



QUARTERLY E-NEWSLETTER

January – March 2021

LEGAL UPDATES

March 2021

- The 2nd Circuit Appellate court recently ruled in Board of Education for the Yorktown Central School District v. C.S. ex rel. M.S. that school districts cannot unilaterally “correct” a student’s IEP during the 30-day resolution period after a complaint is filed. In this matter, the parents of a disabled student filed for due process against the school district, arguing that it was not providing enough services to offer a Free and Appropriate Public Education (“FAPE”) for their daughter. The parents sought reimbursement for a private school placement as remedy. The school district, in response, attempted to unilaterally alter the student’s IEP to add services without holding a formal IEP meeting, resolution session or mediation. The appellate panel found that this was a blatant violation of procedural protections, noting IDEA and Part B regulations both require parents and districts to execute a written settlement if they reach an agreement during the 30-day resolution session. The 2nd Circuit’s decision upheld a Federal court ruling and awarded full reimbursement to the parents of the private school placement.

- An Illinois Education Reform Bill, P.A. 101-0654, was signed by Governor Pritzker which makes significant changes to several educational areas. Some of the more significant reform measures enacted by this bill include:
 - The addition of two years of a laboratory science to high school graduation requirements (enacted by 2024-2025 school year);
 - The addition of one year of “intensive instruction” in computer literacy to high school graduation requirement;
 - A requirement for instruction in computer literacy beginning in elementary school;
 - The addition of two years of foreign language to high school graduation requirement;
 - Revisions to learning standards for computer and social sciences;
 - A requirement for a unit of instruction on black history;

In addition, the state will create task forces/councils in several areas to conduct research, including:

- Inclusive American History Commission;
- Whole Child Task force;
- Behavioral Health Services diagnostic assessment system;
- P-20 Council to research short- and long-term learning recovery actions for public school students in wake of COVID-19

The bill will also require the following:

- The Illinois State Board of Education (“ISBE”) to create a common assessment tool for all students entering kindergarten;

- School districts to amend their accelerated placement policy to allow for automatic enrollment of a student into the next most rigorous level of advanced coursework if the student meets/exceeds state standards in English/language arts, math or science;
- The establishment of a six-week summer school program run by Freedom Schools, to motivate active civic engagement and empower disenfranchised communities;
- Increase funding for Minority Teacher Scholarships and programmatic and fiscal changes to the Illinois Teaching Excellence Program; and
- Removal of the requirement of applications for an Alternative Teacher License to achieve at least a 3.0 GPA.

February 2021

- The Wisconsin Department of Education recently ruled against a school district in In re: Student with a Disability, when the District failed to consider a special education student's individual needs prior to determining how many minutes of in-person instruction they were to receive during the COVID-19 pandemic. The Department of Education found that the District, which implemented a district-wide policy for how many minutes per week all special education students would receive, committed a procedural violation in pre-determining minutes. The Department ordered the school district to convene an IEP meeting for the student who was the subject of the complaint, stating that the amount of in-person minutes, supplementary aids and supports recommended should be an IEP team decision based on a student's individual needs, not a District-wide policy.
- A Federal court in Georgia recently ruled in Davis ex rel. Harris v. Thomas that official immunity shielded a teacher from physical abuse claims. Despite the disturbing claims, which included a special education teacher instructing a paraprofessional to hang a disabled student from a chalkboard, mocking him and failing to take the student down until a Principal intervened, the Federal court ruled that the teacher did not act with, "...actual malice or an actual intent to cause emotional injury to [the student]." The school employee's immunity, therefore, shielded her from abuse claims in her individual capacity.

January 2021

- A currently pending Illinois Senate Bill, SB 2071, would allow applicants who have earned a Master's degree in social worker and holds a valid state license as a Licensed Clinical Social Worker ("LCSW") to obtain a social worker endorsement on an Educator License.
- Illinois House Bill 7, which is vehemently opposed by school boards across the state of Illinois, would create a School District Efficiency Commission. The Commission's role would be to conduct research and make recommendations to the Governor regarding cost-saving educational measures, focusing on the consolidation of school districts. The Commission's target would be to eliminate at least 25% of all school districts within the state, consolidating them into larger unit districts.

- Currently pending Illinois House Bill 40 would allow special education students whose 22nd birthday occurs during the school year to continue receiving services through the end of the school year.

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