



WHITTED + TAKIFF + HANSEN LLC

# QUARTERLY E-NEWSLETTER

## July – September 2016

### LEGAL UPDATES

#### July 2015

- A new Illinois bill, HB 5902, sent to the Governor for signature, grants student journalists first amendment rights to exercise freedom of speech and press rights within school-sponsored media, regardless of whether the media is supported financially by the school district or created as part of a school class.
- The Illinois State Board of Education just published an updated version of its Appropriate Standard Practices for Illinois Special Education Due Process Proceedings, providing guidance to Illinois due process hearing officers (as well as school districts and parents) with respect to the handling of IDEA cases.
- The 7th Circuit Appellate panel recently found in Brown v. Chicago Board of Education that the school district had a right to fire a high school social studies teacher after he used a racial epithet in class as part of a classroom discussion. Because he was acting as a school district employee, and not as a “citizen,” at the time of the occurrence, First Amendment rights were not afforded to him.

#### August 2015

- The Illinois State Board of Education released its first draft of the state’s plan to regulate the federal Every Student Succeeds Act (“ESSA”). Comments from the public and organizations regarding the draft plan are being solicited, and are due by October 9, 2016.
- A new Illinois public law, the Employee Sick Leave (PA 99-0743), allows employees to take off personal sick days for illnesses, injuries or medical appointments for not only themselves, but for immediate family members as well, including children, spouses, parents, in-laws, grandparents or stepparents.

#### September 2015

- The U.S. Supreme Court has been asked to make a final determination as to the definition of “meaningful educational benefit,” in special education cases through a new lawsuit, Endrew F. v. Douglas County School District RE-1. The U.S. Solicitor’s Office (on behalf of the US Department of Education) recently filed its Amicus Curiae brief, asking for the Court’s clarification as to whether “educational benefit” was “merely... more than de minimus,” or whether a more robust standard was required, a debate which has many of the federal courts across the country split.

- An Illinois Federal District Court found in Martin ex rel. Estate of C.D.C. v. East St. Louis School District #189, that a school district was not guilty of a Section 1983 claim after it failed to prevent the rape of a female intellectually disabled student within the school. The judge pointed out that failing to lock the special education wing of the school did not lead to amount to the creation of a “dangerous situation,” and the fact that the girl was not being supervised 1:1 by a teacher did not amount to neglect, as “the district had no reason to believe [the boy] would push her into a janitor’s closet with her attacker.”
- A Tennessee teacher was recently disciplined for keeping a Learning Disabled student in from recess to complete missing assignments. After the teacher “raised her voice to the student,” and prevented the child from attending at least 10 recesses due to unfinished work, the boy’s parents sued the school district for harassment, based on the boy’s disability. The Office of Civil Rights investigated the incident, and found the teacher at fault, and the district guilty of failing to identify a “hostile environment” for the child.

## UPCOMING PRESENTATIONS

| Date     | Title/Topic  | Organization  |
|----------|--|---|
| 9/24/16  | How to Obtain Services from Schools and Prepare for IEP Meetings                                       | Association for Training on Trauma and Attachment in Children |
| 9/27/16  | Criminal Law Issues with DD/MI Clients   | IICLE   |
| 9/27/16  | Overview of Special Education Laws   | IICLE   |
| 10/22/16 | Legal Issues in Dyslexia and Other Learning Disabilities   | Learning Disabilities Association of Illinois                 |
| 11/3/16  | Hot Topics in Special Education Law and Discipline   | Illinois Council for Exceptional Children                     |
| 11/9/16  | Taking Back Control of Your School: How to Set Boundaries with School Districts, Parents and Employees | Proficio Consulting Group, Inc.                               |
| 12/6/16  | Constructing Your Child’s IEP: Understanding Your Rights and How to Obtain Services                    | ATTACH  |
| 2/4/17   | The Latest Legal Developments in Discipline and Bullying   | Illinois Council for Children with Behavioral Disorders       |

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