



QUARTERLY E-NEWSLETTER

April — June 2019

LEGAL UPDATES

June 2019

- The U.S. Department of Education created the [Student Privacy Policy Office](#), which will now oversee the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment. The new agency will provide guidance and support to schools on how to effectively manage student information, as well as provide oversight assistance (fielding complaints) for parents who believe their child's privacy has been violated by educational institutions.
- A new report, [Turning Rights Into Reality: How Guardianship and Alternatives Impact the Autonomy of People with Intellectual and Developmental Disabilities](#), published by the National Council on Disability, found that schools often provide biased information leading parents to pursue guardianship, creating a "school-to-guardianship pipeline." The Council is requesting the US Department of Education to provide guidance to states outlining their obligations under the Americans with Disabilities Act to impose guardianship as only a "last resort." For more information, see the [NCD's website](#).
- A new 7th Circuit appellate decision, [Manley v. Hinsdale Township High School District #86](#), denied a school board member's suit against its school district, which was investigating the board member for violating its own board policy. The investigation was spurred after the school board member got into a verbal altercation with a student, who was leafletting for the school board member's election opponent outside of a high school play. The student alleged that the board member bullied her during the altercation, and a bullying investigation ensued. The board member then sued the school district, arguing that the investigation violated her Constitutional rights of 1) a feeling of fair-dealing on the part of government, 2) mental and emotional well-being, and 3) entitlement to processes mandated by the State and the District. Both the federal and appellate courts denied the board member's claims, indicating that none of the three interests cited were Constitutionally protected, and stated that, "American politics is not for the thin-skinned, even or perhaps, especially, at the local level." The decision also serves as a reminder that school board members, like district employees and agents, are also subject to complaints of improper conduct toward students under various board policies.

May 2019

- A House Bill introduced into the Education Committee, HB 2627, would require school districts, for students under the age of 18, to contact and have present the student's parent or guardian prior to questioning or detaining a student related to a criminal charge or allegation. For students over the age of 18, the schools will be required to inform them that they have the

right to request the presence of a parent or guardian, prior to questioning or detainment.

- A pending Senate Bill, SB 1249, would require a school district to report to the Illinois State Board of Education (“ISBE”) the knowledge of any incident of sexual assault by a student against another student. Currently, these crimes are not reported to the state.
- Pending Senate Bill 456 would require stricter criminal background checks for school personnel, requiring them to be performed every 5 years (instead of only prior to hiring). In addition, it would allow the Illinois State Board of Education (“ISBE”) to conduct random audits of teachers to determine if they are fulfilling continuing education requirements, and would require ISBE to immediately suspend or revoke a teacher’s licensing if they are arrested for committing, or attempting to commit, certain felonies, including sex offenses, first degree murder, or a Class X felony.

April 2019

- A pending bill in the Illinois Senate, SB 449, would add a definition of “gender-based violence” (harassment, assault or stalking) into the school code, and would require school districts to allow students who are victims of gender-based violence from other students attending their school to transfer schools immediately. If there are no other comparable schools within the student’s residential district, the victim would be allowed to transfer to a different local school district.
- Pending House Bill 1579 would allow Illinois juvenile courts to order a mental health evaluation prior to sentencing students for threats against a school building, school personnel or other students.
- A new pending bill, House Bill 355, would require educators to devote 15 of their required 120 hours of professional development to training on inclusive instructional and behavioral strategies to improve the social and emotional growth for all students.

RECENT FIRM SUCCESSES

- Prevailed in a due process hearing, securing \$40,000 in reimbursement costs and prospective placement within a therapeutic day school for a student with significant and complex learning disabilities.
- Secured placement for a student with a Traumatic Brain Injury within a therapeutic residential program with an annual cost of more than \$300,000 per year.
- Obtained special education eligibility and a therapeutic day school setting for a student with Learning Disabilities who had previously been privately placed within a parochial school setting.

- Successfully resisted a school district’s attempt to completely segregate a student with Autism into a self-contained educational setting, preserving mainstreaming opportunities and additional instructional supports for the student in the regular education environment.
- Prevailed in a due process hearing (representing the school district) to secure placement within a public therapeutic day school for a student with Autism and significant sensory and behavioral needs.
- Prevailed in a due process hearing in which we secured reimbursement (more than \$125,000) and prospective placement in a non-ISBE approved residential program for a student with Emotional Disabilities.
- Prevailed in a due process hearing, securing more than \$40,000 in reimbursement of a unilateral residential placement, for a student with Emotional Disabilities whose district failed to timely evaluate and hold an IEP meeting for the student prior to the beginning of the school year.

UPCOMING PRESENTATIONS

Date	Title/Topic	Organization
August – September 2019	Psychiatry and the Law	Rush University
10/23/19	Legal Issues in Dyslexia and Other Disabilities – A Special Education Overview	Everyone Reading Illinois
10/31/19	Updates in Special Education Law	Illinois Council for Exceptional Children
11/14/19	Physical Restraints and Isolated Timeouts: School Utilization, Compliance and Best Practice	Proficio
2/1/20	Updates in Special Education Law	Illinois Council for Children with Behavioral Disorders

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