

## Parents seeking millions against school district for asthma attack death



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Fifth-grader Mercedes Mears lay gasping for breath on the health room floor at Clover Creek Elementary School. "I'm gonna die," she said. Four school employees gathered around the dark-eyed, gap-toothed 10-year-old, giving comfort, working to calm her, urging puffs on an Albuterol inhaler, reports show.

But Mercedes' asthmatic lungs were unable to pump oxygen. Her 94-pound body went into convulsions. When medics arrived at the Spanaway area school, she was in "full arrest," their records say. **Less than an hour later, she was dead.**

Bethel School District officials call her sudden illness and death on Oct. 7 sad and say they grieved the loss. Mercedes' parents, Mike and Jeanette Mears, call it **negligence**. Last week **they filed a \$15 million legal claim against the district**, charging that staff members were ill-prepared to handle the emergency. They say staff failed to administer potentially life-saving medicine kept in the very health room where the girl died.

"I don't feel they did everything they could to save Mercedes," Jeanette Mears told The News Tribune. Her "angel girl" with the megawatt smile, beaded cornrows and tiny jewels in her ears would be alive today if a school staff member had snatched up the EpiPen with Mercedes' name on it and injected its contents into her thigh, Jeanette Mears believes. No one at the school performed CPR on the child before paramedics arrived, Pierce County Medical Examiner's Office investigator Amber Midkiff-Bray wrote in her Oct. 8 report. Doctors pronounced Mercedes dead following a 20-minute Medic One ride to Mary Bridge Children's Hospital. The Medical Examiner's Office ruled she died of an overwhelming asthma attack.

Dr. Lawrence Larson, a pediatric allergy specialist who is one of Mercedes' doctors, told detectives "he had only seen one other case of such severity in 31 years of medicine," the police report said. The district won't comment on the case or answer specific questions about it because it's a legal matter, spokeswoman Krista Carlson said. Lance Hammond, a litigation specialist with risk managers Canfield & Associates, said only that he is investigating the circumstances as part of the district's coverage through the Schools Insurance Association of Washington

**CLAIM QUESTIONS CARE**

The claim is a precursor to a lawsuit; if it's not settled within 60 days, the family could take its case to Pierce County Superior Court. The claim charges that school staff failed to follow Mercedes' "valid care plan in place in case of situations involving sudden and severe respiratory symptoms, such as wheezing, shortness of breath and difficulty breathing." Mercedes' care plan, the claim says, was signed by a school nurse on Aug. 29, "just five weeks prior to Mercedes' death." **There was no school nurse in the health room the morning Mercedes died. Schools don't routinely have nurses on site, as they rotate between buildings.**

On Sept. 24, two weeks before her death, a fresh Albuterol inhaler and EpiPen were provided to the school, the claim says Larson prescribed the EpiPen, an injectable dose of epinephrine, for an allergic emergency, records show. Mercedes suffered both food allergies and asthma. A care plan prepared by school nurse Heidi Christensen notes Mercedes "has Benadryl, an EpiPen and an inhaler in the health room," and lists Larson's name and phone number. Larson's orders don't stipulate the EpiPen must be used in an asthma attack, but the family's attorney, Thaddeus Martin, believes it would have saved her life. He describes it as "adrenaline to be used in emergency situations when Mercedes had breathing difficulty." Since a nurse signed the plan, Mercedes' parents believed a school staff member with health training would know what the medication would do and would administer it in a crisis, he added.

Martin maintains that school officials should have been better prepared to deal with an emergency involving a student with known asthma, frequent visits to the health room to get puffs from the inhaler, and many absences due to the illness. Mercedes was given inhaler medication at school the day before her death, records show.

**The claim also contends that the school's health clerk – a former lunch server, playground supervisor and office worker with no formal medical training – escorted the wheezing Mercedes, who said she couldn't breathe, from outside the school to the health room. The health clerk called 911 from there.** State law requires every school district to adopt policies regarding "asthma rescue procedures."

Bethel has plans in place for administering student medications, protocols for handling emergencies and asthma rescue instructions, Carlson said. **Health clerks must be high school graduates and have a current CPR card, Carlson added.** They also receive on-the-job training from the school nurse and other staff and attend monthly meetings for additional training. But she didn't know last week what training or credentials the clerk on duty that day had.

The 17,500-student Bethel School District has the full-time equivalent of 11 school nurses and five licensed practical nurses on staff, Carlson said. Each elementary school gets 1 to 2 1/2 days a week of nursing time. The practice of having a nurse on every campus has fallen victim to other priorities, said Cheryl Sampson, president of the School Nurse Organization of Washington.

## **BREAKDOWN IN THE SYSTEM**

Though she couldn't comment on the specifics of the case and did not assign blame to any person or entity, Reva Wittenberg, asthma program manager for the state Department of Health, called Mercedes' death "a really tragic example of a breakdown in the system of care for a person with asthma." The death illustrates that asthma is a serious disease with deadly potential, she and other experts say. More than 20 million Americans suffer from asthma, and more than one-quarter of those – 5.5 million – are children, according to the American Lung Association of Washington.

"Every four days, someone in Washington state dies from asthma," the association's Web site says. The patient and everyone in the immediate circle of a person with asthma should take a proactive role in their care and compliance with medications and treatment, Wittenberg said. "All school and childcare providers must be alert to symptoms that may indicate asthma and have policies in place that help staff to assist children with managing asthma," she added.

## **THE DEATH OF A CHILD**

Mercedes Mears stepped out of friend's car and onto the grounds of Clover Creek Elementary School around 8:15 a.m. that day last fall. Almost immediately, she began having trouble breathing and sat down on a bench. Her sister Jada, who was 9 at the time, ran for help, accounts of school staff members and the medical examiner show.

The health clerk walked Mercedes into the building and called 911, according to a chronology of events later compiled by the district's assistant director of human resources. The clerk's voice was calm in her 8:22 a.m. call to 911, when she told a dispatcher, "I have a student who has asthma and she's complaining that she can't breathe." She clearly recited the school's phone number and address. A child can be heard screaming in the background. Three other school employees came to Mercedes' aid, their written accounts say.

**They describe a chaotic, chilling scene in which a clearly distressed Mercedes was crying and gasping for air. As the four adults tried to get the child to relax, one of them gave Mercedes doses from an inhaler "telling Mercedes to try and hold it in" the accounts say. The flailing child knocked the inhaler away during one attempt.**

**At some point, Mercedes lay down on the floor, said "I'm gonna die" and then apparently became "unconscious," medical investigator Midkiff-Bray wrote in her report, which was based on interviews with witnesses. The health clerk told Midkiff-Bray she didn't know whether Mercedes was breathing and that no CPR was done. School Principal Don Garrick later told the investigator, "We are not medical people."**

Medic 60 arrived at the school at 8:28 a.m., about six minutes after the 911 call, according to records from Central Pierce Fire & Rescue. "Arrived to find patient supine on office floor unresponsive," the medics' report says. They instituted advanced life support measures. "Cardiac arrest," reads a one-line notation at one point in their log. As they suctioned Mercedes' airway, she vomited.

At 8:37 they were en route to Mary Bridge. Their log shows no heart rate or blood pressure as they administered oxygen, epinephrine and other drugs at the school and in the ambulance. At 9:09 a.m., doctors pronounced dead the girl who loved to roller skate and eat pizza, the child simply called "'Cedes" – pronounced Say-Dees – by many who loved her. **Jeanette Mears thinks she put too much trust in the school, believing "someone with credentials would be in the nurse's office."** "She was funny, she was sensitive, she was serious," Jeanette Mears said of her daughter. "She was an angel."

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