



QUARTERLY E-NEWSLETTER

July – September 2018

LEGAL UPDATES

September 2018

- New guidance has been issued for Ashley’s Law (Public Act 100-0660), which requires school districts to allow parents or guardians, who are registered caregivers, of a student, who is a qualifying medical marijuana patient, to administer medical cannabis to students while on school premises or a school bus. Please see our more detailed memo – [Ashley’s Law: Medical Cannabis in Schools](#) – for more information regarding schools’ requirements.
- A new Illinois law, Public Act 100-1035, encourages in-school suspension programs for elementary, middle and high school students, to focus on promoting non-violent conflict resolution and positive interactions with other students and school personnel. A school social worker or other trained mental health professional would oversee the new programming.
- A new Illinois law, Public Act 100-1066, allows greater rights for employees when filing claims against their employers under the Illinois Human Rights Act (“IHRA”). The new amendments allow: 1) A longer time period (300 days, up from 180 calendar days) for employees to file complaints, 2) Restructuring of the IHRA Commission in order to expedite matters and decrease the backlog of cases, and 3) The ability to opt out of the Illinois Department of Human Rights administrative investigation and instead move forward immediately with a complaint in Illinois’ state circuit courts.

August 2018

- Governor Rauner signed “Ashley’s Law” into effect, allowing for the administration of medical cannabis to students at school or on a school bus. Requirements for qualification include: 1) Student must be a “registered qualifying patient” authorized to use medical cannabis, 2) The individual administering the cannabis must be a “registered caregiver,” 3) Medical cannabis that can be administered at school includes only “cannabis infused products,” limited to “food, oils, ointments, or other products... that are not smoked,” and 4) After administration of the medical cannabis, it must be immediately removed from the school or the bus. The law applies to public schools, charter schools and private schools, but does not require school staff members to administer the medical cannabis product.
- A new Illinois law, PA 100-0684, requires teachers to provide instruction during sex education classes (with an emphasis on workplace and life on a college campus) material and discussion on what constitutes sexual consent and what may be considered sexual harassment or assault.

- In the first federal court case to tackle the issue, the U.S. District Court of Michigan (Eastern District) ruled that access to literacy is not a “fundamental right” of all U.S. Citizens in [Gary B. v. Snyder, et. al.](#) The 14th Amendment case, which stemmed from a complaint filed by minor children who attended a Detroit Public School, argued that the condition of the public school was so poor and inadequate that the students were deprived of a minimally adequate education. While the court agreed that, “education is certainly a vitally important governmental function, it is not a fundamental individual right for equal protection purposes...” because to do would require, “a finding that neither liberty nor justice would exist absent state-provided literacy access.”
- An Illinois appellate court found in favor of a school district in a bullying case, [Castillo v. Board of Education of the City of Chicago](#). In the matter, the parents of a female student sued the school district after their daughter was physically attacked by another student off school grounds. The family alleged that the school district failed to discipline the bully despite previous harassment conducted on school grounds and failed to prevent the attack when it should have taken “supervisory” actions. Illinois’ 1st appellate court ruled against the family as the current Illinois laws, “only mandates that every school district create a policy on bullying; it does not mandate that a school respond to a particular instance of bullying in a particular way.” In addition, schools are not required to provide a “police protection service” to students, especially when off-campus.
- A new Illinois law, PA 100-0625, requires law enforcement officers (if requested) to accompany DCFS workers during investigations of child abuse or neglect.

RECENT FIRM SUCCESSSES

- Prevailed in successfully negotiating down felony charges against a middle school student diagnosed with Autism who had made threats to school staff. The student was placed on probation, which was successfully completed, and is now thriving in his private accelerated high school;
- Secured a more appropriate and comprehensive educational setting and services for a student with Autism within his homeschool environment, allowing the student greater educational benefit within a public school setting;
- Secured full special education eligibility for a student with ADHD and Executive Functioning deficits, who had previously been served by a Section 504 Plan.
- Successfully negotiated an independent educational evaluation (“IEE”) and more appropriate IEP services, including 750 mpw of aide support, for a first grade student diagnosed with Autism.
- Obtained a therapeutic day school setting (including transportation) for a middle school student with Specific Learning Disabilities who was failing to make adequate progress within her public school setting.

UPDATED MEMORANDUM

Ashley's Law: Medical Cannabis in Schools

UPCOMING PRESENTATIONS

Date	Title/Topic	Organization
11/03/18	School Discipline in the World of Guns, Threats and Social Media	Illinois Council for Exceptional Children
11/8/18	School Safety, Risk Assessments and Student Disciplinary Issues	Proficio

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