custody, as outlined above. The question before the Court presents an issue of substantial public interest, which should be determined by this Court, pursuant to RAP 13.4(b)(4). Plaintiffs respectfully contend that the safety of children in custody of public school districts is of the highest public interest. This is especially true as it relates to concerns of head injuries in minor children.

Analysis of the appellate court's opinion below would suggest that the applicable standard for responding to reports of head injuries allows for a school District to improperly inform a student she is not concussed, direct the student to contact their parents with that wrong information while concussed, and then do nothing else, as the student relies upon the wrongful information to the detriment of her health and future. This standard is, according to the appellate court, not changed by the knowledge of the harm of head injuries possessed by the District at the time of the report, even when that knowledge informs the District that all head injuries are serious, require medical attention, and could lead to addtional injury. It is a question

of public interest that Districts, through their agents, do not undertake improper medical analysis of concussions and do not ignore the knowledge they possess about the severity of head injuries.

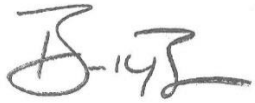
As Judge Learned Hand famously stated in *United States v. Carroll Towing Co.*, 159 F.2d 169, 173 (2nd Cir. 1947), a duty in tort arises from a risk-benefit analysis involving the probability of harm, the gravity of the resulting harm, and the burden of adequate precautions. Here, the gravity of harm to Haley and students in her situation is extreme. By comparison, the burden of adequate precautions – not giving her wrong information about her concussion, contacting her parents, contacting some medical personnel, and/or providing her physical and cognitive rest – are low. The Court should accept review to determine whether the District complied with its duty of ordinary care as it pertains to Haley, who was a student in school custody.

F. CONCLUSION

Plaintiffs respectfully request the Court grant their petition for review, reverse summary judgment in favor of defendants, and remand this case for trial.

Respectfully submitted this 22nd day of October, 2020.

RUSSELL & HILL, PLLC



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CERTIFICATE OF SERVICE

The undersigned does hereby declare the same under oath and penalty of perjury under the laws of the State of Washington:

On October 22, 2020, I served the document to which this is annexed by Email, and by First Class Mail, postage prepaid, as follows:

Counsel for Defendants Snohomish School District No. 201, Peter Wilson and Jane Doe Wilson, and Wendy Nelson and John Doe Nelson:

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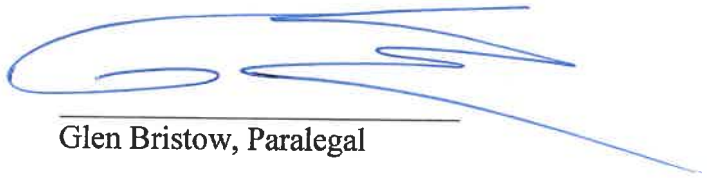
Signed at Everett, Washington, on October 22, 2020.



Glen Bristow, Paralegal

APPENDIX

FILED
8/24/2020
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

HALEY A. ANDERSON and DEAN and JODIE ANDERSON, husband and wife, individually and as parents of HALEY A. ANDERSON, Appellants, v. SNOHOMISH SCHOOL DISTRICT NO. 201, a municipal corporation, PETER WILSON and JANE DOE WILSON, husband and wife and their marital community, WENDY NELSON and JOHN DOE NELSON, husband and wife and their marital community, Respondents.	No. 80218-6-I (consolidated with No. 80310-7-I) DIVISION ONE UNPUBLISHED OPINION

APPELWICK, J. — The Andersons sued the District for negligence after their daughter, Haley, suffered a concussion while riding the Matterhorn at Disneyland during a school field trip and suffered a second impact to her head while continuing to go on rides. They appeal summary judgment dismissal of their claim against the District. Specifically, they contend that there was a genuine dispute of material fact as to whether the District breached its duty of care to Haley. We affirm.

FACTS

In 2014, Haley Anderson was a student at Snohomish High School and a member of the school's band. She went on a band-sponsored field trip to California, over spring break. On April 8, the band went to Disneyland.

According to Haley's[1] boyfriend at the time, Mitchell Gibbs, the two got on the Matterhorn ride at Disneyland between 1:30 p.m. and 2:00 p.m. Gibbs testified that he sat in front of Haley during the ride. After the two got off the ride, Gibbs testified that Haley told him she hit her head and did not feel well. As a result, they sat down, and Gibbs went to get Haley something to drink. When Gibbs returned, he asked Haley if she was feeling better. He testified that Haley said, "[Y]es," and the two went to meet their friends at the Haunted Mansion ride. He testified that they also went on some nighttime rides after dinner. However, when they stopped at a chaperone[2] station at 10:30 p.m., he stated that Haley fell asleep and he had trouble waking her up. Once he woke her up, he carried her back to the hotel and told another student to tell Wendy Nelson, a parent volunteer on the trip, about Haley hitting her head. Nelson served as the trip coordinator, but was not one of Haley's assigned chaperones. Gibbs testified that up until that point neither he nor Haley had told any adults on the trip about her injury.

According to Haley, the night of April 8, she and Gibbs rode the Matterhorn at around 9:00 p.m. She agreed that Gibbs sat in front of her during the ride. As the ride went around a corner, she explained that she was thrown backwards and

[1] We use Haley's first name for clarity.
[2] Haley's assigned chaperones were Julie Bailey and Craig Pratt.

hit her head on the headrest. Once the ride was over, she stated that she sat down on a park bench and told Gibbs that she hit her head and did not feel well. She then recalled going to dinner and checking in at a chaperone station at 10:00 p.m. Although her head hurt and she felt dizzy, she testified that she did not tell any of the chaperones at the station about her symptoms. She also testified that she did not go on any more rides that night.

According to Nelson, when the students returned that night, she went to Haley's hotel room because her daughter was one of Haley's roommates. Before entering the room, she testified that her daughter and another student informed her that Haley had a headache. In a statement she drafted after the trip, Nelson wrote that Haley told her she hit her head while on the Matterhorn. However, Nelson later testified that she did not recall that conversation, and that Haley only asked her for some Tylenol. Nelson stated that she told Haley she did not have any Tylenol, and that she needed to contact her chaperone and parents if she had a headache.

According to Haley, Nelson came to her hotel room when she got back that night, asked her if she hit her head, and she said, "[Y]es." She testified that Nelson then pulled her out of her room to evaluate her, and that her chaperone Julie Bailey was there as well. Haley further testified that Nelson explained to her that her husband's job required first aid training, she had called him, and he told her, "[Y]ou need to look at someone's eyes and look at their pupils." At that point, Haley stated that Nelson "got really close" to her face, looked at her eyes, and told her, "'Your pupils are the same size and you don't look concussiony.'" Nelson did not have

any formal medical training. Haley also recalled Nelson telling her to take pain medication for her headache, to call her parents, and that she would check on her in the morning.[3]

Just after midnight on April 9, Haley sent her father, Dean Anderson, the following text message:

> "Hey, I hit my head pretty hard while I was on the Matterhorn today about 2-3 hours ago. I'm just texting to let you know in case you get a call from [band director Peter] Wilson or [Nelson] tomorrow about me. I didn't call because I don't want to wake you all up. I'm sure I'm fine, but I wanted to let you know just in case. Good night. I love you all and I'll call you tomorrow."

She forwarded the message to her mother, Jodie Anderson, at around the same time. Dean[4] testified that he texted Haley back in the morning to ask how she was doing, but could not recall what she said in response. Neither Jodie nor Dean made any attempts to contact any of the adults on the trip. Jodie testified that from what she was hearing, there did not appear to be a problem.

Haley testified that the morning of April 9, she had a headache. While she was eating breakfast that morning, she recalled Nelson asking her how her head was. She told Nelson that she was fine. She did not recall telling Nelson anything else. Throughout the remainder of the trip, Haley continued to go on rides at amusement parks and experienced symptoms like headaches and nausea. Particularly, on April 12, she rode a rollercoaster at SeaWorld called Manta. She testified that, after the ride,, her head was spinning and hurt worse than it had on

[3] Haley had a history of chronic headaches. As a result, Haley's mother had given permission for Haley to take two milligrams of ibuprofen every six hours while on the trip.

[4] We refer to Dean and Jodie by their first names for clarity.

the previous days. She also stated that she could not think straight and felt nauseous. However, she concedes that she did not report any symptoms she experienced after April 8 to Nelson or her assigned chaperones. She explained that because Nelson told her she did not have a concussion, she was under the impression that she had only a headache.

The band flew home on April 13. When Haley arrived at home, she told her parents that she did not feel well. The next morning, she had a headache and felt dizzy, and she told her mother that she still did not feel well. Jodie took Haley to the Everett Clinic that same day, where she was diagnosed with a concussion. Haley continued to experience symptoms and did not return to school for most of the remainder of the year. In September 2015, Dr. Stephen Glass, a child neurologist, opined that Haley suffered a concussion after hitting her head on the Matterhorn and suffered a "'second impact'" by remaining physically active between April 8 and April 13. Because she was not properly treated for the concussion, he concluded that this second impact was causing her persistent symptoms and ongoing impairment.

In May 2016, the Andersons[5] sued Snohomish School District No. 201 (District), Wilson, and Nelson for negligence relating to Haley's concussion. They alleged that while acting as agents for the District, Wilson and Nelson failed to provide Haley reasonable and necessary medical care after her head injury.[6] They further alleged that Wilson's and Nelson's failure to prevent ongoing trauma to

[5] We refer to Haley and her parents collectively as "the Andersons."

[6] Although Nelson was not a District employee, the District admitted that she was its agent and was acting under the scope of her agency on the trip.

Haley's head, "second impact syndrome," was a proximate cause of Haley's injuries and damages.

The District[7] later moved for summary judgment dismissal of the Andersons' claims. It argued in part that the adults on the trip responded to Haley's "isolated report of a headache" in a reasonable manner. Specifically, it asserted that there was no evidence of a duty or standard of care that requires one to assume a concussion from Haley's "limited description" of having a headache. It explained that it implemented reasonable measures for students to report injuries during the trip, but that Haley did not use them. Instead, it pointed out, she failed to disclose any other symptoms beyond her initial headache until after the trip.

The Andersons opposed the District's motion. They argued in part that the District's "Concussion Form (2151F4)" established that the harm at issue was foreseeable. Form 2151F4 is a form the District has student athletes and their parents sign regarding the risks and symptoms of a concussion. It directs parents to seek medical attention right away if their child reports any concussion symptoms, or if they notice any concussion symptoms in their child. The Andersons further argued that even if Jodie and Dean acted wrongfully in not doing more after learning Haley hit her head, the District necessarily acted wrongfully based on the custodial relationship it had with her. In addition, the Andersons filed a motion to strike certain alleged facts and evidence from the District's summary judgment motion. This included alleged hearsay statements in a handwritten

[7] We refer to the District, Wilson, and Nelson collectively as "the District."

statement drafted by Nelson, as well as evidence relating to a volunteer packet and chaperone guidelines.

The trial court granted the District's motion. It explained in part,

> Assuming for the sake of argument that [Nelson's] role as trip coordinator gave her the same status as a chaperone, as the school dist[ri]ct has conceded, then her duty to Haley was one of reasonable ordinary care under the circumstances. As a chaperone, her duty to Haley is to speak to the child, assess the issue, and inform her to call her parents—which she did. Any further injury at that point was not foreseeable as Haley was reticent in her response to Mrs. Nelson[']s questions other than to say "I have a headache" and ["]I feel fine." These are the exact statements Haley made to her parents. Mrs. Nelson, like Haley's parents, reasonably relied on Haley's statements that she was fine.

The court noted that "[u]nlike student athletes who are protected by a mandated concussion protocol, there is no district policy or mandate requirement that would override the students' responses." It pointed out that "Snohomish County School District Policy 3431 requires that word of illness or accident be sent to the principal's office and the nurse," but that the school was closed on April 8. It also cited a declaration stating that the principal's primary duty in that situation is to inform the parents. It explained that this was "exactly what Mrs. Nelson accomplished." The record does not reflect that the court ruled on the Andersons' motion to strike.[8] The Andersons then filed a motion for reconsideration, which the court denied.

[8] The order granting summary judgment does not inform us whether the trial court granted the motion to strike. The only other mention in the record addressing the motion to strike is the clerk's notation stating that it was not argued at the hearing on the District's motion for summary judgment. As a result, we assume that the motion to strike was not granted. But, we do not rely on the materials the Andersons sought to strike.

The Andersons appeal.

DISCUSSION

The Andersons argue that the trial court erred in granting the District's summary judgment motion because there was a genuine dispute of material fact as to whether the District breached its duty of care to Haley. Specifically, the Andersons assert that the trial court failed to review the facts regarding duty in the light most favorable to them. They state that the order of dismissal "barely reference[d]" Nelson's evaluation of Haley, in which Nelson allegedly told Haley she did not look "'concussiony.'" They claim that the order failed to mention Bailey's testimony that Nelson shared in chaperoning Haley. They also claim that it failed to mention Haley's testimony that Bailey was present during Nelson's evaluation and knew of Haley's complaints. Further, they state that it failed to mention there was a nurse on the trip who was never consulted.[9] And, they state that it failed to mention Nelson's decision not to inform Wilson, the District employee on the trip, of Haley's injury. The Andersons argue that this evidence created a genuine dispute of material fact as to whether the District breached its duty.

We review summary judgment orders de novo. Hadley v. Maxwell, 144 Wn.2d 306, 310-11, 27 P.3d 600 (2001). Summary judgment is appropriate only

[9] This statement appears to be based on Wilson's testimony that he thought a parent of a child on the trip was a nurse. Wilson followed up that statement by testifying he did not have direct knowledge that any of the chaperones "were trained or, you know, had their first aid card or whatever or [cardiopulmonary resuscitation] training." The Andersons do not cite evidence that Nelson knew there might be a nurse on the trip. And, they do not dispute that there was no school nurse on the trip.

where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c); Peterson v. Groves, 111 Wn. App. 306, 310, 44 P.3d 894 (2002). The moving party bears the initial burden of showing that no issue of material fact exists. Young v. Key Pharms., Inc., 112 Wn.2d 216, 225, 770 P.2d 182 (1989).

"A defendant may move for summary judgment by showing that there is an absence of evidence to support the plaintiff's case." Sligar v. Odell, 156 Wn. App. 720, 725, 233 P.3d 914 (2010). If the defendant meets this initial showing, the inquiry then shifts to the plaintiff. Young, 112 Wn.2d at 225. If the plaintiff "'fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial,' then the trial court should grant the motion." Id. (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)). When considering the evidence, the court draws reasonable inferences in the light most favorable to the nonmoving party. Schaaf v. Highfield, 127 Wn.2d 17, 21, 896 P.2d 665 (1995).

To prevail in their negligence suit, the Andersons must show (1) the existence of a duty to the plaintiff, (2) a breach of that duty, (3) a resulting injury, and (4) the breach as the proximate cause of the injury. N.L. v. Bethel Sch. Dist., 186 Wn.2d 422, 429, 378 P.3d 162. The parties agree that the District owed a duty to Haley. What they disagree on is whether the evidence showed a genuine dispute of material fact as to whether the District breached that duty.

In Washington, school districts have "an enhanced and solemn duty to protect minor students in [their] care." Christensen v. Royal Sch. Dist. No. 160,

156 Wn.2d 62, 67, 124 P.3d 283 (2005). They must exercise the care that an ordinarily responsible and prudent person would exercise under the same or similar circumstances. N.L., 186 Wn.2d at 430. Further, school districts must take certain precautions to protect the students in their custody from dangers reasonably to be anticipated. Hendrickson v. Moses Lake Sch. Dist., 192 Wn.2d 269, 276, 428 P.3d 1197 (2018). If the harm at issue was reasonably foreseeable, a school district may be liable if it failed to take reasonable steps to prevent that harm. Id. When foreseeability is a question of whether the harm was within the scope of the duty owed, it is a question of fact for the jury. McKown v. Simon Prop. Grp., Inc., 182 Wn.2d 752, 764, 344 P.3d 661 (2015). The question is whether the actual harm fell within a general field of danger that should have been anticipated.[10] Hendrickson, 192 Wn.2d at 276.

The Andersons contend that the District's written policies "further define the duty it owes to students." Thus, they assert that "[w]hether Nelson complied with District policy is evidence of her negligence." They go on to cite multiple District forms and policies.

First, they cite a form titled "Duties and Responsibilities of Adult Supervisors/Chaperones Accompanying Students on Instructional Field Trips."

[10] The Andersons do not argue that the District breached its duty of care to Haley by allowing her to hit her head on the Matterhorn in the first place. Rather, they suggest that the District breached its duty by not ensuring Haley received prompt medical care, which would have resulted in her not going on additional rides and receiving a second impact injury. That injury was foreseeable if the District knew or should have known that Haley had a concussion. Haley did not report further symptoms to the District during the trip. Thus, the issue here is whether the District exercised reasonable care in response to what it was told by and about Haley's injury on April 8 and the morning of April 9.

The form does not specifically address the protocol for handling student injuries, but directs supervisors and chaperones to "assure prompt medical care if anyone becomes injured or ill." Second, they cite form 5430P, which provides that volunteers shall "[r]efer to a regular staff member for final solution of any student problems which arise, whether of an instructional, medical or operational nature." The Andersons imply that the District violated this policy because Nelson did not inform Wilson of Haley's injury. Third, they cite form 2151F4, which addresses the risk and symptoms of concussions in student athletes. They argue that because the District knew that every head injury to a student is serious, it also knew that continued activity after a head injury could cause additional serious injury. Last, they cite a declaration by their expert Dr. Ronald Stephens, executive director of the National School Safety Center. Stephens opined,

> The District, by and through its agents, violated its own standard of care by: failing to provide sufficient information to adult volunteers on the trip as to how to properly respond to a student injury, specifically, a head injury. The District was aware, prior to the trip, [of] the potential severity of head injuries and that students underreport those injuries.

In response, the District cites form 3431, which addresses its policy on student injuries. The form provides in part, "[S]chools are responsible for providing first aid or emergency treatment in case of sudden illness or injury to a student," but "<u>further medical attention is the responsibility of the parent or guardian</u>." (Emphasis added.) It also requires that "[w]ord of the illness or accident . . . be sent to the principal's office and to the nurse," and that the principal or designated staff "should immediately contact the parent so that the parent can arrange for care

or treatment." The Andersons do not challenge the substance of this policy. Nor do they dispute that there was no principal or school nurse on duty during spring break. In a declaration by Thomas Laufmann, the executive director of Business Services for the District stated that "[o]n its face, District Policy #3431 requires notification of a student injury to the principal and the school nurse." He further explained,

> During such outings . . . where school is not in session and neither a Principal nor a nurse are on duty, the purpose of Policy #3431 is satisfied by accomplishing either direct parental notification in other ways—i.e., through a direct call from student-to-parent, or from chaperone-to-parent. The same would be true for a coach who notifies a parent of an athlete non-emergency injury, when the parent meets the bus upon return from an away-game.

He continued, "[I]f there is no emergency, the goal is to ensure that the parent receives notice of the non-emergency injury or illness, so that they can determine next steps for their own child and seek treatment if they choose."

The Andersons do not cite evidence that Haley's reported symptom of a headache on April 8 constituted an emergency. Neither Glass, the child neurologist who served as the Andersons' expert, nor Dr. Marisa Osorio, who treated Haley after the trip, testified that Haley's headache required emergency medical treatment on April 8 or the morning of April 9. In fact, Osorio was asked at a deposition about the symptoms Haley reported to be suffering at the time of her April 14 visit to the Everett Clinic—a headache and trouble remembering what happened the evening of the injury. Osorio testified that Haley's reported symptoms did not require calling 911, and she would not have recommended that Haley needed to go to an emergency room.

In addition, neither Glass nor Osorio testified that the District should have sought nonemergency medical treatment for Haley on April 8 or the morning of April 9. Glass made a general observation that "if a child reports a concussion, or symptomatic injury, medical attention should be sought." But, he did not opine as to whether the District should have sought medical attention for Haley when she reported a headache on April 8. Osorio testified that if a hypothetical patient hit their head on a ride, reported headaches and memory problems, and had a normal neurologic exam, she would recommend activity restrictions, talk about sleep, and talk about other symptoms. But, she did not opine as to whether the District should have sought medical attention for Haley based on her April 8 headache. In the absence of evidence establishing a duty to take Haley to a medical provider on April 8 or April 9, even on a nonemergency basis, the District's duty under form 3431 was to notify her parents of the injury so that they could determine any next steps. The District discharged its duty when Nelson instructed Haley to inform her parents, Haley then sent a text message to her parents about hitting her head, and Haley communicated with her parents the morning of April 9.

The District policy in form 5430P required volunteers to refer a student's medical problem to a staff member. Wilson was not informed by Nelson before the Andersons were notified. The Andersons imply that but for the breach of this policy, Wilson would have known of Haley's injury, and she would have been taken to a doctor. This assumption is not supported by the record. When asked at a deposition if he would have taken the "appropriate steps" if he had known about the problem, including "either telling the parents or getting medical care or

something," Wilson responded, "Of course." (Emphasis added.) But, even if Wilson might have done more than contact Haley's parents, the policy in form 3431 did not require him or the District to do more in a nonemergent situation. Beyond rendering first aid or emergency treatment, form 3431 states that "further medical attention is the responsibility of the parent or guardian." This policy was implemented even though Wilson was not included in the communication. Haley's parents were promptly notified of her injury and did not direct any further medical treatment. Regardless of which adults on the trip knew of Haley's injury, the District's response complied with the policy in form 3431.

Further, the District argues that it has no duty to seek medical attention every time a student reports hitting their head and having a headache. It notes that Washington's Zackery Lystedt Law (Lystedt law), RCW 28A.600.190, which requires youth athletes be removed from play immediately when they are suspected of sustaining a concussion or head injury, applies only to student athletes.[11] It argues that "[t]o create Lystedt-like duties for schools, toward every student, based on the imputed knowledge that 'all concussions are potentially serious' would completely change the landscape of school liability for student head injuries."

The Lystedt law plainly applies only to student athletes. See RCW 28A.600.190. The concussion form the Andersons rely on is also directed to the parents of student athletes. The Andersons cite no District policy or legal authority

[11] The Andersons do not explicitly argue that the District had a statutory duty to seek medical care for Haley or prevent her from engaging in further activities.

that would mandate medical care for every student that bumps her head, states she has a headache, and later states she feels fine. As established above, Haley notified her parents of her injury after she spoke with Nelson. This notification fulfilled form 3431's goal of ensuring parents receive notice of their student's nonemergency injury or illness.

In addition to their District policy arguments, the Andersons contend that Haley relied on Nelson's evaluation of her, in which Nelson told Haley she did not look "'concussiony.'" The record does not reflect that Haley ever told Jodie or Dean about Nelson's evaluation or statement that Haley did not look "concussiony." Nor do the Andersons argue that Jodie or Dean relied on Nelson's evaluation or statement. The Andersons also point to Glass's testimony that "it is medically insufficient and inappropriate for a person with no medical training to attempt to identify a concussion by looking at the eyes of a student." Even so, Glass's statement does not answer whether the District had a duty based on the facts in this case to seek medical treatment for Haley on April 8 or the morning of April 9.

The Andersons also contend that the trial court created a new and unsupported duty when it explained that Nelson's duty as a chaperone was "to speak to the child, address the issue, and inform her to call her parents." What the trial court actually said is that Nelson's duty was "to speak to the child, assess the issue, and inform her to call her parents." (Emphasis added.) Either way, the record does not support their contention that the trial court created a new and unsupported duty. School districts have a duty to exercise the care that an ordinarily responsible and prudent person would exercise under the same or

similar circumstances. N.L., 186 Wn.2d at 430. No authority has been advanced to suggest that in a nonemergency situation when a child is physically in the care of the school district this duty precludes the district from notifying parents and providing them the opportunity to exercise decision-making authority. Nor has any authority been advanced to suggest that this duty is greater than the duty of the parents in similar circumstances.

The Andersons' negligence claim is premised on the allegation that Haley suffered a second impact after sustaining a concussion on April 8 and continuing to go on rides from April 9 to April 12. They do not allege that the District was negligent in allowing Haley to hit her head in the first place. We acknowledge that Haley has suffered severe and lasting symptoms that have continued to affect her life. But, there is no evidence before us indicating the District had a duty to seek medical attention for her on April 8 or the morning of April 9. Specifically, there is no expert testimony that her April 8 injury required emergency or nonemergency medical treatment that night or the next morning. Haley's parents were notified of her injury as required under form 3431, they had an opportunity to inquire of Haley, and they did so on the morning of April 9. They did not inquire further of the District, direct a medical evaluation, or instruct that Haley be held out of further activities. They do not claim that they were unable to contact the District if they had wished to do so. They do not state what more, if any, information the District should have communicated to them regarding Haley's injury. The morning of April 9, Haley told Nelson she felt fine and did not tell Nelson she still had a headache. The Andersons do not dispute these facts.

Viewing the facts in the light most favorable to the Andersons, the Andersons failed to raise a genuine dispute of material fact as to whether the District breached its duty to Haley. The trial court did not err in granting summary judgment.[12]

We affirm.

Appelwick, J.

WE CONCUR:

Brown, J.

Leach, J.

[12] The Andersons further argue that the trial court should have granted its motion for reconsideration for the same reasons it should have denied the District's motion for summary judgment. Because the court did not err in granting summary judgment, it did not err in denying reconsideration.

FILED
9/22/2020
Court of Appeals
Division I
State of Washington

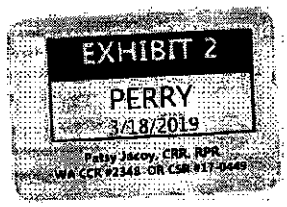
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

HALEY A. ANDERSON and DEAN and JODIE ANDERSON, husband and wife, individually and as parents of HALEY A. ANDERSON, Appellants, v. SNOHOMISH SCHOOL DISTRICT NO. 201, a municipal corporation, PETER WILSON and JANE DOE WILSON, husband and wife and their marital community, WENDY NELSON and JOHN DOE NELSON, husband and wife and their marital community, Respondents.	No. 80218-6-I (consolidated with No. 80320-7-I) ORDER DENYING MOTION FOR RECONSIDERATION

The appellants, Haley Anderson, Dean Anderson, and Jodie Anderson, filed a motion for reconsideration. A majority of the panel has considered the motion pursuant to RAP 12.4 and has determined that the motion should be denied. Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

Appelwick, J.
Judge



CURRICULUM/INSTRUCTION

Field Trips

Carefully planned, skillfully supervised and wisely interpreted field trips are valuable extensions of the classroom experience. They provide a vital opportunity for children to relate school learning to the larger community and the world in which they live.

The District recognizes these extensions of classroom experience through field trips, provided that:

1. The safety of students has primary consideration,
2. Advance approval is obtained from the principal,
3. The extension of the classroom experience is educationally sound and adequately supervised,
4. Appropriate insurance coverage is secured when necessary, and
5. Parent/guardian permission is secured for all students before they leave the school.

The Board must grant prior approval for field trips that take students out-of-state, out-of-country, or are planned to keep students away from home overnight. Overnight, in-state trips involving extra-curricular groups involved in state organization sanctioned playoffs, meetings or competitions announced with notice too short to be scheduled on the next regular Board meeting may be approved by the superintendent with notice to the Board. The Superintendent or his/her designee has the authority to approve all other field trips.

The Superintendent or designee shall develop procedures for the operation of field trips and excursions that shall provide for the safety of the students, meet the requirements of state law or regulation and protect the district from unreasonable risk.

No staff member may solicit students for privately arranged field trips or excursions; use school district facilities or equipment for planning purposes of the privately arranged field trip or excursion; or use school time to plan a privately arranged field trip or excursion.

Adoption Date: January 22, 1992

Revision Dates: January 8, 2003
August 22, 2007
October 26, 2011

CURRICULUM/INSTRUCTION

Field Trips Procedures

1. Planning/Choice of Activity – Field trips provide a valuable contribution to a child's education when they are well planned and enhance the classroom experience. Field trips are to be directly related to established curricula, be age appropriate, and provide educational benefit. Field trips solely for extrinsic rewards are discouraged and may not be approved. Trips to water and amusement parks will not be approved, even when in conjunction with another approved educational or athletic activity.

2. Field Trip Approval Request Forms and Administrative Approval – All field trips must have written administrative approval. The building administrator is responsible for reviewing all aspects of the field trip. Requests for approval of field trips (Form 2320F1) must be submitted to the administrator a minimum of 3 weeks prior to a day trip and 3 months prior to overnight/out-of-state trips (Form 2320F1a).

3. Parental Permission – Each student must turn in a Field Trip Activities Consent/Clearance Form (Form 2320F2) to participate in the field trip. Students who do not return this form will remain at school during the field trip.

4. Transportation – District vehicles are to be used for transportation. Schools must arrange all transportation through the Transportation office. Transportation requests are to be made a minimum of three weeks prior to a day trip and a minimum of three months prior to an overnight or out-of-state field trip. Students may not drive during the course of a field trip or school event. Private vehicles may not be used to transport students except under conditions described in Policy 8131.

5. Risk Management and Medical Concerns – Prior to the field trip, the following information and supplies must be gathered by the staff member in charge:

   a. Field Trip Activities Consent/Clearance Form (Form 2320F2) for each student.
   b. Cell phone.
   c. Medication for those students needing administration of medicine.
   d. First aid supplies.

   When a student emergency occurs away from school, the student will be evaluated by the staff member in charge. The staff member in charge will notify the building administrator. For additional information and details see Policy 3435P – Emergency Procedures.

6. Supervision – Chaperones must be a minimum of 21 years of age and, for overnight field trips, 25 years of age. A principal may approve younger chaperones if they are the parent/guardian of one of the students and considered a responsible adult. There must be both a male and female supervisor/chaperone if male and female students are on the overnight field trip.

For day trips, a minimum of one adult supervisor/chaperone, not including the bus driver, is required for every 10 students at the elementary level, one for every 15 students at the middle school level, and one for every 20 students at the high school level.

For trips involving air travel, a minimum of one adult supervisor/chaperone is required for every 10 students at all levels.

7. Screening Requirements – Chaperones must complete the Snohomish School District volunteer application packet, including a Washington State Patrol background check, prior to the field trip. The *Duties and Responsibilities of Adult Supervisors Form* will be provided to each chaperone by the staff member in charge. A list of chaperones will be reviewed by the building principal prior to the field trip.

   Staff member chaperones must submit travel leave requests, and receive principal approval, prior to submission of the request to the School Board. Consideration of a teacher, other than the field trip organizer, as chaperone will include the following criteria:

   a. the anticipated impact of that teacher being absent from his/her classes for the duration of the field trip
   b. the extent to which that teacher is critical to the functioning of the group or field trip

8. Student Expectations – The teacher will review behavioral expectations with the students prior to the field trip. School rules apply during field trips.

9. Day of the Trip Activities – On the day of the trip, the teacher will take roll, provide name tags for K-4 students, assign students to specific chaperones, and assure that required food, equipment, medicine, and other supplies are ready.

10. Overnight/Out-of-State Field Trips – Field trips that involve overnight stays or out-of-state travel must be approved by the School Board.

    a. Requests must be submitted to the Superintendent for School Board approval at least three months prior to the date of the trip. This includes:

       1) Travel leave requests for staff members and a list of approved chaperones who will be participating. Chaperones must travel and lodge with the group for the entire trip.
       2) Detailed budgets including costs for transportation, housing, meals, entrance or sightseeing fees, etc. Budgets should show both revenue and expenditure figures.
       3) Arrangements for student and chaperone housing. Chaperones may not be housed in rooms with students. Students must be housed with their same gender.
       4) A list of students

    b. Parents or guardians will provide the school with the following information for all overnight or out-of-state travel prior to departure:

       1) Field Trip Activities Consent/Clearance Form (Form 2320F2)

2) Out-of-State/Out-of-Country Field Trip Consent Form (Form 2320F1c), if trip is out of Washington.
3) Written proof of medical insurance (see Parent/Guardian Proof of Medical Insurance form).

c. Field trips within a 350-mile radius of Snohomish shall be considered in-state travel. This includes areas in Oregon and Canada. If there is no overnight stay, these trips do not require Board approval.

d. Field trips for high school students involved in Washington Interscholastic Activities Association sanctioned events and state-approved vocational leadership activities do not require Board approval unless they involve overnight travel. All other requirements of this policy must be met.

e. Under exceptional circumstances, trip authorization may be given by the Superintendent or designee.

Adoption Date: January 22, 1992

Revision Dates: January 8, 2003
August 22, 2007
August 12, 2009
September 14, 2012

Duties and Responsibilities of Adult Supervisors/ Chaperones Accompanying Students on Instructional Field Trips

All supervisors/chaperones must complete and pass a Washington State Patrol Background check prior to accompanying students on field trips.

1. Supervise all students assigned to you and be aware of where they are at all times. Students who leave your presence (for the rest room, drinks, etc.) should always go in pairs. Unless approved by the staff member in charge, no student is to go with another adult for any reason; this includes parents who may come to the field trip site to pick up their child early. Inform the teacher immediately of any child leaving the group with or without permission.

2. Because school rules are in effect during field trips and excursions, monitor the behavior of all students assigned to you. If you have difficulty with a student, inform the teacher or staff member in charge immediately.

3. Assist with loading and unloading of lunches and other equipment.

4. Assist with serving meals and clean-up of the area before departure.

5. Assist with supervision of entire group in case of emergency.

6. Help assure prompt medical care if anyone becomes injured or ill.

7. Make certain the students you are supervising stay on the assigned schedule and return for departure at the specified time.

8. Chaperones may not engage in drug or alcohol use at any time during the trip.

9. To assure that a chaperone's full attention is given to the students they are supervising, non-students (students' siblings, pets, etc.) may not attend.

STUDENTS

Illness/Injury

The board recognizes that schools are responsible for providing first aid or emergency treatment in case of sudden illness or injury to a student, but that further medical attention is the responsibility of the parent or guardian.

When a student is ill or injured it is the responsibility of staff to see that immediate care and attention is given the injured party until relieved by a superior, a nurse or a doctor. Word of the illness or accident should be sent to the principal's office and to the nurse. The principal or designated staff should immediately contact the parent so that the parent can arrange for care or treatment of the ill or injured.

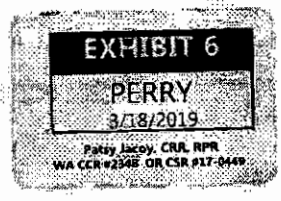
In the event that the parent or emergency contact cannot be reached and no instructions from the parent are on file and in the judgment of the principal or person in charge immediate medical attention is required, the ill or injured student may be taken directly to the hospital and treated by the physician on call. However, an injured or ill student should only be moved if a first aid provider has determined that it is safe to do so, or that it is safe to transport the student in a private vehicle. Students with head or neck injuries should only be moved or transported by emergency medical technicians. When the parent is located, he/she may then choose to continue the treatment or make other arrangements .

The district is not qualified under law to comply with directives to physicians limiting treatment and will not accept such directives.

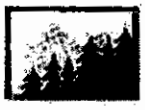
The superintendent shall establish procedures to be followed in any accident, and for providing first aid or emergency treatment to a student who is ill or injured.

Following any accident, a written report shall be completed and submitted to the superintendent.

Adoption Date: July 29, 1992
Revised: October 25, 1995



SSD - 0291



Snohomish School District #201

Concussion Form

A concussion is a brain injury and all brain injuries are serious. They are caused by a bump, blow, or jolt to the head, or by a blow to another part of the body with the force transmitted to the head. They can range from mild to severe and can disrupt the way the brain normally works. Even though most concussions are mild, **all concussions are potentially serious and may result in complications including prolonged brain damage and death if not recognized and managed properly.** In other words, even a "ding" or a bump on the head can be serious. You can't see a concussion and most sports concussions occur without loss of consciousness. Signs and symptoms of concussion may show up right after the injury or can take hours or days to fully appear. If your child reports any symptoms of concussion, or if you notice the symptoms or signs of concussion yourself, seek medical attention right away.

Symptoms may include one or more of the following:

- Headaches
- "Pressure in head"
- Nausea or vomiting
- Neck pain
- Balance problems or dizziness
- Blurred, double, or fuzzy vision
- Sensitivity to light or noise
- Feeling sluggish or slowed down
- Feeling foggy or groggy
- Drowsiness
- Change in sleep patterns
- Amnesia
- "Don't feel right"
- Fatigue or low energy
- Sadness
- Nervousness or anxiety
- Irritability
- More emotional
- Confusion
- Concentration or memory problems (forgetting game plays)
- Repeating the same question/comment

Signs observed by teammates, parents and coaches include:

- Appears dazed
- Vacant facial expression
- Confused about assignment
- Forgets plays
- Is unsure of game, score, or opponent
- Moves clumsily or displays incoordination
- Answers questions slowly
- Slurred speech
- Shows behavior or personality changes
- Can't recall events prior to hit
- Can't recall events after hit
- Seizures or convulsions
- Any change in typical behavior or personality
- Loses consciousness

SSD - 0305

What can happen if my child keeps on playing with a concussion or returns to soon?

Athletes with the signs and symptoms of concussion should be removed from play immediately. Continuing to play with the signs and symptoms of a concussion leaves the young athlete especially vulnerable to greater injury. There is an increased risk of significant damage from a concussion for a period of time after that concussion occurs, particularly if the athlete suffers another concussion before completely recovering from the first one. This can lead to prolonged recovery, or even to severe brain swelling (second impact syndrome) with devastating and even fatal consequences. It is well known that adolescent or teenage athlete will often under report symptoms of injuries. And concussions are no different. As a result, education of administrators, coaches, parents and students is the key for student-athlete's safety.

If you think your child has suffered a concussion

Any athlete even suspected of suffering a concussion should be removed from the game or practice immediately. No athlete may return to activity after an apparent head injury or concussion, regardless of how mild it seems or how quickly symptoms clear, without medical clearance. Close observation of the athlete should continue for several hours. The new "Zackery Lystedt Law" in Washington now requires the consistent and uniform implementation of long and well-established return to play concussion guidelines that have been recommended for several years:

> "a youth athlete who is suspected of sustaining a concussion or head injury in a practice or game shall be removed from competition at that time"
>
> and
>
> "...may not return to play until the athlete is evaluated by a licensed heath care provider trained in the evaluation and management of concussion and received written clearance to return to play from that health care provider".

You should also inform your child's coach if you think that your child may have a concussion Remember its better to miss one game than miss the whole season. And when in doubt, the athlete sits out.

For current and up-to-date information on concussions you can go to:

http://www.cdc.gov/ConcussionInYouthSports/

Student-athlete Name Printed	Student-athlete Signature	Date
Parent or Legal Guardian Printed	Parent or Legal Guardian Signature	Date

Adopted: October 14, 2009

SSD - 0306

RUSSELL & HILL

October 22, 2020 - 4:01 PM

Filing Petition for Review

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	Haley A. Anderson, et al., Apps. v. Snohomish School District No. 201, et al., Res. (802186)

The following documents have been uploaded:

- PRV_Petition_for_Review_20201022155924SC708075_1671.pdf
  This File Contains:
  Petition for Review
  The Original File Name was Petition for Review.pdf

A copy of the uploaded files will be sent to:

- Pam@ssslawgroup.com
- bret@ssslawgroup.com
- jill@ssslawgroup.com
- kris@russellandhill.com

Comments:

Sender Name: Brandon Batchelor - Email: brandon@russellandhill.com
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