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IN THIS ISSUE

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Mission Statement

The primary purpose of the Illinois School Law Quarterly On-Line is to provide a forum for the interchange of ideas, theories, and issues on various aspects of school law among practitioners, professors, and attorneys. The emphasis is on analyzing issues in school law for the purposes of developing new theories to explain current and past developments in the law and to provide the theoretical framework which can be used to anticipate and predict future developments in school law.

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DEVELOPMENTS IN THE COURTS

Finance

Abbeville County School District v State, No. 31-0169 (S.C. Ct. Comm. Pl. Dec. 29, 2005): A recent ruling by the South Carolina state courts has attempted to define what is meant by "minimally adequate education" in relation to state funding. A group of rural schools brought suit against the state of South Carolina alleging that the state funding formula failed to recognize, and therefore make allowances, for the fact that rural schools lack the tax base to provide adequate funding for their public schools. In the deciding that case, the state trial court relied on the definition of "minimally adequate education" found in an earlier case, *Abbeville County School District v State*, 515 S.E.2d 58 (S.C. 1999) which centered around the concept of "opportunity" which was defined to include availability and access but did not include a certain level of achievement or success. Using this precedent, the trial court held that "minimally adequate education" included the ability to read, write, and speak English, instruction in math, science, social studies, history, government, and vocational skills but did not require instruction in the fine arts, physical education, foreign language, or a program of extracurricular activities. *Editor's Note: This opinion only applies to South Carolina as it was a state trial court decision. It would be worth keeping on eye on other states, however, to see if in this atmosphere of decreasing public support for education even in light of state constitutional mandates to provide an adequate public education, other states jump on this "bare bones" approach to an "adequate" educational program.*

Neeley v West Orange-Clover Consolidated Independent School District, No. 05-0145 (Tex. Nov. 22, 2005): In direct contradiction of the decision of the Illinois Supreme Court in past cases, the Supreme Court of Texas has ruled that the determination of adequacy of funding is not a policy question reserved for the state legislature. While taking a rather pointed stab at the wording of the Illinois Supreme Court in both the McInnis and Edgar cases, the Texas high court stated that constitutional mandates of educational adequacy are not "judicially unmanageable" thus better left to the legislature. Instead, the court defined "adequate" as "reasonably able to provide their student the access and opportunity" to an education. At the same time, however, the court did cast doubt on the constitutionality under Texas' constitution of relying so heavily on local property taxes to fund the schools. Its reasoning was that if state funding became so low that property poor districts had no choice but to raise taxes then the tax ceases to be discretionary and becomes to look more and more like a state tax. *[Editor's Note: Perhaps without even realizing it, the federal government under the provisions of the NCLB has provided states a bench mark to be used for measuring educational adequacy. Should that be the case then even reluctant states such as Illinois will need to address the property tax to fund education issue. If more equitable funding is developed then the destruction of the public schools (as many feel is the true goal of NCLB) may never occur since the is a direct correlation between funding and educational achievement. School funding lawsuits will be an interesting topic to watch over the next several years.]*

Special Education

Arlington Central School District v Murphy, Docket No. 05-18: The United States Supreme Court has agreed to hear arguments in this case which deals with whether the IDEA allows parents to recover fees paid to expert witnesses in Due Process proceedings when the parents ultimately prevail. While the IDEA specifically awards attorney's fees to the prevailing party, it is silent as to expert witness fees.

Employment

Burlington Northern Santa Fe Railway Co. v White, Docket No. 05-259: In an attempt to settle disagreement among United States circuit courts, the United States Supreme Court has granted review to determine what constitutes "adverse employment action" in relations to claims of retaliation under Title VII of the Civil Rights Act of 1964. Some circuits have adopted the definition of the EEOC which states that an adverse employment action is one "reasonably likely to deter the charging party or others from engaging in protected activity." Other circuits have adopted the "ultimate employment decision" which claims that only "ultimate" actions such as hiring, firing, promoting, or modifying compensation fall under the definition of adverse employment action in a claim of retaliation. Yet other circuits have adopted a "middle-of-the road" position requiring a "material adverse change," "significant change," or "serious and material change," in the terms and conditions of employment to sustain a claim of adverse employment action. Once decided, this standard will apply to all schools, public and private, which are covered by federal discrimination laws.

Vouchers

Holmes v Bush, No. 04-2323 (Fla. Jan. 5, 2006): Once again the attempt of a state to enact a private school voucher program which provides public tax money to private religious schools has been found to violate a state constitution. The state appeals court had struck down the OSP as being in violation of the Florida constitution establishment clause which prohibits the use of public funds "directly or indirectly to aid any sectarian institution." Citing a "question of great public importance" the appeals court certified its decision to the Florida Supreme Court. In this case, however, the high court did not see a question of separation of church and state as paramount. Rather, the Florida Supreme Court ruled that the state's Opportunity Scholarship Program (OSP) violated the state constitutional requirement for the state to provide "a uniform, efficient, safe, secure, and high quality system of free public schools." Finally a state supreme court understood that when the state is constitutionally required to provide a system of free public schools but, instead, chooses to divert state tax money to a system of private and/or religious school thereby reducing monetary support of the public school system, that the state is failing to fulfill its constitutional responsibility. The Florida Supreme Court found that the

diversion of tax dollars to private schools which were in direct competition to the public schools not only reduced the money available to the free public schools thereby undermining the requirement of providing a "high quality education", but also violated the mandate for "uniformity" as required by the state constitution. The state supreme court didn't even have to reach the religious aid question. By not overturning the lower court's decision but rather finding the OSP in violation of yet another state constitutional provision, the denial of a state program of school vouchers has essentially been supported on both grounds. [*Editor's Note: I am not sure whether voucher proponents truly understand how soundly they have been defeated with this opinion. No longer can the religious right trot out their tried and true "we are a Christian" nation arguments when it comes to vouchers because almost all, if not all, states have a mandate for the state to provide a system of public education to which the Florida Supreme Court's reasoning could be applied. The only dark cloud on the horizon of the ultimate demise of providing public tax support to private religious schools through a system of school vouchers is the pending appointment of Judge Alito to the United States Supreme Court. Trust Jeb Bush, however, that a "double set of books" type of legislation is already in the works to circumvent the ruling of the supreme court.*]

Students' Rights

Jackson, Missouri: Here is a fight no school administrator should bother to pick. A student claiming Scottish heritage wore a kilt to a school dance. The principal ordered him to change into "appropriate attire." The principal even told him he looked like a clown according to newspaper accounts of the incident. While the principal undoubtedly had the authority to determine what appropriate dress was, and even though it was an extra curricular activity, given the ethnic origin of the boy's attire and the fact that it was doubtful that it was actually causing a "material and substantial disruption" the principal was on thin ground under the Supreme Court's ruling in *Tinker v Des Moines*, 393 U.S. 503 (1969). This is one of those times when a school administrator would be better served to look the other way.

Salt Lake City , Utah: Leave it to the Utah legislature to propose legislation to bar Gay Straight Alliance clubs from meeting in public schools. The legislation is being supported by the Utah Eagle Forum (thank you Phyllis Schlafly and Alton, Illinois) and purpotes to simply clarify existing law on the appropriate venues for discussions regarding sexuality. Proponents insist that current law already forbids public schools from recognizing student organizations dedicated to discussing sexuality. Opponents of the proposed legislation, the Utah ACLU among them, state that the legislation would be struck down as illegal. It is their position that civic issues and current issues, rather than sexuality, are the topic of discussions.

C.N. v Ridgewood Board of Education, No. 04-2849 (3d Cir. Dec. 1, 2005): A New Jersey school district did not violate the right to privacy of students who were administered a survey containing questions on sensitive subjects (i.e. relationships with

parents, drug and alcohol use, and criminal behavior) in an attempt to assess the needs of the youth of the Village of Ridgewood. A coalition of social service organizations in the town obtained permission from the superintendent to administer the survey to middle and high school students. Participation was voluntary and answers were kept confidential.

C.N. v Wolf, No. 05-868 (C.D. Cal. Nov. 28, 2005): A federal court in California has refused a school district request to dismiss a student's lawsuit alleging violation of privacy for informing her mother than she was gay. The school district's defense is that the student surrendered the confidentiality of the information when she was openly gay (kissing and fondling her girlfriend) at school; anyone present could have informed her mother of the same. She was suspended for such behavior and her parents were informed of the reasons for the suspension. Regarding the right to privacy, the court citing *U.S. Department of Justice v Reporters committee for Freedom of Press*, 489 U.S. 749 (1989) stated, "the fact that an event is not wholly private does not mean that an individual has no interest in limiting disclosure or dissemination of information." *[Editor's note: This is the type of duplicity that causes so much consternation in the area of gay rights. Arguably, given the wording of the court, a lesbian student has a privacy interest in the fact that she is a lesbian even though she has shown physical intimacy to her girlfriend in a public setting. Yet one has to wonder whether, if a boy was showing the same physical intimacy to his girlfriend, whether the court would find a privacy interest if the school district suspended him and informed his parents that he was "straight." Is it the activity the item worth protecting or the fact that being gay is still considered "a dirty secret; a skeleton in one's closet" that has garnered the court's protection? So long as even well meaning jurists keep treating homosexual behavior as being something "different" than heterosexual behavior, gay rights are not going to be well served. Administrators should adopt policies on "appropriate public sexual behavior" and leave "hetero" or "homo" out of it.]*

Fields v Palmdale School District, 427 F.3d 1197 (9th Cir. 2005): It appears that the 9th Circuit is making news once again as it inflames conservative protectors of parents rights. In 2002 the Palmdale School District decided to administer a psychological survey to first, third, and fifth grade students with the stated goal of "establishing a community baseline measure of children's exposure to early trauma." Parental consent was requested and obtained. Parents were informed that some of the questions on the survey may make the children feel uncomfortable. What the parents were not explicitly told was that questions such as how often the children thought about sex and how often they thought about touching the genitalia of other children were among those "uncomfortable" questions. Despite having signed consent forms, the parents sued in district court. The main question in front of the district court was whether parents have a fundamental right to control the introduction of sexual subjects to their children. The district court said no and dismissed the suit.

The parents then appeal the suit on to the circuit court on two grounds: (1) that the lower court had erred by not recognizing a parents fundamental right in determining when and how their children would be exposed to sexual information/subjects and that the state's failure to recognize that right violated the substantive due process rights of the parents as provided in the 14th Amendment; and (2) that the lower court erred in not recognizing

that this parental right to control information was imbedded in the parents' constitutional right to privacy. In hearing the case, the court made it very clear that it was not going to rule on whether the school district's decision to administer the survey was a wise thing to do. Rather, the court stated that it was only there to answer the question, "Does a parent have a constitutionally protected fundamental right to control where, when, and how his or her child is exposed to sexual information?" After reviewing past Supreme Court cases, the 9th Circuit came to the conclusion that, no, parents do not have a fundamental right in control the flow of sexual information to their children.

Not surprisingly, this has brought a flood of protest. The U.S. House of Representatives has even jumped into the fray by voting 320 to 91 to pass a resolution denouncing the *Fields* decision. The resolution states that the ruling "deplorably infringed on parental rights" and demanded that the court rehear the case. As reported by the Boston Globe, Tom Murphy (R-PA) was the author of the resolution and basically declared the court opinion declaring parenting unconstitutional. The democratic response was "Isn't the type of judicial activism – creating a new constitutional right in order to appease a segment of the population – that Republicans claim to abhor?" *[Editor's Note: A warning to administrators – don't follow the lead of the 9th Circuit. There was probably a good reason why the court didn't want to even venture into the wisdom of administering the survey. Just because you CAN do something doesn't mean that you SHOULD do something. Good educational judgment should be your guide. My suggestion is that questioning 1st graders about their thought on sexually molesting others is not a sound psychological or educational activity and, despite the fact that it is not forbidden by the federal constitution, should be avoided. This case could also have been avoided if the release/consent forms had been more explicit. I don't know why the parents didn't sue on the grounds of failure to obtain informed consent. Would have been much easier to win!]*

Religion

Kitzmiller v Dover Area School District, No. 04-2688 (M.D. Pa. Dec. 20, 2005): Just when one might become disillusioned with the erosion of the wall of separation between church and state, a case such as the recent decision in Pennsylvania occurs to give hope to the weary. Not only was the judge writing the opinion very direct in his discussion of intelligent design being nothing more that creation science wearing a different robe as he found the district policy in violation of the Establishment Clause of the First Amendment, but then the public raised up in rightful indignation and unseated the entire board – 8 individuals who voted for the policy. The newly elected board voted unanimously to rescind the policy outlawing the teaching of evolution and requiring the teaching of intelligent design. It is heartening to see reasonable people saving the education of children from the special interests of religious zealots who have lost the ability to understand reason in their fundamentalist fervor to proselytize to and, if not convert at least control, all those with whom they come in contact.

Earlier in 2005 the sitting members of the Dover school board had adopted a policy which required that a statement be read to students in ninth grade science class which

discredited evolution and suggested intelligent design as a viable alternative explanation for the origin of life. When the board voted to include intelligent design in the ninth grade biology curriculum, a group of parents backed by the ACLU filed suit alleging a violation of the Establishment Clause of the First Amendment. In finding the policy unconstitutional, the court used both the endorsement test (i.e. would a reasonable student and or member of the community perceive the policy as endorsing a particular religion) and the Lemon Test. Under the endorsement test, the court found a "strong message of religious endorsement." The court stated "the disclaimer singles out the theory of evolution for special treatment, misrepresents its status in the scientific community, causes students to doubt its validity without scientific justification, presents students with t religious alternative masquerading as a scientific theory, directs them to consult a creationist text as though it were a science resource, and instructs students to forego scientific inquiry in the public school classroom and instead to seek out religious instructions elsewhere."
The court went further, finding that intelligent design is not science because it invokes and permits supernatural causes, uses the same illogical dualism that discredited creation science in the 1980s, and its attacks on evolution have been scientifically refuted. These findings were pretty far reaching for a court to make. Applying the Lemon Test, the court found that the policy failed both the first and second prong of the test. The so-called secular purpose of the law was found to be just a pretext to promote religion in the public schools. As to effect, the only effect of the teaching of intelligent design, since it is not a science, was to promote religion. The judge stated that the decision of the board was a policy of "breathtaking inanity." That pretty well sums it up.

Muscatine, Iowa: And yet, as we speak, the blinders stay on in another state. One Muscatine Community School District board member, Paul Brooks, refuses to subjugate his religious beliefs to those of one judge in Pennsylvania. It is his belief that if evolution is taught in science class than alternate theories regarding the origin of life should also be taught. The school board had discussed intelligent design after hearing a talk by an assistant professor from Iowa State University, Guillermo Gonzalez, on the book he authored, *The Privileged Planet*, which claims intelligent design as legitimate science. [*Editor's Note: Just so as to not cast a pawl of incompetency on Iowa State University, in response to Dr. Gonzalez, over 100 other Iowa State professors have gone on record stating that intelligent design is not science. It appears that perhaps local school districts, and maybe even those lawyers representing the districts, need to be re-educated about the two landmark Supreme Court cases on the teaching of religious creation stories in public schools* -- *Epperson v State of Arkansas*, 393 U.S. 97 (1968), and *Edwards v Aguillard*, 482 U.S. 578 (1987).]

Minnetonka, Minnesota: Pragmatism appeared to save the day when the Minnetonka School Board voted 4 to 2 to reject changes to the curriculum to allow intelligent design to be included in science instruction. The disagreement centers on state standards and the central position of the teaching of the theory of evolution. Proponents of the failed proposal felt that it brought the district more in line with state standards; that students should be informed that evolution is theory not fact. Opponents of the failed proposal pointed to the current curriculum's statement that evolution is indeed a theory with

inconsistencies that were open to explanation by other scientific theories, but that intelligent design is not science. *[Editor's Note: What the fights surrounding the introduction of creationism into the public school curriculum in the 1980s, intelligent design is in the 2000s. Kansas, Minnesota, New Mexico, Ohio, and Pennsylvania have all adopted state standards allowing the teaching of intelligent design in the public schools. An interesting observation is that these states are not normally thought of as part of the fundamentalist "Bible Belt," yet has been the Fifth Circuit in Louisiana and the 11th Circuit in Georgia which have struck down evolution disclaimers as being unconstitutional under the Establishment Clause of the First Amendment.*

The Bronx Household of Faith v Board of Education of the City of New York, 2005 WL3071639 (S.D.N.Y. Nov. 16, 2005): Not surprisingly, a federal district court in New York has ruled that it is a violation of a religious group's freedom of speech to barring them from using school facilities on Sunday for religious services. This is not a new issue and the court relied on precedent from *Good New Club v Milford Central School*, 533 U.S. 98 (2001) in ruling that once a limited open forum is established by allowing one non-curricular group access to school facilities, that future decisions cannot not take the content of the group's speech into account as a reason to allow or deny access. The court did a fairly efficient job of listing the reasons as to why there was not an Establishment Clause question involved. Specifically, access would be during non-school hours, the group and/or its activities were not endorsed by the public school, the services were not attended by school employees in their capacity of public employees, the services were open to all members of the public so no violation of federal discrimination laws, and there was no evidence that children would be on school grounds at that time as a routine matter. *[Editor's Note: This is still the best criteria to use when deciding whether to allow outside groups to use school facilities during non-instructional time. If you let one group in, you must let all other groups in who comply with whatever policy is in place (i.e. requirement of proof of insurance, maximum number in attendance, janitorial payment, etc.)]*

No Child Left Behind

Under a new proposed rule from the U. S. Department of Education, local school districts would be allowed to give 2% of their identified special education students a modified state assessment test to count towards showing AYP under the NCLB. Finally Secretary Spellings has gone on record recognizing that not all students are capable of achieving their chronological grade's skills at the same time, thus flexibility is needed. This proposed rule, however, is still originating in the DE so although the students may be given an alternative assessment, the assessment must still be aligned with grade level curricular and will still be limited to 2% of the identified population.

The U.S. Department of Education has filed a motion to dismiss Connecticut's lawsuit challenging the testing provisions of NCLB as unfunded mandates. The DE's argument rest on a claim that Connecticut is misreading the terms of the NCLB and that the reason

for their increased costs is the state's unilateral decision to institute a more expensive form of testing. Connecticut's testing rules modify tests for disabled students and translate the tests for non-English speaking students. Apparently the DE feels that these are unnecessary additional expenses. The DE was bolstered in its opinion by the recent dismissal by the federal court in Michigan of a similar lawsuit, *City of Pontiac v Spellings*, No. 05-71535 (E.D. Mich. Nov. 23, 2005) brought by the National Education Association.

The Department of Education has also issued a press release about a new pilot program where up to 10 states will be given the opportunity to show AYP by tracking the progress of individual students rather than using standardized tests by sub-groups. There will be $53 million in grants available to participating schools to create systems to track students across grades. The catch-22, however, is that in order to qualify to be included in the pilot program the school district must already have cross-grade tracking data. Both Hawaii and Oregon have shown interest in the program but it is doubtful that either state has sufficient assessment programs in effect to enable them to participate.

Charter Schools

Comprehensive Cmty. Solutions, Inc. v Rockford Sch. Dist., 2005 WL 2298226 (Ill. 2005): The Illinois State Board of Education (ISBE) decision to deny the establishment of a charter school for at-risk children in the Rockford School district because of potential detrimental financial implications was upheld by the Supreme Court of Illinois. Under Illinois law, anyone wishing to establish a charter school must submit a proposal to both the local school district and the ISBE. One of the factors which much be considered under the law is whether the proposed charter school is "economically sound for both the charter school and the school district." Comprehensive Community Solutions, Inc. (CCSI) submitted a proposal as required by law but the Rockford school board denied the proposal under the "economically sound" factor. CCSI appealed to the ISBE which also rejected the proposal. The case finally ended up in-front of the Illinois Supreme Court which ruled that the ISBE had acted within its administrative powers and within the confines of the charter school legislation.

Racine Charter One v Racine Sch. Dist., 424 F.3d 677 (7th Cir. 2005): In another piece of the ever increasing charter school litigation, the charter school was unsuccessful in challenging the Racine School District's decision to no bus charter school pupils on the same terms as it bused its own public school students. In the decision of the circuit court, it was noted that the charter school, although located within the boundaries of the public school district, was actually a completely autonomous, independent public school district sponsored by a university. Under Wisconsin state law, there was not mandate for the public school district to provide transportation therefore to districts decision not to do so was not illegal.

NEW LAWS FOR 2006

[This information including summaries of the new legislation was obtained from the Illinois Association of School Boards. For more information please access their website at www.iasb.com.]

Biodiesel Fuel in School Buses

625 ILCS 5/12-705.1 new

Summary: The Act requires that, beginning July 1, 2006, all diesel powered vehicles owned or operated by the State, any county or unit of local government (including school districts) use a blend containing at least 2% bio-diesel fuel. Exempted from the requirement are school buses that have been retrofitted to burn ultra low sulfur fuel.

Residency – Military Children

105 ILCS 5/10-20.12b

Summary: The Act provides that if a pupil's change of residence is due to the military service obligation of a person who has legal custody of the pupil, then, upon the written request of the person having legal custody of the pupil, the residence of the pupil is to be the same as the residence of the pupil immediately before the change of residence caused by the military service obligation. This change is for purposes of enrollment for the duration of the custodian's military service obligation. The Act also provides that a school district is not responsible for providing transportation to or from school for a pupil whose residence is determined under these provisions.

Genocide Unit of Instruction

105 ILCS5/27-20.3
30 ILCS 895/8.29 new

Summary: The Act provides that in addition to the unit of instruction studying the events of the Holocaust, the curriculum of every public elementary school and high school shall include a unit of instruction studying other acts of genocide across the globe, including, but not limited to, the Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan.

Minority Contract Fraud

720 ILCS 5/17-29 new

Summary: The Act provides that in addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or assists another to obtain, a contract with a governmental unit because of a false representation that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability, regardless of whether the preference was established by statute or local ordinance or resolution, is guilty of a Class 2 felony. It provides that the court shall order that an individual or entity convicted of this offense must pay to the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation.

Amistad Commission
20 ILCS 3405/22 new
105 ILCS 5/27-20.4
Summary: The Act creates the Amistad Commission and contains provisions concerning the membership and duties of the Commission to: (i) provide assistance and advice to schools within the State with respect to the implementation of education, awareness programs, textbooks, and educational materials concerned with the African slave trade, slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans to our society; (ii) survey and catalogue the extent and breadth of education concerning these topics; (iii) act as a liaison to textbook publishers and others in forming a curriculum on these subjects; (iv) coordinate events and programs on slavery and related issues; and (iv) develop with the cooperation of the State Board of Education, curriculum guidelines for the teaching of information on slavery topics and issues. It authorizes the Commission to call upon any department, office, division, or agency of the State, or of any county, municipality, or school district of the State, to supply such data, program reports, and other information, appropriate personnel, and assistance as it deems necessary to discharge its responsibilities under this Act. The Act further provides that the State Board of Education shall assist the Commission in a variety of ways, including by: (i) marketing and distributing information and materials on slavery topics to schools, and (ii) conducting at least one teacher workshop annually on slavery issues. The Act also requires every public elementary and high school to include in its curriculum a unit of instruction studying the events of Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country.

Prairie State Achievement Exam
105 ILCS 5/18-8.05
Summary: The Act states that "on days when the Prairie State Achievement Examination is administered, the day of attendance for a pupil whose school day must be shortened to accommodate required testing procedures may be less than 5 clock hours and shall be counted towards the 176 days of actual pupil attendance required, provided that a sufficient number of minutes of school work in excess of 5 clock hours are first completed on other school days to compensate for the loss of school work on the examination days."

Parent Responsibility Law
740 ILCS 115/5
Summary: Under the Parent Responsibility Law, the Act raises the maximum recovery of actual damages to $20,000 (from $2,500) for each person or legal entity for each occurrence of willful or malicious acts by the minor causing injury.

Gifted Education; School Board Member Health Insurance
105 ILS 5/10-22.3a
105 ILCS 5/Art. 14A heading new
105 ILCS 5/14A-5 new
105 ILCS 5/14A-10 new
105 ILCS 5/14A-15 new

105 ILCS 5/14A-20 new
105 ILCS 5/14A-25 new
105 ILCS 5/14A-30 new
105 ILCS 5/14A-35 new
105 ILCS 5/14A-40 new
105 ILCS 5/14A-45 new
105 ILCS 5/14A-50 new
105 ILCS 5/14A-55 new

Summary: The Act creates new guidelines to which school districts must comply if they offer a Gifted Education Program. It also contains a provision which states that nothing contained in the School Code may preclude an elected school board member from participating in a group health insurance program provided to an employee of the school district that the board member serves if the board member is a spouse or unmarried child of that employee.

Character Education:
105 ILCS 5/27-12

Summary: The Act requires teachers to teach students character education, which includes the teaching of respect, responsibility, fairness, caring, trustworthiness, and citizenship, in order to raise pupils' honesty, kindness, justice, discipline, respect for others, and moral courage for the purpose of lessening crime and raising the standard of good character (now, requires teachers to teach pupils honesty, kindness, justice, discipline, respect for others, and moral courage for the purpose of lessening crime and raising the standard of good citizenship).

Physical Education Curriculum
105 ILCS 5/27-6
105 ILCS 5/27-7

Summary: The Act provides that pupils must daily engage in courses of physical education to allow the opportunity for an appropriate amount of physical activity and allows a school board to excuse pupils in grades 9 through 12 from engaging in physical education courses if those pupils must utilize the time set aside for physical education to receive special education support and services. The Act also updates the criteria for a physical education course of study.

Economic Interest Statements
5 ILCS 420/4A-106

Summary: The Act eliminates the requirement that the county clerk notify a person when his or her economic interest statement has been examined. It also removes the requirement that the examiner identify himself or herself.

Class Size Reduction
105 ILCS 5/2-3.136

Summary: Under the K-3 class size reduction grant program, the Act provides that if a school board determines that a school is using funds awarded under the program for

purposes not authorized by the program, then the school board, rather than the school, shall determine how the funds are used.

Safety Drills in Schools
105 ILCS 5/2-3.129 rep
105 ILCS 5/10-20.22 rep
105 ILCS 5/10-20.23 rep
105 ILCS 5/10-20.32 rep
105 ILCS 5/27-26 rep
105 ILCS 5/34-18.19 rep
105 ILCS 120/Act rep
30 ILCS 805/8.29 new
Summary: The Act would require school districts to complete an additional fire drill each year (bringing the total to 3), and require that at least one of these include participation by the local fire department. It also requires school districts to invite all emergency response units to a yearly meeting in order to evaluate the school's emergency response plans and to file a report stating the results of the evaluation. The Act requires that each school building must conduct a minimum of one bus evacuation drill and one severe weather and shelter-in-place drill during each academic year.

Background Check – Sex Offender Registration
105 ILCS 5/10-21.9
105 ILCS 5/27A-5
105 ILCS 5/34-18.5
Summary: The Act provides that in addition to fingerprint-based criminal history records checks performed by the Department of State Police, the school district or regional superintendent of schools shall further perform a check of the Statewide Sex Offender Database for each applicant for employment with the school district.

Vocational Academies Act
New Act
Summary: The Act allows a school district, in partnership with community colleges, local employers, and community-based organizations, to establish a vocational academy that is eligible for a grant from the State Board of Education if the vocational academy meets specified requirements.

Transportation Safety Hazard
105 ILCS 5/29-3
Summary: The Act allows a school board to provide free transportation when conditions are such that walking constitutes a serious safety hazard, provides that the school board shall annually review the conditions and determine (rather than certify to the State Superintendent of Education) whether or not the hazardous conditions remain unchanged.

FOIA Financial Information
5 ILCS 140/7
Summary: The Act amends the Freedom of Information Act. In the Act's existing exemption of certain trade secrets and commercial or financial information obtained by a public body from inspection and copying requirements, it states that the exemption specifically includes certain information relating to private equity funds. It provides that the exemption concerning the financial information does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Driver Education Fee
105 ILCS 5/27-23
Summary: The Act provides that the total amount from driver education fees and reimbursement from the State for driver education must not exceed the total cost of the driver education program in any year and must be deposited into the school district's driver education fund as a separate line item budget entry. It further provides that all moneys deposited into the school district's driver education fund must be used solely for the funding of a high school driver education program approved by the State Board of Education that uses instructors certified by the State Board of Education. The fee maximum remains at $50.

Notification of Schools for Deaf and Blind
105 ILCS 514/8.02
Summary: The Act provides that school districts shall make a reasonable effort to further inform the parents or guardian of the existence of local schools that provide services for deaf and visually impaired students.

Physical Education Curriculum
105 ILCS 5/27-6
105 ILCS 5/27-7
Summary: The Act allows a school board to excuse pupils in grades 9 through 12 from engaging in physical education courses if those pupils must utilize the time set aside for physical education to receive special education support and services. It significantly changes requirements with regard to a physical education course of study and requires a P.E. course of study to provide students with an opportunity for an appropriate amount of daily physical activity.

Budget – Disclose All Contracts
30 ILCS 805/8.29 new
105 ILCS 5/10-20.21
Summary: The Act requires contracts and agreements that pertain to goods and services and that are intended to generate additional revenue and other remunerations for a school district in excess of $1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, to be approved by the school board. It requires the school board to file as an attachment to its annual budget a report indicating for the prior year the name of the vendor, the product or service

provided, and the actual net revenue and non-monetary remuneration from each of the contracts or agreements. It also requires the report to indicate for what purpose the revenue was used and how and to whom the non-monetary remuneration was distributed.

Graduation Requirement Increases
105 ILCS 5/27-22
Summary: The Act increases the high school graduation requirements, phased in over the next four years. It would require at least two years of science (instead of one); require three years of mathematics – including algebra and geometry – (instead of two); require at least two "writing-intensive courses", one being an English course; and require English every year of high school (instead of three years). Passage of these courses would be a prerequisite to receiving a high school diploma.

School Board-Student Member
105 ILCS 5/10-1
105 ILCS 5/10-10
105 ILCS 5/32-3.5 new
105 ILCS 5/33-1
105 ILCS 5/34-3
Summary: The Act allows a school board to appoint a student to the board to serve in an advisory capacity for a term as determined by the board. The board may not grant the student member any voting privileges and the student member cannot attend closed meetings.

Open Meeting-Record Review
5 ILCS 120/2.06
Summary: The Open Meetings Act is amended to provide that a public body's failure to strictly comply with the requirements of the semi-annual review of closed meetings minutes does not make the minutes or verbatim recordings open to the public or available in judicial proceedings (other than those for violations of the Act) if the public body, within 60 days of the discovery of its failure, conducts the review and reports in an open meeting that the need for confidentiality remains or no longer exists.

Teacher Scholarships – Shortage Area
110 ILCS 947/65.27 new
Summary: The Act requires the Illinois Student Assistance Commission to implement and administer a teacher scholarship program, to be known as the Teach Illinois Scholarship Program. It defines "area of identified staff shortage" as a school district in which the number of teachers is insufficient to meet student or school district demand or a subject area for which the number of teachers who are qualified to teach that subject area is insufficient to meet student or school district demand, as determined by the State Board of Education; and requires the Commission to annually award scholarships to persons preparing to teach in areas of identified staff shortages. The Act requires the recipient to accept employment to teach in an elementary or secondary school in Illinois in an area of identified staff shortage for a period of at least 5 years.

Athletic Trainers
5 ILCS 80/4.16
5 ILCS 80/4.26 new
225 ILCS 5/3
225 ILCS 5/4
225 ILCS 5/6
225 ILCS 5/9
225 ILCS 5/10
225 ILCS 5/13
225 ILCS 5/16
225 ILCS 5/17.5
225 ILCS 5/34
225 ILCS 5/34.1 new
Summary: The Act extends the repeal of the Illinois Athletic Trainer's Practice Act from January 1, 2006 to January 1, 2016 and defines an "athletic trainer aide". It also provides the requirements for licensure of out-of-state trained athletic trainers and clarifies that athletic trainers shall require licensure rather than registration.

Blood Donation Paid Leave
5 ILCS 327/20
New Act
Summary: The Act provides that on request, an employee of any unit of local government, board of election commissioners, or any private employer in the State that has 51 or more employees may be entitled to paid employment leave for the purpose of blood donation for up to one hour every 56 days in accordance with appropriate medical standards.

Student Teacher Test
105 ILCS 5/21-1a
Summary: The Act removes a provision prohibiting a pre-service education teacher from student teaching until he or she has passed the subject matter test in the discipline in which he or she will student teach.

Service Member's Employment Tenure
20 ILCS 1805/22-10 new
330 ILCS 60/4.5 new
Summary: The Military Code of Illinois and the Service Member's Employment Tenure Act are amended. In the Service Member's Employment Tenure Act, it provides that if an employer has given an individual a date upon which that individual is to commence performing services for the employer but the individual is called to active military duty before the date on which the individual's services were to have commenced, then the employer, upon request made by the individual, shall provide the individual with a written copy of the employment offer. If an individual, upon honorable discharge from the military or satisfactory completion of his or her military service, is still qualified to perform the duties of the position for which he or she was first offered employment, and if the individual makes application with the employer within 90 days after he or she is

relieved from military service, then the individual shall be given preference for employment with that employer. The Act provides that if circumstances have so changed as to make it impossible or unreasonable for the employer to employ the individual immediately, the individual shall remain eligible to begin such employment for a period of up to one year after the date the individual first notified the employer of his or her desire to perform such services. These provisions (i) do not apply if the original offer of work was limited to part-time employment, temporary employment, or casual labor and (ii) do not require an employer to hold a job position open, violate any employment law, collectively bargained employment recall, or other employment obligation, or create additional employment to satisfy the requirements of these provisions.

Union Members' Privileged Conversation
735 ILCS 5/8-803.5 new
Summary: The Act provides privilege protection against being compelled to testify to union agents under certain conditions. It denotes the circumstances under which the privilege shall not apply.

Labor Dispute-Picketing
820 ILCS 5/1.2 new
820 ILCS 5/1.3 new
820 ILCS 5/1.4 new
820 ILCS 5/1.5 new
Summary: The Act provides that persons engaged in picketing in labor disputes may use public rights of way to apprise the public of the existence of a dispute for: "the purposes of picketing"; erection of temporary signs announcing their dispute; parking at least one vehicle on the public right of way; and erection of tents or other temporary shelter for the health, welfare, personal safety, and well-being of picketers. Signs, tents, or temporary shelters may not be erected or maintained so as to obscure or otherwise physically interfere with an official traffic sign, signal, or device or to obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic. The Act provides that tents or other temporary shelter covered by the new provisions shall not be larger than 300 square feet and shall be removed at the end of each day when the picketing has ceased.

Principal Reclassification
105 ILCS 5/10-23.8b
Summary: The Act provides that upon non-renewal of a principal's administrative contract, the principal shall be reclassified pursuant to the Section 5/10-23.8b of the School Code.

Master Certification Guidance Counselors
105 ILCS 5/21-27
105 ILCS 5/21-25
Summary: The Act provides that persons who have successfully achieved National Board certification through the National Board for Professional Teaching Standards shall be issued a Master School Service Personnel Certificate, valid for 10 years. In provisions

concerning the Illinois Teaching Excellence Program, it provides for an annual payment of $3,000 to be paid to each school counselor who receives a Master Certificate and is employed as a school counselor by a school district.

Sex Offenders-Restrictions
730 ILCS 5/3-3-7
730 ILCS 5/5-6-3
730 ILCS 5/5-6-3.1
730 ILCS 152/121 new
730 ILCS 5/3-1-2
730 ILCS 5/5-1-3.5 new
Summary: The Act provides that as a condition of probation, conditional discharge, parole, or mandatory supervised release, a sex offender may not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter. It also provides that a law enforcement agency having jurisdiction may provide to the public a special alert list warning parents to be aware that sex offenders may attempt to contact children during holidays involving children, such as Halloween, Christmas, and Easter and to inform parents that information containing the names and addresses of registered sex offenders are accessible on the Internet.

Sex Offender Residence
720 ILCS 5/11-9.3
720 ILCS 5/11-9.4
730 ILCS 5/3-3-7
730 ILCS 5/3-3-9
730 ILCS 5/3-14-2
730 ILCS 5/3-17-1 new
730 ILCS 5/3-17-5 new
730 ILCS 5/5-6-3
730 ILCS 5/5-6-3.1
730 ILCS 5/5-6-4
730 ILCS 110/16.2 new
730 ILCS 5/Ch. III Art. 17 heading new
730 ILCS 152/120
Summary: Among many other provisions regarding the sex offender statutes, the Act provides that a transitional housing facility must meet the following criteria to be licensed by the Department of Corrections: (1) the facility shall provide housing to a sex offender for a period not to exceed 90 days; (2) the Department must approve a treatment plan and counseling for each sex offender residing in the transitional housing; (3) the transitional housing facility must provide security 24 hours each day and 7 days each week approved by the Department; and (4) the facility must notify the police department, public and private elementary and secondary schools, public libraries, and each residential home and apartment complex located within 500 feet of the transitional housing facility.

Aggravated Battery of a Public Official
720 ILCS 5/12-4
Summary: The Act provides that a person commits aggravated battery if the person knows the individual harmed to be an officer or employee of the State of Illinois, a unit of local government, or school district engaged in the performance of his or her authorized duties as such officer or employee.

Sex Offenders Near School
720 ILCS 5/11-9.3
Summary: The Act prohibits a child sex offender from loitering within 500 feet of a school or its property. Formerly the law stipulated that the area be a public way.

Sex Offender Registration
730 ILCS 150/2
730 ILCS 150/3
730 ILCS 150/6
730 ILCS 150/7
730 ILCS 150/8
Summary: Among many changes regarding sex offender registration, the Act provides that a sex offender who changes his or her address, place of employment, or school attended, must report in person rather than by mail to the law enforcement agency or agencies where he or she is registered. It also provides that a child sex offender must sign a statement that, as a child sex offender, he or she may not reside within 500 feet of a school, park, playground, or any facility providing services directed exclusively toward persons under 18 years of age unless the sex offender meets specified exemptions.

Fire Safety-Stairwell
425 ILCS 55/1.5 new
Summary: The Act provides that stairwell enclosures in buildings greater than 4 stories shall comply with one of the following requirements: (1) no stairwell enclosure door shall be locked at any time; or (2) stairwell enclosure doors that are locked shall be equipped with an electronic lock release system that is activated upon loss of power. It provides that stairwell enclosure doors at the main egress level of the building shall remain unlocked from the stairwell enclosure side at all times.

Steroid Abuse Education
105 ILCS 5/27-23.3
Summary: The Act requires a school district to provide steroid abuse prevention education to students who participate in interscholastic athletic programs.

Sex Offender Registration Records
730 ILCS 150/2
730 ILCS 150/3
730 ILCS 150/4
730 ILCS 150/5
730 ILCS 150/5-5

730 ILCS 150/6
730 ILCS 150/6-5
730 ILCS 150/7
730 ILCS 150/10
730 ILCS 152/120
730 ILCS 152/121 new
Summary: Among many changes to the Sex Offender Registration law, the Act re-defines "sex offender" and "sexual predator". It provides that the local law enforcement agency having jurisdiction to register the juvenile sex offender shall ascertain from the juvenile sex offender whether the juvenile sex offender is enrolled in school, and if so, shall provide a copy of the sex offender registration form only to the principal or chief administrative officer of the school and any guidance counselor designated by him or her. The registration form shall be kept separately from any and all school records maintained on behalf of the juvenile sex offender.

Mandate Waivers – Physical Education
105 ILCS 5/2-3.25g
105 ILCS 5/27-6
Summary: The Act provides that the Spring mandate waiver report the State Board of Education files with the General Assembly shall be filed before each March 1 (instead of May 1) and gives the General Assembly 60 days (instead of 30 days) to disapprove the report in whole or in part. The Act makes an exception to the daily physical education requirement on block-scheduled days if a school is engaged in block scheduling.

Advance Placement Courses
New Act
Summary: The Act requires the State Board of Education to establish training guidelines that require teachers of Advanced Placement courses to obtain recognized Advanced Placement training, subject to appropriation. It provides that Advanced Placement and pre-Advanced Placement training to teachers in Illinois high schools must meet certain requirements and requires the State Board of Education to encourage school districts to offer rigorous courses in grades 6 through 11 that prepare students for the demands of Advanced Placement course work.

Bilingual Education – State Tests
105 ILCS 5/2-3.64
Summary: The Act provides that for elementary school students who are in a State-approved transitional bilingual education program or transitional program of instruction, the time allotted to take State tests may be extended as determined by the State Board of Education by rule. It also allows certain bilingual education students to take an accommodated Limited English Proficient student academic content assessment (instead of the Illinois Measure of Annual Growth in English test).