

## **History on SKSD Interim Superintendent Brandsma**



Education Law Practice Group

September 2009

# AALRR Alert



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## District's Refusal to Allow Religious Song at Graduation Did Not Violate Students' Constitutional Rights

A school district superintendent did not violate the free speech or establishment clauses of the First Amendment by refusing to permit a student musical group to perform "Ave Maria" at a high school graduation ceremony, according to a new decision by the Ninth Circuit Court of Appeals. [*Nurre v. Whitehead* (9th Cir. Sept. 8, 2009) 2009 WL 2857196.]

### Background

Before the 2005 graduation ceremony for Henry M. Jackson High School in the Everett (Washington) School District No. 2, the school principal reviewed the titles of musical selections to be performed. He approved all of the requested selections, including "Up Above My Head," a vocal piece that included express references to God, heaven, and angels, performed by the student choir. After the ceremony, the district received complaints from attendees regarding the religiously themed musical selections, and the local newspaper printed indignant letters to the editor complaining about religious statements in the music performed for the audience.

The following year, as graduation approached, the principal again previewed the titles of the various student ensembles' musical selections for the ceremony. The Wind Ensemble selected "Ave Maria," which the principal recognized as a religious piece. Recalling the complaints from the prior year, he forwarded the list to the District's associate superintendent, Karst Brandsma, and the superintendent, Dr. Carol Whitehead, for review. Because of the religious connotations of "Ave Maria" and the prior year's controversy, they decided to ask the Wind Ensemble to select another piece. Brandsma also informed all principals in the District that musical selections for graduations should be purely secular.

Kathryn Nurre, a member of the Wind Ensemble, sued the District and Whitehead, alleging violation of her rights under the First Amendment and the Equal Protection Clause of the U.S. Constitution. The federal district court dismissed her claims, and she appealed.

### Free Speech and Establishment of Religion

The Ninth Circuit concluded Whitehead's decision to reject the Wind Ensemble's selected piece did not violate the student's right to free speech. Although even instrumental music may constitute protected speech, the district could restrict expression at the graduation ceremony based on subject matter, so long as the distinctions drawn are reasonable in light of the purpose of the event. The district was acting to avoid a repeat of the 2005 controversy by prohibiting any reference to religion at its graduation ceremonies. While the district permitted various types of religious music at *concerts*, and the court recognized the importance of religious pieces to the musical

--> "When graduation approaches, districts should carefully review the potential constitutional issues associated with speeches, invocations, and music."

arts, the graduation ceremony was a compulsory, school-sponsored function that all graduating seniors and their families were expected to attend. Therefore, the district's action in keeping all musical performances at graduation "entirely secular" was reasonable under the circumstances. Nurre also claimed the district violated the Establishment Clause by acting with hostility toward religion. The court determined the district acted with a "secular purpose" in an effort to avoid conflict with the Establishment Clause. The primary effect of the district's decision was not to advance or disapprove of religion. The district acted reasonably to avoid the conflict that arose the previous year, and any "reasonable person, informed as to the history of the District's prohibition," would understand the secular effect of its action. Finally, the decision did not create an "excessive entanglement" with religion. Accordingly, the district did not violate the Establishment Clause.

Nurre also claimed the district violated her right to equal protection because the 2006 Wind Ensemble members were treated differently from past classes who were permitted to select the music they performed at graduation. The court rejected this claim, holding the district had a "rational basis" for its decision, selecting a musical piece for graduation did not involve a "fundamental right," and the group of 2006 graduates was not an inherently "suspect classification."

### Impact on Public Schools and Colleges

The ruling in *Nurre v. Whitehead* is consistent with the Ninth Circuit's line of graduation decisions in recent years. In *Lassonde v. Pleasanton Unified School District* (9th Cir. 2003) 320 F.3d 979, and *Cole v. Oroville Union High School District* (9th Cir. 2000) 228 F.3d 1092, the court held the dangers of entangling religious speech into a convocation where the audience was essentially captive and composed of impressionable adolescents outweighed the individual's interest in presenting proselytistic speech.

In *Nurre*, the court made clear that the *performance* of "Ave Maria," had it been permitted, would not necessarily violate the Establishment Clause. The court held only that Whitehead's actions were reasonable in light of her past experience and her understanding of the law, and did not violate Nurre's constitutional rights.

When graduation approaches, districts should carefully review the potential constitutional issues associated with speeches, invocations, and music. Considering the importance of graduation as a rite of passage, its significance to the students' family members, and the singular nature of this event in the lives of students, a graduation ceremony should be viewed as a compulsory function. Accordingly, the expression of concepts and ideas by official speakers and musicians will

be construed as district-sponsored speech.

To avoid Establishment Clause violations, "proselytizing" speech or music, where audience members are exhorted to beliefs or practices involving a particular religion, should be prohibited. Unless the district anticipates an outcry, it is probably not necessary to forbid all religious music; however, such choices, if permitted, should be balanced with secular selections. In questionable situations, legal counsel should be consulted well in advance.

**FILED**

MAR 18 2009

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH**

EVERETT EDUCATION ASSOCIATION,

Plaintiff,

vs.

EVERETT SCHOOL DISTRICT NO. 2,

Defendant.

Case No.:

09-2-03702 5

**COMPLAINT FOR DECLARATORY  
JUDGMENT, INJUNCTIVE RELIEF AND  
RELEASE OF PUBLIC RECORDS  
PURSUANT TO RCW 42.17**

**I. NATURE OF ACTION**

**1.1** This action arises under Washington's Public Records Act whereby the Everett Education Association seeks the release of public records held by the Everett School District, and for such other relief as set forth herein.

**1.2** The Association, in May of 2008, submitted a request for public records from the Everett School District. The District delayed in producing records over the course of four months. Certain records, such as attorney billing statements, were produced with significant redactions. Notwithstanding the fact that the District had the attorney billing records in its possession when the records request was made by the Association, it was not until the end of

COMPLAINT - 1

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COPY

1 August, 2008 that all of the billing statements were provided to the Association – and then, as  
2 noted, with heavy redactions. Other records responsive to the Association’s public records  
3 request have been entirely withheld, and it was not until early September, 2008 that the District  
4 produced a list of the documents being withheld. The District’s response to the Association’s  
5 public records request has frustrated the strong public policy behind Washington’s Public  
6 Records Act, was in bad faith, and is in violation of the Public Records Act.

## 7 II. PARTIES

8 2.1 The plaintiff, Everett Education Association, (hereinafter “the Association”), is  
9 the exclusive bargaining agent for all certificated classroom employees of the Everett School  
10 District, No. 2.

11 2.2 The defendant, Everett School District, No. 2, (hereinafter “the District”) is a  
12 public school district located in Snohomish County, Washington, and a municipal corporation  
13 organized under the laws of the State of Washington.

## 14 III. VENUE AND JURISDICTION

15 3.1 This court has jurisdiction over the parties and the subject matter of this action  
16 pursuant to Washington’s Public Records Act, and specifically, RCW 42.56.550. All acts  
17 complained of occurred in Snohomish County, Washington. The District’s principal place of  
18 business is in Snohomish County, Washington, and the records sought by the Association are  
19 maintained in Snohomish County.

## 20 IV. STATEMENT OF THE FACTS

21 4.1 As of May, 2007, the District was engaged in litigation in federal district court in  
22 the matter of *Clair Marie Lueneburg et. al. v. Everett School District No.2*, Cause No. CV-05-  
23 2070, U.S. District Court, Western District Of Washington. This litigation was commonly  
24 COMPLAINT - 2

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1 referenced as the "Kodak" case as it involved the student newspaper at Everett High School by  
2 that name.

3       4.2     On May 10, 2007, there was a meeting involving the District's attorney, Valerie  
4 Hughes of Perkins Coie, PLLC and certain District representatives, including Dr. Carol  
5 Whitehead (then Superintendent), Karst Brandsma (then-Deputy Superintendent), and Dr. Molly  
6 Ringo (then-Director of Human Relations) – the meeting was to discuss "developments, strategy,  
7 and evidence" regarding the Cascade High School newspaper, the *Free Stehikan*. That meeting  
8 immediately pre-dated the installation of surveillance equipment in Kay Power's classroom, who  
9 was then the advisor to the *Free Stehikan*.

10       4.3     Incident to the *Kodak* litigation, the District filed a motion seeking summary  
11 judgment. The *Kodak* plaintiffs, in responding to the District's motion for summary judgment,  
12 submitted the declaration of Kay Powers, a long-time teacher of the Everett School District. The  
13 declaration of Kay Powers, along with other responsive materials were filed with the court and  
14 provided to the District's counsel on May 16, 2007. Kay Powers was a teacher at one of the  
15 District's several high schools; specifically, Cascade High School.

16       4.4     On or about May 21, 2007, the Everett School District engaged the services of an  
17 outside private investigator to investigate Ms. Powers.

18       4.5     The investigator did not conduct any apparent investigation from May 21, 2007 to  
19 June 1, 2007.

20       4.6     Also in mid- to late May, 2007, a math teacher Cascade High School who taught a  
21 class in Ms. Powers' classroom during the Spring semester of 2007 noticed an odd and  
22 unidentified object on the ceiling of Ms. Powers' classroom. The specific nature and purpose of

1 the device was not known to the teacher, but the device had not previously been in the  
2 classroom, and the device was drawn to his attention by students in his class.

3 4.7 On June 1, 2007, the Everett School District removed Ms. Powers from the  
4 classroom, and placed her on administrative leave pending an investigation.

5 4.8 On June 8, 2007, a second teacher at Cascade High School, (independent of the  
6 teacher previously referenced), noticed the same device in Ms. Powers' classroom. On June 9,  
7 2007, this teacher showed the suspicious device to a third teacher also employed at Cascade High  
8 School. Upon examination of the device a camera or lens appearing object could be viewed  
9 inside the device. Both teachers were standing in close proximity to the device. These teachers  
10 were not aware of the specific nature and purpose of the device at this time.

11 4.9 On June 11, 2007, the two teachers referenced above brought a building  
12 representative for the Association to Kay Powers' classroom to show the device to him.  
13 However, the device had been removed. Thereafter, a drawing of the device was made by one of  
14 the teachers.

15 4.10 The Everett School District subsequently attempted, in early November, 2007 to  
16 discharge Ms. Powers. The District's *Notice of Probable Cause* was appealed pursuant to RCW  
17 28A.405. The hearing in that case was scheduled to commence April 16, 2008.

18 4.11 During the course of the litigation between Ms. Powers and Everett School  
19 District, the District denied the existence of any surveillance devices in Ms. Powers' classroom.  
20 The District's answers and responses to written discovery requests made by her attorneys are  
21 attached, marked **Exhibits A and B**. The District's investigator also denied any knowledge of  
22 surveillance equipment in Ms. Powers' classroom during the investigator's deposition taken on  
23 March 28, 2008.

24 COMPLAINT - 4

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1           **4.12** In early April, 2008 a drawing created by one of the teachers who had seen the  
2 suspicious device in Ms. Powers' classroom was shown to an expert with a background in  
3 security and surveillance matters. The expert identified the device as a passive infrared motion  
4 sensor commonly used to house video surveillance equipment. The device also had the  
5 capability of housing audio-surveillance equipment.

6           **4.13** After the device seen in Ms. Powers' classroom was identified by the expert as a  
7 passive infrared motion sensor commonly used to house video surveillance equipment, it then  
8 became known that an identical device had been seen in another classroom at Cascade High  
9 School which was used in the Fall of 2007 for a meeting held by the Everett Education  
10 Association with its membership.

11           **4.14** Also after the device seen in Ms. Powers' classroom was identified by the expert  
12 as a passive infrared motion sensor commonly used to house video surveillance equipment, a  
13 fourth teacher was identified who recalled seeing the device in Ms. Powers' classroom in June,  
14 2007. That teacher had been a substitute teacher in Ms. Powers' classroom in May and June of  
15 2007.

16           **4.15** The information obtained by Ms. Powers' counsel regarding the surveillance  
17 equipment was initially communicated to counsel for the Everett School District on April 8,  
18 2008 by way of a telephone conference, and thereafter confirmed with a letter from Ms. Powers'  
19 counsel, the same is attached, marked **Exhibit C**.

20           **4.16** On April 11, 2008 the litigation involving Ms. Powers and the Everett School  
21 District was settled with the District agreeing, among other terms, to withdraw the *Notice Of*  
22 *Probable Cause For Discharge* and returning Ms. Powers a teaching assignment; the *Settlement*  
23 *Agreement* is attached, marked **Exhibit D**.



1           **4.17** The Everett School District failed to offer any explanation for the surveillance  
2 device identified as having been placed in Ms. Powers' classroom during negotiations that led  
3 to settlement of her case, nor for many weeks thereafter. A copy of an article appearing in the  
4 *Herald* newspaper is attached, marked **Exhibit E**.

5           **4.18** On May 23, 2008, the District's Superintendent issued a memo, attached as  
6 **Exhibit F**, confirming the existence of surveillance equipment in Kay Powers' classroom. The  
7 District claimed that the videotapes from the surveillance of Ms. Powers' classroom were lost.  
8 The memo alleges that Deputy Superintendent Karst Brandsma authorized the installation of the  
9 surveillance equipment in Kay Powers' classroom; yet at a meeting of the Board of Directors of  
10 the Everett School District shortly following the issuance of this memo, the Superintendent  
11 admitted that she had approved the installation of the surveillance equipment. **Exhibit G**. The  
12 District claimed the videotapes obtained from the surveillance of Ms. Powers' classroom were  
13 lost.

14           **4.19** The District's covert surveillance activities were engaged in for the purpose of  
15 gathering information regarding an Association member without notifying the Association and to  
16 skirt and avoid the District's contractual obligations to notify the Association of investigations of  
17 members and such activities further worked to deny Association members of their right to union  
18 representation.

19           **4.20** On June 2, 2008, the Association caused to be filed with the Public Employment  
20 Relations Commission a complaint alleging the commission of unfair labor practices by the  
21 District, under cause number 21755-U-08-5550. The Association and the District later entered  
22 into a settlement agreement to resolve that matter; a copy of which is attached hereto, marked  
23 **Exhibit H**.

24 **COMPLAINT - 6**

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1           **4.21** On May 1, 2008 the Association made a request for public records held by the  
2 Everett School District; that request, made pursuant to Washington's Public Records Act is  
3 attached, marked **Exhibit I**.

4           **4.22** Over the course of several months, the District responded to the public records  
5 requests by producing certain records in installments. The records produced by the District  
6 included heavily redacted billing records for the law firm of Perkins Coie, PLLC – a law firm  
7 that provides services to the District. The billing records are attached, marked **Exhibits J-1**  
8 **through J-19**. These records, covering a time span of approximately nineteen months, were  
9 redacted by the District prior to being produced in response to the Association's public records  
10 request. The District's redactions, in whole or in part, are contrary to, and in violation of,  
11 Washington's Public Records Act.

12           **4.23** The final installment of records, concluding the District's response to the  
13 Association's public records request, was provided to the Association on September 2, 2008; see  
14 **Exhibit K**. The final production of documents by the District also included a 38-page "Log of  
15 Exempt Documents" purporting to identify records that were responsive to the Association  
16 records request, but were not produced by the District. The Association alleges, upon  
17 information and belief, that certain of the documents identified in the "Log of Exempt  
18 Documents" are subject to disclosure under Washington's Public Records Act, and have been  
19 withheld by the District in violation thereof. The records at issue are highlighted on **Exhibit K**.

#### 20                   **IV. PUBLIC RECORDS ACT VIOLATION, RCW 42.56**

21           **5.1** The Association re-alleges the allegations set forth in Paragraphs 1.1 through 4.23  
22 herein.

1           5.2     The Association's public records request of sought the disclosure of public  
2 records, as defined under RCW 42.56.010 and RCW 42.17.020, and maintained by the District.

3           5.3     The District's redactions to the records attached under Exhibit J are contrary to,  
4 and in violation of, the Public Records Act. The District further violated the Public Records Act  
5 by failing to make available for inspection and copying those records noted on Exhibit K.

6                               **VI.     DECLARATORY JUDGMENT**

7           6.1     The Association re-alleges the allegations set forth in paragraphs 1.1 through  
8 4.23.

9           6.2     Under RCW 7.24, the Association moves the court for declaratory judgment  
10 holding: (a) the District's redactions to the records attached under Exhibit J were contrary to,  
11 and in violation of, Washington's Public Records Act; (b) the District further violated the Public  
12 Records Act by failing to make available for inspection and copying those records noted on  
13 Exhibit K; and (c) the Association is entitled to receive unredacted copies of the public records  
14 referenced under Exhibit J and to receive copies of the records noted under Exhibit K.

15  
16                               **VII.    INJUNCTIVE RELIEF / TEMPORARY RESTRAINING ORDER**

17           7.1     The Association re-alleges the allegations set forth in paragraphs 1.1 through  
18 4.23.

19           7.2     Pursuant to RCW 7.40 *et. seq.* and Civil Rule 65, the Association is entitled to  
20 injunctive relief and/or a temporary restraining order prohibiting the District from destroying,  
21 secreting, altering or otherwise disposing of, any public records sought by the Association in its  
22 records request during the pendency of this litigation.

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## RELIEF REQUESTED

WHEREFORE, the Association prays for a judgment and such other relief, as follows:

1. An *Order* enjoining and restraining the District from destroying, secreting, altering or otherwise disposing of, any public records sought by the Association during the pendency of this litigation.
2. An *Order* finding the District violated Washington Public Records Act by failing to appropriately produce for copying and inspection records sought by the Association.
3. An *Order* finding the District violated Washington's Public Records Act by redacting information from public records, which information is not exempt from disclosure under Public Records Act.
4. An *Order* directing the District to cease and desist from further engaging in the acts as described herein.
5. An *Order* requiring the District to immediately produce for copying and inspection the records attached under Exhibits J and those records noted in Exhibit K, with no redactions thereto, or in the alternative, with only those redactions the Court adjudges to be appropriate under Washington's Public Records Act after conducting an *in camera* review of the same.
6. An *Order* requiring the District to pay the Association's reasonable attorney's fees and costs pursuant to RCW 42.56.550.
7. An *Order* imposing a \$100 per day monetary penalty for each public record, or portion thereof, withheld by the District in violation of Washington's Public Records Act.
8. An *Order* prohibiting the District from retaliating against any member of the Association or Association representative/agent for confirming and/or bringing these charges.
9. An *Order* requiring the District to provide a copy of the Court's decision and order in this matter to each building principal and assistance principal at each of the District's schools.
10. An *Order* requiring the District to post a copy of the Court's decision and order in this matter at each of the District's schools in each faculty room and at the central administrative office for each school.
11. Such other and further relief as the Court may deem appropriate and just.

1 DATED this 17 day of March, 2009.

2 **COGDILL NICHOLS REIN WARTELLE ANDREWS**

3 

4 W. Mitchell Cogdill, WSBA #1950

5 Douglas M. Wartelle, WSBA #25267

6 Attorneys For The Everett Education Association

The Herald - Everett, Wash. - [www.HeraldNet.com](http://www.HeraldNet.com)  
Published: Saturday, May 24, 2008

## Cascade High School Teacher was Secretly Taped

### Everett Schools Set Up Camera for Spying

**By Eric Stevick, Herald Writer**

EVERETT -- A hidden camera secretly taped the classroom of a controversial Cascade High School teacher to find out if she was helping students work on an underground newspaper, Everett School District officials acknowledged Friday.

The video has since disappeared. And administrators have created rules for any future surveillance deemed necessary in the 18,000-student public school district.

The admission by Superintendent Carol Whitehead proves that the teachers union was right last month when it accused the district of spying on Kay Powers before she was fired. At the time, a lawyer for the school district denied the allegation.

On Friday, Whitehead told the district's 2,500 employees in a two-page letter that Deputy Superintendent Karst Brandsma authorized the taping.

"I was not aware that there was any video," she said in an interview. There was no audio taken by the camera, she added. To do so without prior consent from those being spied upon is illegal in Washington.

Whitehead did not say whether any taxpayer money went to pay for the surveillance company that set up and monitored the camera.

After the teachers union made its allegations public in April, Whitehead hired another lawyer to determine if her district did in fact spy on Powers.

Whitehead said she wanted an "independent investigator" who could question district leaders.

That report, by Seattle lawyer Mike Patterson, concluded that a video camera was installed in the classroom between May 10 and June 11 of last year. It was unclear Friday how much the district spent to employ Patterson.

"Deputy Superintendent Brandsma authorized video monitoring from the hallway looking at the door to Kay Powers' classroom to determine if students were frequenting her classroom late at night or on weekends in violation of school policies and the district directives to Kay Powers," the report said.

Powers and her students were banned from using district equipment to publish an alternative newspaper. Powers' firing followed the district's discovery that a student had used a classroom computer to copy files from an e-mail account to his personal laptop for use in an alternative student newspaper.

It was unclear whether Brandsma would be disciplined; he could not be reached for comment on Friday.

The hidden camera was supposed to be in the hallway outside of the classroom, but the company hired to install it placed it on the ceiling inside Powers' room, according to the report. The camera was directed at the classroom door, the report said.

A video showing individuals from the waist up coming and going from the classroom was delivered to Brandsma. But now the video's "current whereabouts are unknown," the report said.

Patterson also concluded that there is "no evidence that any audio recordings were made."

Whitehead said she never saw the video recording and it played no role in her decision to fire Powers.

"My determination to terminate the employment was not retaliation. It was not an attempt to interfere with her free speech rights, and it was not based on any information seen or heard from any form of video or audio surveillance," she said.

Union leaders said they are glad the district now admits the camera was used.

"It does prove what we have been saying all along, that the district ... had practiced surveillance," said Kim Mead, president of the Everett Education Association. "I just find it so disappointing that they believe it is OK to treat employees in this manner."

Several Cascade High teachers told union leaders they saw a mysterious object on the ceiling of Powers' classroom last year. The union accused administrators of spying on the teacher before she was fired in November. They planned to make that argument in a hearing to get her job back.

Powers could not be reached for comment Friday.

Attorneys for Powers also were ready to argue that the district was retaliating against her for supporting Everett High School students in a federal court case involving The Kodak student newspaper.

The district earlier this year settled The Kodak lawsuit, which was filed in 2005 after a dispute over whether the school principal could review each issue before publication.

On April 11, just days before the case was going to a public hearing, the school district and Powers settled, giving her a new teaching assignment at Henry M. Jackson High School in Mill Creek. As part of the settlement, Powers, 65, agreed she would resign at the end of the 2008-09 school year.

Meanwhile, the district administration earlier this month wrote a one-page paper outlining the process for installing and using video camera equipment on school property.

It requires requests be made in writing and that they outline why the equipment is needed, how long it will be used and the name, title and signature of who makes the request.

It states that video surveillance can be used throughout the public school district "if it becomes necessary for the safety of students, staff or property."

Requests must be reviewed by Whitehead, whose approval must be seconded by another district administrator. The process does not address how or whether the school board, the elected representatives who oversee the district, would be advised of any need for surveillance.

The administrative procedure allows for installation of video equipment in areas "where there is not a reasonable expectation of privacy," such as parking lots, entrances, hallways, front offices, gyms, cafeterias and libraries "and other public, shared or common spaces."

It does not mention classrooms.

The use of audio equipment would follow state law, and therefore not be allowed without individuals' prior consent.

Doug Wartelle, an Everett attorney who represents the teachers union, said he believes the camera installation in Powers' classroom and the new surveillance procedure constitute unfair labor practices.

"The district was obligated to notify the association and bargain that issue before it engaged in that illicit activity," he said.

Whitehead said the district is on firm legal ground.

"I don't believe the district has violated any laws," she said.

The surveillance issue was at the root of an April 23 death threat against her, Whitehead said, adding that she could not discuss details of the threat because it is part of a police investigation. She said it was a written and "calculated death threat that took a couple of days" to arrive.

Everett police continue to investigate, Everett police Sgt. Robert Goetz said. Anonymous threats can be difficult to track down, he said.

After Whitehead received the threat, district officials hired off-duty Everett police officers to patrol the administration office during business hours.

*Reporter Diana Hefley contributed to this story.*

*Reporter Eric Stevick: 425-339-3446 or e-mail [stevick@heraldnet.com](mailto:stevick@heraldnet.com).*

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## Local News

## Fellow educators angry over teacher's dismissal



Originally published November 21, 2007 at 12:00 am

**Colleagues of fired Cascade High School teacher Kay Powers reacted with anger to her dismissal last week, saying the Everett School District...**



By [Lynn Thompson](#) 

*Seattle Times staff reporter*


Colleagues of fired Cascade High School teacher Kay Powers reacted with anger to her dismissal last week, saying the Everett School District had created a climate of fear and intimidation among staff.

Teachers who worked with the former journalism and English teacher said Powers, 65, was a dedicated educator whose punishment doesn't fit the charges against her.

"She was the kind of teacher who changed kids' lives," said fellow English teacher Steve Garmanian. "When word got out that she'd been fired, it was such a shock. It didn't seem at all proportional. None of the charges against her have anything to do with her teaching."

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## 5 Kim Schrier leads Dino Rossi in 8th Congressional District VIEW

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Superintendent Carol Whitehead notified Powers on Nov. 2 that she had been terminated after a five-month investigation. Whitehead said Powers had helped students publish an underground newspaper and magazine on school time and with school resources in express violation of directives not to do so.

Whitehead also said Powers knowingly permitted students to work on the publications at school, allowed them to skip classes and gave rides to students without permission of their parents.

The superintendent said Powers continued to communicate with students and other teachers after she was placed on administrative leave in June, another violation of district orders.

“Each of these reasons, individually and collectively, constitutes cause for termination of your employment. Your conduct constitutes a material breach of your duties and obligations as a teacher and has no positive educational aspect or legitimate professional purpose,” Whitehead wrote.

Through September, the district had spent \$14,000 investigating the case, said spokeswoman Mary Waggoner. Whitehead couldn't be reached for comment.

Powers, who has taught 22 years at Cascade, said she plans to appeal the termination and has requested an open hearing. Powers and the district have to agree on a hearing examiner.

“I'm confident that I didn't do anything wrong,” she said. “I was supposed to teach journalism and creative writing, and that's what I was doing.”

Kari Averill, a 20-year history teacher at Cascade, called Powers' firing “appalling.” She said Powers was a respected and successful teacher who “goes the extra mile

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“If a teacher as experienced and respected as Kay can be fired, who’s next?” she asked.

Other teachers said the district created the need for underground publications by insisting that all student newspapers and magazines be submitted to administrators for prior approval.

Two editors of the Everett High School newspaper, Kodak, sued the district in 2005, saying the student publications had never been subject to prior review and that the policy violated their First Amendment rights.

A federal judge in July upheld the school-district policy, which was adopted in 1998. The Kodak editors published an off-campus, protest paper while the legal case was pending. The Cascade students also began publishing the Free Stehekin and the school literary magazine, Tyro, off campus to avoid administrative review.

One of Powers’ students, David Whittemore, was suspended for 10 days in June for downloading school newspaper files from a school computer onto a personal laptop, in violation of the district’s ban on using school equipment for the underground papers. Everett administrators said Powers was in the classroom at the time.

The district initially said Whittemore couldn’t return for his senior year at Cascade but reversed that decision in August.

Other districts in the county leave decisions about the content of student publications up to the students and their advisers. The Edmonds School District’s policy, for example, says student publications enjoy broad discretion about content, but that material may not be illegal or disrupt the learning environment.

Garmanian, the English teacher, said Powers wanted to continue the student publications and defend the First Amendment at the same time she tried to follow the district’s restrictions.

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principal of a new high school in Snohomish, said the school district's actions raise questions about the type of educational environment it wants to promote.

"It's all about trust. Do you trust your students to do the right thing? Do you trust your adviser to do the right thing and give you a heads-up if something negative is coming? And is this process building an environment of trust?"

*Lynn Thompson: 425-745-7807 or [lthompson@seattletimes.com](mailto:lthompson@seattletimes.com)*

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## SATURDAY

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- Burn ban orders will have new teeth
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- Ways to give: Charities hit hard from both sides
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## LOCAL NEWS



Published: Sunday, August 3, 2008

## School spy cam probe veiled in secrecy

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## Independence of Everett district's investigation questioned

By *Scott North* and *Eric Stevick*, Herald Writers

The Everett School District hoped hiring somebody to conduct an independent investigation of its 2007 use of a hidden surveillance camera in a teacher's classroom would put controversy to rest.

Instead, the probe has triggered questions of its own, including about the independence of the investigator, who also is an attorney who has represented the district in closely related legal matters.

A lack of records about the investigation has made it almost impossible to verify Seattle attorney Michael Patterson's work, let alone determine the accuracy of what the school district said he discovered.

Patterson submitted no written report. More than two months later, he has not billed the district for his work. He also did not respond to repeated requests for an interview.

A request by The Herald that the school district provide all public records regarding Patterson's investigation mostly turned up evidence that school officials, including Everett Superintendent Carol Whitehead, have taken pains to limit the creation of a paper trail.

The district has released almost nothing in writing about who knew what, and when, regarding the May 2007 decision to hide a surveillance camera in the Cascade High School classroom of English and journalism instructor Kay Powers. On Friday, the district said it could not say when Patterson was hired for the investigation.

Most of the records the district has handed over are e-mail messages and memos from Whitehead complaining about news reports. The Herald's stories were inaccurate or ignored key information about the district's "sincere efforts to present the facts," she wrote.

According to the school officials, no notes, no interview summaries and no memos were developed to answer the lawyer's questions about who authorized surveillance of Powers' classroom.

The only document the school district has released detailing Patterson's findings is a May 23 memo drafted by Whitehead. The memo was the first public acknowledgment that surveillance occurred in Powers' classroom, something the district had previously denied. Whitehead's memo also says no laws were broken.

Patterson was hired to question district administrators, including Whitehead, her memo says. It doesn't say, as Whitehead later acknowledged in a statement to the school board, that she conferred with her staff about the camera before it was installed.

Whitehead's summary of Patterson's investigation is four paragraphs totalling about 160 words.

## The private meeting

No more-detailed report exists because the attorney delivered his findings in a closed-door talk May 21 attended only by Whitehead and the school board, Everett schools spokeswoman Mary Waggoner said. The meeting with Patterson lasted about 90 minutes, according to school district records.

Under state law, school boards must conduct their business in public meetings. Exemptions are allowed, however. The school board determined it could talk about the surveillance controversy in executive session with Patterson because it was reviewing the performance of public employees and discussing "with legal counsel representing the agency potential litigation where public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency," records show.

## ADDITIONAL ITEMS

- [Whitehead's message to staff](#) ( PDF)
- [School board memo to staff](#) ( PDF)
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The investigator

In e-mails and other documents, Whitehead has offered conflicting descriptions of who ordered Patterson's investigation -- she herself or the school board. No record exists the board voted to authorize the investigation, something that would have had to occur in public.

Waggoner on Thursday offered this version of what happened:

"Dr. Whitehead advised the board that she believed it was necessary to conduct an investigation and that she would share the results with them. The board was not asked for their approval, and took no vote; they were simply advised. No vote was taken. No approval was sought or given."

Waggoner said she couldn't find a record that says when Patterson was hired. She said he was tapped for a number of reasons, including his experience with schools and investigations and because the district is "familiar with his work and confident in his abilities" as an attorney for an insurance pool the district uses to save money in liability insurance and legal fees.

"Mr. Patterson was asked to conduct the investigation and report to the superintendent and the board," Waggoner said. "He determined that he wished to make an oral report, which he did. Dr. Whitehead was present at the executive session when he made his report. After the meeting, she wrote down what he reported and confirmed with Mr. Patterson that she had accurately captured the contents of his oral report."

Mitch Cogdill, an Everett teachers union attorney who represented Powers, said a lack of notes or written report is an indicator Patterson was protecting attorney-client privilege rather than acting as an independent investigator. He said "there appears to be by the district a blurring of the difference" between lawyer and fact-finder.

Patterson "has been such a strong advocate and attorney for the district in the past," Cogdill said. "Clearly, if the district wanted what one would call a transparent investigation, they would seek someone totally independent who does not have the district interests in mind, someone who would go into it with a new set of eyes."

By choosing this path, the district didn't "run the risk of getting an embarrassing report, especially if it was in writing," Cogdill said.

Patterson and the school district have long worked closely together. He's provided training to some of the district's 1,700-employee staff on workplace legal issues and represented the district in federal lawsuits involving First Amendment issues.

One of Patterson's cases focused on defending the district's controversial decision to disallow an instrumental version of "Ave Maria" during a high school graduation. The other focused on the district's insistence that school administrators have authority to review student newspapers prior to publication.

The dispute over student newspapers first was kindled in the newsroom of The Kodak at Everett High School. By 2007, it spread to Cascade, where teacher Powers wound up being monitored. Despite direct orders from Whitehead, Powers aided students in producing an "underground" newspaper using school equipment.

On Nov. 20, less than five months before he was hired to examine the district's use of the camera in Powers' classroom, Whitehead wrote a letter commending Patterson's legal work on behalf of the Everett district. The letter was to the director of claims for the Washington Schools Risk Management Pool, which hires law firms to represent school districts that are being sued.

"That happens frequently in the business world, and if there were a letter of recommendation, that simply indicates the level of respect and professionalism we felt Mr. Patterson would bring to this task," Waggoner said. "Would you hire someone you were not comfortable writing a recommendation for?"

The surveillance camera

The camera controversy emerged after the school district investigation into Powers' activities. The district fired Powers after evidence showed she not only ignored Whitehead's orders barring use of district equipment on the student paper, but also allowed a student editor to skip his other classes and opened her classroom to the boy in the evenings and on weekends. The student fell behind in school and was at risk of not graduating, district records show.

According to Whitehead's account of Patterson's investigation, the school district hired a security company to quietly install a surveillance camera in Powers' classroom from May 10 to June 11, 2007. On May 16, Powers filed a statement in the Kodak lawsuit supporting student journalists.

After the district placed Powers on leave, teachers at Cascade wrote the school board, arguing there were more pressing issues than control over student publications. The teachers also were concerned about a device spotted in the ceiling of Powers' classroom and feared there was some form of surveillance.

District officials repeatedly denied any surveillance occurred. In legal documents connected to Powers' attempts to reclaim her job, the district insisted that questions about surveillance were off base because they assumed "that surveillance equipment was installed in appellant's classroom when it was not."

"The district states that there was no surveillance equipment installed in (Powers') classroom," wrote Valerie Hughes, a Seattle attorney who represents the district in myriad legal matters and was co-counsel on the Kodak case with Patterson.

It wasn't until April that questions about surveillance at Cascade became a news story. The Herald wrote about the teachers' concerns after Powers negotiated a settlement with the district allowing her to return to work until the end of the 2008-2009 school year. Although Whitehead and others insisted the district settled because it was financially prudent, Powers' lawyers suggested district officials didn't want to testify under oath about classroom surveillance. An expert witness was convinced it occurred.

In her May 23 letter about Patterson's investigation, Whitehead said the surveillance was authorized by Karst Brandsma, deputy superintendent, and was justified because of Powers' alleged misconduct and concern for student safety.

On May 27 Whitehead announced at a school board meeting that there was more to the story. She had discussed surveillance with Brandsma before the camera was installed. It was authorized for the hallway near Powers' classroom to detect who was entering and leaving on nights and weekends, she said.

Patterson reportedly determined the company who installed the camera suggested that it be placed inside Powers' classroom and directed toward the door.

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The admissions about the camera came as the school district was poised to comply with a public records request from The Herald, seeking surveillance billing statements. The documents, released to the newspaper a few days later, confirmed close to \$2,000 was spent to have Sonitrol Pacific temporarily install the camera at Cascade.

Joe Bullis, vice president of operations and general manager for Sonitrol, confirmed he was interviewed by Patterson. He said his company advised school officials to locate the camera in the classroom ceiling, pointing at the door.

"I can tell you categorically there was no audio involved," Bullis said. Making secret audio recordings without a court's permission is forbidden under state law, even for the police.

Whitehead's summary of Patterson's report said the video recordings from Powers' classroom "were not used for any purpose, and their current whereabouts is unknown."

#### The death threat

Whitehead last month announced that she will retire Sept. 1, months earlier than she'd planned. One reason she cited was her family's concern over a death threat she said arrived in the school's mail on April 23. That was the day after The Herald first reported questions about surveillance in Powers' classroom.

Many people assumed the threat and the surveillance controversy were connected.

In a report she filed with Everett police, Whitehead pointed to an angry parent as a potential suspect, although she was quick to add "I do not know if there is any relevance to this issue."

The district was required to provide the newspaper with a copy of Whitehead's police statement under public records laws. The district initially said that no copies of the reported death threat letter, or its contents, were made. Later, the newspaper was supplied with an undated "note to file." In it, a Whitehead administrative assistant acknowledged typing a "verbatim note" that memorialized the contents of the threat letter.

"This note was shredded later that same day," she wrote. "We did not want to keep any copies of the death threat in our files."

Waggoner said the record was destroyed "in response to the police department's concern that all specifics about the threat remain secure elements of its investigation."

"We did ask them to keep the investigation confidential," Everett police Sgt. Robert Goetz said.

"None of the investigators recall at all telling them to not keep copies of anything that they had, or to destroy anything," he added.

Reporter Eric Stevick: 425-339-3446 or [stevick@heraldnet.com](mailto:stevick@heraldnet.com).

#### On the Web

Everett Schools Superintendent Carol Whitehead's e-mails and other records describing surveillance of a Cascade High School classroom appear with this story online at [heraldnet.com](http://heraldnet.com).

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# Camera in Everett classroom sparks call for hearing

By Eric Stevick Herald Writer

Tuesday, May 27, 2008 11:07pm | [LOCAL NEWS](#) [CASCADE HIGH SCHOOL](#) [LOCAL NEWS](#)

EVERETT — Teachers are furious over the secret taping by the Everett School District last year of a Cascade High School teacher and her classroom, a union president said Tuesday.

The Everett Education Association plans to file a claim that the district violated labor practices and employees' rights when it used a surveillance camera to tape English and journalism teacher Kay Powers.

The recordings are now missing.

"As it was put to me, an extremely bad comedy," said Kim Mead, president of the 1,200-member union.

The union will ask a state commission to hold an open hearing to learn more about how the district used the video camera to monitor Powers' classroom.

District Superintendent Carol Whitehead revealed Friday in a two-page letter to district employees that the district used a video camera to record Powers' classroom between May 10 and June 11 last year. A district lawyer just last month denied a surveillance camera was used.

Whitehead said in an interview Friday that she was not aware of any videotaping.

At a school board meeting Tuesday evening, Whitehead read a statement explaining the decision to install the surveillance camera.

"After consulting with me, Deputy Superintendent Karst Brandsma authorized the video," she said.

It was done to determine who was entering and leaving the classroom on weekends, she said, adding that it is the 18,500-student district's "paramount duty to protect students," Whitehead said.



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“I don’t believe we have violated any laws,” she said.

Board members did not comment on Whitehead’s statement at the meeting and declined comment afterward.

Brandsma will not face disciplinary action, district officials said Tuesday.

“We have no reason to believe discipline of any administrator is appropriate,” district spokeswoman Mary Waggoner said.

Powers was placed on leave in June and fired in November for helping students publish an underground newspaper despite a warning not to do so. She was reinstated in April to a teaching post at Henry M. Jackson High School after reaching a settlement with the district.

In her letter to staff, Whitehead outlined several reasons for firing Powers, saying the teacher spent hours alone with a student producing an underground newspaper, violating curfew and district driving rules.

Powers misused school computers, equipment and software and allowed a student to skip classes to work on nonschool projects, Whitehead wrote. Powers and the students knew their “own behaviors were hush, hush,” she said.

Mitch Cogdill, a lawyer for the teachers union, said that had the case gone to hearing, the district would not have been able to prove those allegations.

“If all this is true, why did she hire (Powers) back?” Cogdill asked. “Isn’t she being negligent in doing so if it’s true?”

Teachers union leaders voted Tuesday to file the unfair labor practices complaint with the Public Employees Relations Commission in Olympia.

District officials said they had no comment Tuesday about the union’s move.

“Discussions of what is and is not a matter for the bargaining table will take place at the table, in good faith, with our employee groups,” Waggoner said.



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School officials defended the practice of using video cameras, which are commonly used in hallways and parking lots.

“Video cameras are used as needed to ensure the safety of students, staff or public policy,” Waggoner said. “The public expects that when we have information causing us to believe that students are being harmed or that adults or property are in danger, we will investigate and take protective measures. Video cameras are throughout the district, including as you walk through the front door of this office.”

The district has not released yet how much it paid the vendor in taxpayer money for installing the camera in Powers’ classroom. The district did decide it needed to change the way it conducts video surveillance.

Earlier this month, the district administration wrote a one-page paper outlining the process for installing and using video camera equipment on school property.

It requires requests be made in writing and that they outline why the equipment is needed, how long it will be used and the name, title and signature of who makes the request.

The administrative procedure allows for installation of video equipment in areas “where there is not a reasonable expectation of privacy.” Areas they will be used in include parking lots, entrances, hallways, front offices, gyms, cafeterias and libraries “and other public, shared or common spaces.”

The policy does not mention classrooms.

After the union last month accused the district of secretly taping Powers, Whitehead hired a Seattle lawyer to independently investigate what the district did.

Mike Patterson, the investigator, said he found “no evidence that any audio recordings were made of Kay Powers,” according to Whitehead’s letter. It’s illegal in Washington to make an audio recording of an individual without prior consent. The district has not yet received his bill.

The fact that there is no tape available raises concerns, Cogdill said.

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“They did not say there was no audio recording,” Cogdill said. “They said there was no evidence of audio recording. Of course not, if you have no tape.”

*Reporter Bill Sheets contributed to this story.*

*Reporter Eric Stevick: 425-339-3446 or e-mail [stevick@heraldnet.com](mailto:stevick@heraldnet.com).*



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# Everett bans secret videotaping in classrooms

By Eric Stevick and Jerry Cornfield Herald Writers

Friday, January 23, 2009 5:44pm | [LOCAL NEWS](#) [LOCAL NEWS](#)

EVERETT — Hidden video cameras will be banned from secretly recording classrooms in the future, the Everett School District has agreed.

The pledge was made as part of a settlement with the Everett teachers union, which agreed to drop an unfair labor practice complaint over the practice made against the district.

Both sides are happy about the agreement, said Mitch Cogdill, a lawyer who represents the Everett Education Association.

“It’s also an indication to anybody looking at it that there is a new era in the district,” Cogdill said. “It shows they want to work collaboratively and not be adversarial and to do things that are clearly wrong in an arbitrary way.”


Interim Superintendent Karst Brandsma said he hopes the agreement helps establish trust.

“You develop trust by being open, honest and forthright, and that’s our goal,” he said

Accusations of spying arose after the school district suspended Cascade High School English and journalism teacher Kay Powers in June 2007. She was fired in November 2007 after the district concluded she helped students publish an underground student newspaper while using district equipment. Powers did so against a direct order from Superintendent Carol Whitehead, who has since retired.

The teachers’ union appealed her firing. A settlement reached last April allowed the 66-year-old instructor to return for another school year before promising to leave the district. She’s teaching English at Henry M. Jackson High School in Mill Creek through the 2008-09 school year and also received back pay.

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Lawyers for the Everett Education Association believed the settlement was offered because the union was prepared to present evidence that the district put a secret surveillance camera in Powers' classroom as part of its investigation. That was something the district had previously denied doing.

Whitehead later acknowledged there had been a camera inside the room recording who entered and left the classroom. She said no illegal audio recording occurred and the surveillance recording was missing. District officials said the vendor was supposed to install the camera outside the door of the classroom.

Issues arising from the case against Powers and the Free Stehekin underground student newspaper have cost taxpayers more than \$200,000 in attorney fees.

The settlement between the district and union states: "Except pursuant to a court order, the district will not allow the installation of a video camera in a classroom or a (union)-represented employee's assigned workspace without the prior written approval of the union president."

As a result of the Powers case, an Everett lawmaker is pushing for a new state law to ensure students, staff and teachers know when video surveillance cameras are monitoring them at schools.

The bill was introduced by Rep. Mike Sells, D-Everett.


Sells said he does not want to outlaw use of cameras. He wants to require district officials notify those in the buildings where they will be used, in the same way they must let people know when they are being recorded on audio devices.

"The whole idea that we have to notify people when audio taping is going and not video cameras seems wrong," he said.

Video cameras should be used as a preventive tool, not a "gotcha" device and in the case at Cascade "it was kind of a gotcha thing."

"It is one thing to tell a teacher not to do something but to put cameras in the classroom and not tell anybody is another thing," he said.

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“We just don’t do that in America or at least we shouldn’t do that.”

Kim Mead, president of the Everett Education Association, said she hopes the bill passes into law.

“I think it’s outstanding,” she said.

Rep. Mike Hope, R-Lake Stevens, is the only Republican among the 21 lawmakers signed on as supporters. He serves in the 44th Legislative District, home to many Cascade High School students.

Hope, whose wife is a substitute teacher, said surveillance cameras should only be used in public schools as a tool for prevention, not investigation. He described what transpired at Cascade as going “way beyond prevention.”

The bill also helps ensure student privacy is protected, he said.

*Reporter Eric Stevick: 425-339-3446 or [stevick@heraldnet.com](mailto:stevick@heraldnet.com).*



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# Karst Brandsma to lead SKSD through upcoming school year

South Kitsap School District's board of directors has selected Karst Brandsma, former educator with Oak Harbor and Mount Baker school districts, as interim superintendent for the 2016-17 school year.

Thursday, July 21, 2016 1:05pm | [NEWS](#) [SOUTH KITSAP](#)



Karst Brandsma is South Kitsap School District's new interim superintendent.

South Kitsap School District's board of directors unanimously selected Karst Brandsma, former educator with Oak Harbor and Mount Baker school districts, as interim superintendent for the 2016-17 school year.

Brandsma was one of three finalists interviewed by the school board July 19 at an public meeting at the school district offices. Dr. Jan Pryne, who most recently worked as a mentor principal in South Kitsap after a five-year stint as superintendent in Port Angeles, also was

interviewed. The third candidate was Dr. Tony Apostle, who served as superintendent of the Puyallup School District for eight years before working as the interim superintendent in Kent last year.

The new interim superintendent, who has worked in education since 1976, said he was interested in the position because of his interest in administration work.

"I missed it," he said to the board and an overflow audience of community members. "I have something to contribute to the South Kitsap School District. This district is on the move and it would be an honor to help move that work forward."

Prior to accepting the position, Brandsma worked for several districts as interim or acting superintendent, including at Oak Harbor School District (2013-14), Mount Baker School District (2011-12) and Everett Public



Schools (2008-09).

Although the board surmised his experience would be an asset to the school directors and district staff who are in the process of making several big changes, Brandsma's resume and his short stays at several districts was concerning to a number of community members who seemed to voice stronger support for other candidates.

"I'm a coach for life and a teacher for life," Brandsma said, responding to questions regarding his resume. He readily agreed by pointing out his frequent movement between districts and positions.

During the meeting, audience members were given copies of each candidate's resume, as well as candidate feedback forms for them to leave comments for the board members.

Brandsma's strongest attribute was his experience in passing bonds and levies for several school districts in which he's worked.

Along with a maintenance levy the school board needs to pass next year, it's no secret that a third attempt to approve a construction bond to build a second high school in Port Orchard is also on their agenda.

"I've a repertoire of strategies to provide information to the public to help the community make a decision, but not try and force them to vote a certain way," he said.

Two examples of his work included passing a bond by 65 percent at the Bellingham School District in 2010. He also was successful passing a bond measure in Anacortes — also by 65 percent.

"I like to say I helped," he said. "It matters how you act every day and how you treat the people you want to support you."

## Controversy

While serving as deputy superintendent for Everett School District in 2008, Brandsma was involved in an incident in which the door leading into a classroom of a controversial Cascade High School teacher was secretly videotaped to determine if she was helping students work on an



underground newspaper.

A resulting investigation reported that "Deputy Superintendent Brandsma authorized video monitoring from the hallway looking at the door to Kay Powers' classroom to determine if students were frequenting her classroom late at night or on weekends in violation of school policies and the district directives to Kay Powers."

When asked by the SKSD board, Brandsma denied he authorized the taping and said he was only acting on orders by district superintendent Carol Whitehead to do so.

Although the incident cast a negative light on Brandsma's application, he was ultimately promoted twice after the incident and gained support from the district's community members.

During the interview, Brandsma described his leadership style as open, and expressed his desire to work closely with the board.

"I believe ideas are better received if people have had the opportunity to join in the process," he said.

"I know the value of inclusion but also know, at some point, decisions need to be made. I feel comfortable making those decisions."

Brandsma will work with former SKSD Superintendent Michelle Reid to learn more about the district and hopes to make the transition as smooth as possible.

Reid accepted a position in June as superintendent of Northshore School District, with headquarters in Bothell.

"While I am looking forward to assuming the superintendent of Northshore Schools position, this is difficult, as I have considered myself so blessed to have had the opportunity to serve such an amazing community and school district," Reid said in a written statement last month.

Brandsma's contract will run from August 1 and extend through the 2016-2017 school year.

Over the next several months, the board of directors will continue to work with Northwest Leadership Associates in a comprehensive search process for a permanent superintendent, who is to take office July 1, 2017.

*Note: An article in the July 22 print edition of the Independent refers to Brandsma in one instance as having a doctorate. He does not. He earned his superintendent's credentials from Seattle Pacific University, administrative credentials from Central Washington University, and bachelor's and master's of education from Eastern Washington University.*



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# South Kitsap Superintendent Brandsma's contract extended ... again

Chris Henry, [christina.henry@kitsapsun.com](mailto:christina.henry@kitsapsun.com)

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(Photo: South Kitsap School District)

SOUTH KITSAP — Superintendent Karst Brandsma, [hired as an interim in 2016](https://www.kitsapsun.com/story/news/local/communities/south-kitsap/2016/07/20/south-kitsap-school-board-welcomes-interim-superintendent/94326532/) ([/story/news/local/communities/south-kitsap/2016/07/20/south-kitsap-school-board-welcomes-interim-superintendent/94326532/](https://www.kitsapsun.com/story/news/local/communities/south-kitsap/2016/07/20/south-kitsap-school-board-welcomes-interim-superintendent/94326532/)), will serve a third year at the helm of South Kitsap schools.

The South Kitsap School Board on Thursday held an executive session to "evaluate the qualifications of an applicant for public employment in reference to the superintendent search." They emerged from the closed session and voted unanimously to extend Brandsma's contract through the 2018-19 school year.

"I'm very humbled but very excited about the work yet to do," Brandsma said.

School board president Rebecca Diehl said the board recently learned Brandsma was open to staying on as interim and jumped at the opportunity to keep him for one more year.

"Karst is beloved in our district," Diehl said. "Everybody loves Karst. He is a good leader. He is a strong leader. He is a team builder. He has gifts and talents that are remarkable."

Diehl said Brandsma helped navigate the district through a major grade reconfiguration. The district next year will implement an elementary school boundary shift and address growing enrollment along with aging facilities. Stability of leadership was the main factor in the board's decision, once it was clear Brandsma was available, Diehl said.

Brandsma, who retired from Everett School District in 2009, was hired on a one-year contract as interim superintendent in August 2016 after former Superintendent Michelle Reid (<http://archive.kitsapsun.com/news/local/superintendent-reid-leaving-south-kitsap-school-district-3569255b-fba5-0fc0-e053-0100007fb72b-383337001.html>) left for Northshore School District. The school board in January 2017 [extended Brandsma's contract through the 2017-18 school year](https://www.kitsapsun.com/story/news/education/2017/01/05/sk-school-board-extends-interim-superintendent-contract/96204430/) ([/story/news/education/2017/01/05/sk-school-board-extends-interim-superintendent-contract/96204430/](https://www.kitsapsun.com/story/news/education/2017/01/05/sk-school-board-extends-interim-superintendent-contract/96204430/)). The board at the time cited an upcoming bond and levy, along with the grade reconfiguration as reasons for wanting continuity in leadership.

The levy passed, [the bond failed](https://www.kitsapsun.com/story/news/education/2017/02/14/sksd-bond-failing-other-school-measures-pass/97917152/) ([/story/news/education/2017/02/14/sksd-bond-failing-other-school-measures-pass/97917152/](https://www.kitsapsun.com/story/news/education/2017/02/14/sksd-bond-failing-other-school-measures-pass/97917152/)), and the grade reconfiguration went forward this fall.

The contract extension signals an abrupt change of plans on the part of the board and Brandsma. In September the district hired Northwest Leadership Associates [to conduct a search for a permanent superintendent](https://www.kitsapsun.com/story/news/local/2017/09/21/south-kitsap-launches-search-new-superintendent/690791001/) ([/story/news/local/2017/09/21/south-kitsap-launches-search-new-superintendent/690791001/](https://www.kitsapsun.com/story/news/local/2017/09/21/south-kitsap-launches-search-new-superintendent/690791001/)). The firm at the time was on contract for \$17,800. Roughly \$6,000 of that amount had been spent on the interim search that resulted in Brandsma's hiring.

The search firm this fall met with focus groups to identify key characteristics staff, parents and community members want in a superintendent. The job was to post in early February, with a permanent hire to take place before the end of the school year. Diehl said a healthy pool of applicants was interested in the job, but given Brandsma's availability, the search will be suspended for now.

Brandsma, who has a home in Everett as well as South Kitsap, said that in September he wouldn't have considered staying on as interim (or applying for the permanent job). But over the winter break, he and his wife Irene talked. Brandsma, 64, planned to continue as an interim somewhere. South Kitsap was his preference.

"It's such a great district doing great work, just a great staff working hard, a great community. I really value the job," he said.

The board, as is typical, held a mid-year superintendent evaluation earlier this month, during which Brandsma let his leanings be known. During its closed-door session Thursday before the public vote, the board took only 37 minutes to reach a consensus on extending the contract.

"I don't know. It happened so quickly," Brandsma said. "I don't know how else to explain it."

Asked whether he was now the interim or permanent superintendent, Brandsma commented that by the end of his contract he will have served as long as Reid.

"I'm heading into my third year, so I could be as permanent as the last one, I guess. Probably, technically, I'm still the interim," he said.

Brandsma said at this time his career goal is to continue as an interim superintendent and not to seek a permanent position.

The role of an interim takes a different skill set, and Brandsma has become somewhat of an expert. He was deputy superintendent for Everett schools and later interim superintendent for that district. He also held interim superintendent positions with the Oak Harbor, Mount Baker and Bellingham school districts.

Finding a superintendent willing to make a long-term commitment to South Kitsap remains "absolutely our number one priority," Diehl said of the board's eventual plan.

Diehl said the cost of the consultant's work this fall will likely be more than offset by not having to bump up the superintendent's salary to entice candidates.

Brandsma's salary for the current school year is \$158,464. The school board and Brandsma this spring will negotiate his contract for the upcoming school year.

"I'm never worried about what the board is going to offer," Brandsma said. "I know it will be fair."

South Kitsap School District has roughly 10,000 students. Brandsma's superintendent salary is second lowest in Kitsap County. The lowest is North Kitsap with just more than 6,000 students. Bainbridge Island has the fewest students but pays its superintendent the most, \$168,000.

Work yet to be done for Brandsma includes seeing the grade reconfiguration to completion, getting families ready for the boundary change and decrepit buildings.

"We will probably make a recommendation at some point. It would be premature to say we're going to come out with a bond for second high school or a capital levy to repair a few roofs. Clearly, we have facility needs," Brandsma said.

Read or Share this story: <http://www.kitsapsun.com/story/news/local/2018/01/11/sksd-superintendent-brandsmas-contract-extended-again/1027060001/>





South Kitsap School District's interim superintendent, Karst Brandsma, is spearheading the district's third attempt in two years to pass a bond measure, primarily to build a second high school in the area. Bob Smith | Kitsap Daily News

# South Kitsap school officials hope third go-round is a charm for bond measure

By Bob Smith

Friday, January 13, 2017 1:30am | [NEWS](#) [ELECTIONS](#) [SCHOOL BOND ISSUE](#)

[SOUTH KITSAP SCHOOL DISTRICT](#)

By BOB SMITH

Kitsap News Group

**PORT ORCHARD** — When South Kitsap School District voters cast their ballots in a special election Feb. 14 on whether to approve a programs and operations levy, they'll also decide on a bond measure — for the third time in two years — to fund construction of a second comprehensive high school.

The district will be asking voters to approve a school maintenance and operations levy that is collected through property taxes over four years. If approved, the Proposition 1 levy will renew a measure approved in 2013 that will expire at the end of this year.

According to the school district, the levy would be collected in calendar years 2018 through 2021, supporting programs over five consecutive school years. The collection rate is estimated to be \$3.73 per \$1,000 assessed value of property. The district said that this rate is 13 cents less than the approved rate in 2017, which is \$3.86.

The levy amount is expected to total \$24,300,846 in the collection year of 2018 and would top off at \$25,520,460 in the 2021 collection year.

The levy requires a simple voter majority to pass.

School district leaders also are seeking approval of a \$172,621,300 capital project bond measure — labeled Proposition 2 — authorizing the district to sell 21-year-term bonds to finance construction of a second comprehensive high school. The bond measure also is to provide \$41,496,727 to upgrade each school's safety, security and health systems.

In addition, \$1,839,502 would be authorized for improvements to the district's swimming pool at South Kitsap High School.

Interim School Superintendent Karst Brandsma said the district anticipates receiving \$8,819,720 in construction assistance from state matching funds for the high school construction project. The pool improvement project is expected to get \$2 million state funding, as well. The security and pool upgrades were added to this year's construction bond proposal.

"This bond has a little something for everybody," said Greg Wall,

president of the district's board of directors.

"We have a lot of needs in the district, but the community told us in our public meetings that they wanted more projects for the existing schools, especially the existing high school.

"Our buildings are well-maintained and we have an excellent facilities staff, but there's only so much you can do to them."

Every physical system in the district is past its life cycle, said Tom Adams, district director of facilities and operations.

"You can't really do preventative maintenance on something that's past that stage," he said.

"You never know when it's going to fail. And when it does, it's always expensive, and you have to take money from somewhere else to fix it. That's been a real tough thing for us."

Another reason that's driving the push for projects separate from building a new high school, Brandsma said, is to provide the community with a sense that every school is important to the district.

"Our community members told us they didn't want to create a group of haves and have-nots. They like the idea of two comprehensive high schools. They like our plans for safety and security improvements. And they wanted something more than just helping the rich kids in McCormick Woods.

"They wanted something tangible, and that's what we tried to provide."

Brandsma, whose contract as interim superintendent has been extended for an additional year by the school board, said the temptation was to follow the footsteps of Central Kitsap School District and ask taxpayers to fund needed projects that could cost as much \$220 million.

"But we felt like this was our best step," he said. "These were all the things the community told us they wanted and could support."

Brandsma said a second high school would help relieve overcrowding, which he said is a result of increased enrollment, all-day kindergarten

that has doubled the need for classrooms and the district's efforts to reduce kindergarten through third-grade class sizes.

The district also has begun implementing the 9-12th-grade high school configuration, which has become the standard education model throughout the state.

The change has put pressure on overcrowding at South Kitsap High. The school construction project will help the district reach its goal of creating smaller high schools, Wall said.

He noted that nationwide studies have shown that smaller educational communities improve student achievement, school climate, increase attendance and elevate teacher satisfaction.

The safety and security component of the bond measure will improve the ability of schools to control access to their buildings by outsiders, Adams said. The security system will include door-lock and door-opening mechanisms to control entry into schools. Visitors would be directed to front offices before they could get access to the rest of the school.

Securing South Kitsap High will be a challenge, Wall said.

"It has a million entrances, and they're open most of the time," he added.

"Plus, high-schoolers are in and out throughout the day going to Running Start and other programs."

The new high-school plan also would optimize a more secure building by funneling visitors to the front desk for sign-in and credentials, he said.

Community members also indicated to school officials that they would prefer just one district swimming pool, not two, but would like to see upgrades made to South Kitsap's facility.

Adams said the county health department has been urging the district to improve pool lighting so that the safety of swimmers could be better ensured. The cost to build a second pool in the district was a pricey proposition to community members, as well as the school board.

"The board looked at a price tag of \$27 million," Brandsma surmised,



“and thought that the community could get by with one pool.”

Brandsma acknowledged that the district’s efforts to build a second high school has been difficult.

Two bond measures failed by the barest of margins to reach a supermajority approval percentage of 60 percent and one vote. But working in favor of the district is that it does not carry any bond debt, unlike neighboring school district.

But there has been pushback from some parts of the community who protest that passage of the bond would mean hardship for seniors on a fixed income.

The superintendent said that a program has been put into place where a senior can volunteer 20 hours of their time to the school district and receive a tax waiver.

Wall said residents should consider the benefits of shared responsibility to build and maintain good schools in the community, which he said are primary draws for young families with good incomes who are looking for a place to live.

When election ballots are received in the mail, the board president said he hopes voters will be motivated to do their civic duty and vote.

“We have a lot of people with a lot of pride in their community,” Wall said. “If we can motivate them, we can be successful.”



Greg Wall, South Kitsap School District board president, and Tracy Patterson, assistant superintendent of business services, review documents pertaining to the upcoming school bond measure before voters Feb. 14.  
Bob Smith | Kitsap Daily News

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# South Kitsap school superintendent to retire

**Chris Henry, Kitsap Sun**

Published 3:51 p.m. PT Dec. 7, 2018



(Photo: South Kitsap School District)

SOUTH KITSAP — Superintendent Karst Brandsma, who has led South Kitsap School District as an "interim" since 2016, announced Friday that he will retire at the end of the school year.

Brandsma was appointed as a one-year interim to fill the vacancy left when former Superintendent Michelle Reid took another position in June 2016. The school board later extended his contract for two additional years.

The school board in January suspended the search for a permanent superintendent and extended Brandsma's contract for a third consecutive year.

**More:** [South Kitsap Superintendent Brandsma's contract extended ... again \(/story/news/local/2018/01/11/sksd-superintendent-brandsmas-contract-extended-again/1027060001/\)](/story/news/local/2018/01/11/sksd-superintendent-brandsmas-contract-extended-again/1027060001/)

Brandsma led the district through two failed bond attempts in 2017 and 2018. Ballot measures that passed on his watch were an operations levy in 2017 and a 2018 capital levy to address a backlog of renovations on

schools.

Brandsma also saw the transition of South Kitsap High School from a three-year school to a four-year school, under a plan made when Reid was superintendent. Sixth-grade students were brought up to middle schools as part of the reconfiguration.

Brandsma, 65, said he and his wife, Irene, retired since 2012, decided over Thanksgiving break that they wanted to be able to travel and spend time with grandchildren while they were still healthy.

"It is difficult to say goodbye as I feel there is unfinished business in South Kitsap and more I'd like to accomplish," Brandsma wrote in a message to staff. "The people of South Kitsap are special, and I've thoroughly enjoyed my time here over the past three years. Thank you for doing the world's most important work in supporting the students of our community. It has been an honor to serve and lead this district and I am thankful for the opportunity."

Brandsma said he would have like to see the district through renovations at all schools afforded by a \$21.7 million capital levy, the first capital measure the district has passed in 30 years. He foresees a new school in the district's future, whether a high school, elementary or middle school, to accommodate increased enrollment as South Kitsap's population grows.

"I think the district is on the edge of a renaissance with all the new growth that's happening," Brandsma said. "It's just exciting times that's going to be happening in South Kitsap and I regret that I won't be part of that."

Brandsma has served 40 years in public education. School board President Rebecca Diehl praised his track record with the district.

"Karst has led South Kitsap with integrity, strength and compassion and we are better because of his leadership," Diehl said. "His wealth of knowledge and professional expertise have kept our district moving forward in a positive direction. South Kitsap School District is running well academically, financially and culturally. We thank Karst for his service and dedication to the students and staff in our community."

**More:** [Central Kitsap school superintendent announces he'll retire \(/story/news/2018/10/17/central-kitsap-school-superintendent-retiring/1671392002/\)](/story/news/2018/10/17/central-kitsap-school-superintendent-retiring/1671392002/)

Over the next few months, the South Kitsap school board will re-start the superintendent search process, drawing on community feedback already collected by Northwest Leadership Associates, consultants on the search for candidates last fall.

Central Kitsap School District is also looking for a new superintendent. Superintendent David McVicker said he will step down June 30, 2019, and will fill an interim leadership role through Dec. 31, 2019, to help with the transition.

Read or Share this story: <https://www.kitsapsun.com/story/news/local/2018/12/07/south-kitsap-school-superintendent-retire/2243342002/>