

ILLINOIS STATE
UNIVERSITY



***SCHOOL
LAW
QUARTERLY
ON-LINE***

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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

No Child Left Behind

Arizona: Suit has been filed by the Arizona State Superintendent against the federal government alleging that they have reneged on a deal regarding the count of English Language Students. According to Arizona, the Federal Department of Education made a verbal agreement to count English language students for purposes of NCLB only after they had been in attendance in the state of Arizona for at least three years rather than the one year deadline stated in the law. A spokesman for the DE claimed to such agreement had been made and that, instead, Arizona has been repeatedly warned that they are in violation of the law. If Arizona should lose its suit and additional 100 schools stand to be labeled as failing under the NCLB.

New York: The DE has informed New York that they are not in compliance with NCLB standards relating to the testing of disabled and limited English proficient students. The federal government has told the state that the alternate language arts test which it is using to test English language learners is not comparable to the regular language arts test which was approved for use under NCLB. Similar concerns have been registered by the DE as regarding the testing of special education students. Should New York fail to bring itself into compliance it stands to lose \$1.2 million in federal aid. New York was one of 36 states found to have non-compliant accountability standards. Maine and Nebraska had their testing systems rejected, and 10 states won ED approval.

Connecticut: A ray of hope has filtered down to the Attorney General of Connecticut after a United States Supreme Court ruling concerning what constitutes sufficient notice in federal legislation. In the recent decision in *Arlington Central School District v Murphy*, a case involving the IDEA, the Supreme Court held that Article I of the Federal Constitution requires Congress to give explicit notice of the requirements placed on the state under any Spending Clause statutes (a.k.a. categorical aid.) Since such legislation is based on the basic contract theory found in common law, one important element is that the two parties entering the contract have a “meeting of the minds.” Each side must clearly understand to what they are agreeing, otherwise the contract is voidable. The terms must be unambiguous. This provides another possible avenue by which states may be able to attack the NCLB on its face.

National Education Association: The NEA has renewed its call to step-up lobbying efforts for the reform and modification of the NCLB authorizing legislation. To date the NEA has spent over \$8 million on this endeavor. While the NEA claims to agree on the goals of the NCLB, that is improving educational opportunities for all students, it disagrees with the testing methods which the DE is attempting to use to achieve those goals.

Tort Liability

Jerkins v Anderson, No. 3838-02 (N.J. Super. App. Div. June 20, 2006): The case dealt with the school's duty to supervise student upon their dismissal from school. Jerkins, a third grader at the time of the accident, had been released early. On a normal school day some member of the family would meet Jerkins at the end of school and escort him home. The parents claim that they had no knowledge of the early release and when an older brother arrived to escort Jerkins home he found that students had been released earlier. Because there was no one there to meet him that day, Jerkins had headed home on his own. On the way he ran into the street where he was hit by a car and left a quadriplegic. Jerkins parents filed suit alleging negligence against both the driver and the school district. In deciding whether there was a "duty" of supervision on behalf of the school district, the appellate court ruled that consideration of four factors was need to make a determination of liability: (1) the relationship of the parties; (2) the nature of the attendant risk; (3) the opportunity and capacity of defendants to exercise reasonable care; and (4) the public interest in the proposed solution.

Applying these four factors to the instant case the court found that there did exist a duty to supervise the children akin to that expected of parents (*in loco parentis*). Secondly, it was foreseeable that leaving a young child unsupervised could result in a substantial risk of bodily injury. Third, the court found that it would not have caused an undue hardship on the school district to make sure that all young students were appropriately met by another responsible adult before releasing those students from the supervision of the district. Finally, the court held that "imposing a duty upon school districts to ensure that younger students are not dismissed from school without proper supervision is entirely consistent with the school's well-established responsibility to protect students from foreseeable dangers." *Editor's Note: I think that it should be taken into account that this was and "unscheduled" early release. You can lessen or entirely remove your duty to supervise after school with appropriate notice in school handbooks and by reminders of early releases in newsletters. If, however, for some reason the school needs to release students early at an unscheduled time, it is incumbent upon the district to make sure that all of the students are accounted for a not just assume that your duty ends once the school bell rings.*

Employee's Rights

Bailey v Department of Elementary and Secondary Education, No. 05-2448 (8th Cir. June 23, 2006): Bailey was an employee of the U.S. Social Security Administration. When new procedures for review disability applications were implemented, Bailey said that he believed them to be an illegal quota system and refused to sign-off on an application decision. His boss told him to get with the program. This was just a start of Bailey's declining ability to get along with supervisors and other staff. When word of his behavior reached upper management, Bailey forwarded his own complaint over his supervisor's behavior. On the date his complaint was received he was fired. In upholding his termination, the circuit court stated that his speech was for his own interest and was not made as a citizen. Furthermore, even if his speech has been of public

concern thus protected under the First Amendment, his other actions had caused substantial disruption to the workplace and impaired his ability to perform his duties and would have been grounds in and of themselves for termination.

Weisberg v Riverside Township Board of Education, No. 04-4533 (3d Cir. May 11, 2006): Weisberg suffered a concussion while at work when a wooden speaker fell off the wall behind him and struck him on the head. While neither side disputed that he suffered from post-concussion syndrome, an ailment which results in fatigue, loss of ability to concentrate, memory loss, and other impairment of mental functions, whether such was a disability under the ADA was the focus of this law suit. In finding against the employee, the court relied on testimony that Weisberg seemed able to attend football games, eat out frequently, and finish all of his work during a forty hour work week to determine that one or more of his major life activities was not impaired by the injury. Under the definition of disability in the ADA such would have to occur in order for a recovery by Weisberg. According to the court, fatigue, distractions, and an inability to concentrate for periods of time are not ailments suffered only by Weisberg, but are normal occurrences for many people in their lives!

Garcetti v Ceballos, No. 04-473 (U.S. May 30, 2006): This case involved an allegation by Los Angeles County deputy district attorney Ceballos that he suffered retaliation for exercising his First Amendment right to free speech when he accused sheriff deputies of lying to get a search warrant and then testifying in favor of the defendant at a court hearing. In a 5-4 decision the United States Supreme Court held that when public employees make statements within the exercise of their official duties, that they are not speaking as private citizens with the attached First Amendment protection of their speech. It then follows that the Constitution does not insulate their speech from employers retaliatory actions. The controlling factor for the Court was neither the place of the speech or the content of the speech, but that the speech was made pursuant to his official duties. In his dissent, Justice Stevens said that the Court's ruling encourages public employees to "go public" with their concerns rather than trying to discuss the matters with their superiors. Justice Souter made the comment that a "school teacher would be protected when complaining about hiring policy, but a school personnel officer would not be if he protested that the principal disapproved of hiring minority job applicants." In Souter's opinion it is an odd place to draw a distinction.

Special Education

Arlington Central School District Board of Education v Murphy, No. 05-18 (U.S. June 26, 2006): The parents of Joseph Murphy were successful in their lawsuit requesting reimbursement for private school tuition from Arlington Central School District. To prevail in the case, however, necessitated the use by the parents of expert witnesses. Looking at the wording and legislative history of the IDEA, the lower courts found that such expert fees were reimbursable. In a 6-3 decision, the Supreme Court rule that the IDEA does not require school districts to reimburse parents who prevail in special education disputes for the costs of experts. In reaching its decision, the Court relied on

contract theory and the need for a “meeting of the minds” of the parties involved. In order to be contractually bound to a specific performance, such requirement must be unambiguously stated in the law so that the contracting state “voluntarily and knowingly” accepts those terms as conditions of receiving funding. While the IDEA specifically states that attorney’s fees are reimburseable as part of the costs of the case, the same can not be said for expert witness fees. Since “costs” is a legal term of art which does not normally include expert witness fees in federal court actions, if the Congress had intended to deviate from that norm it would have had to specifically state that it was doing so. Failure to make such a specific statement would lead the contracting state to reasonably believe that a deviation from the legal norm was not anticipated and thus that expert witness fees were not included in the “costs” of the litigation.

School Finance

Johnstone v Thompson, No. 06-0400 (Ga. June 12, 2006): In the state of Georgia, a special purpose local option sales tax (SPLOST) is required to be used “exclusively for the purpose or purposes specified in the resolution or ordinance calling for imposition of the tax.” When the Cobb County School Board presented a SPLOST to the voters the ballot language said that the money would be used for educational purposes including new schools, land, additions, renovations, equipment and technology systems. It also specifically detailed eight “Curriculum/Technology Initiatives” including refreshing obsolete workstations by replacing 30,563 units. After the referendum was approved by the voters, the school board decided to use \$59 million of the \$75 million set aside for technology to provide every middle school student and high school student with a lap top computer. The Georgia Supreme Court found that providing lap tops and “refreshing obsolete workstations” were not the same and found the use of funds to purchase lap tops illegal.

Republicans in Congress, with the support of the Director of the Department of Education, Margaret Spellings, have introduced a federal voucher program which would funnel approximately \$100 million federal tax dollars into the coffer of private schools, including private religious schools. Moreover, the participating private schools would NOT be held accountable under NCLB. In order to qualify for the federal money, students would need to meet poverty guidelines and be students in chronically failing public schools. The program is patterned on the federal program in the District of Columbia and would affect approximately 28,000 low income students. Oddly enough, this legislation follows directly behind a U.S. Department of Education report which stated that students in public schools generally did as well or better than their counterparts in private schools if the sample was controlled for socio-economic level, race and family backgrounds. The report analyzed test scores in math and reading in fourth grade and math in eighth grade. Even though it was her agency that published the report, Secretary Spellings dismisses the report as “basically inconclusive.” This legislation should be up for consideration next year at the same time that the NCLB is scheduled to be updated.

Students' Rights

***Phaneuf v Franklin*, No. 04-4783 (2d Cir. May 19, 2006):** Seniors at Plainville High School were informed that prior to departure for their class picnic, that the district was going to search all bags for security reasons. A student told a teacher that Phaneuf, another student, had told her that she was going to hide marijuana in her pants so that it would not be found during the bag search. Upon that statement the school nurse was ordered to strip search Phaneuf. When the nurse declined to do so, Phaneuf's mother was called to come to school and conduct the search. While waiting for the mother's arrival, the principal searched Phaneuf's bag. She found cigarettes but no drugs. When Phaneuf's mother searched Phaneuf, she found no drugs. Phaneuf then sued alleging that the search was illegal. In finding for the school district the lower court found that the district had met both prongs of the T.L.O. test for conducting student searches. The 2nd Circuit court overturned the lower court stating that what may be reasonable to search a bag, a coat, or a locker, may fall far short of being reasonable for a strip search. The four criteria relied upon by the school to show reasonableness – reliability of the student tip, the student's past disciplinary record, the suspicious manner of the student's denials, and possession of the cigarettes – failed to convince the court that the strip search was justified. Reliability of a student tip, in order to be reasonable would warrant additional investigation which was not done by the school. As to her past disciplinary record, since none of the offenses were for drug possession, the record was irrelevant. The court could not find any record as to why Phaneuf's denials were "suspicious." Finally, the finding of cigarettes and a strip search for illegal drugs was an unreasonable jump which did not support a search reasonable at its inception.

***Frazier v Alexandre*, No. 05-81142 (S.D. Fla. May 31, 2006):** A 1942 Florida requiring students to stand and recite the Pledge of Allegiance was found unconstitutional because the opt-out provision required written parental permission and, even after opting-out the student was still required to stand during the recitation. In looking at the Free Speech claim, the student was not challenging the recitation of the Pledge or the content thereof, but only his compelled participation. Relying on the United States Supreme Court case of *West Virginia State Board of Education v Barnette*, 319 U.S. 624 (1943) the court found that students have the right to remain seated and silent during the recitation of the Pledge of Allegiance; that participation can not be compelled.

***Christian Legal Society v Walker*, No. 05-3239 (7th Cir. July 10, 2006):** The 7th Circuit Court of Appeals has ruled that it is unconstitutional to revoke a student group's official status for excluding students who engage in or affirm homosexual conduct. The Christian Legal Society (CLS), a recognized student organization at Southern Illinois University's School of Law, has a policy which denied membership or leadership roles to active homosexuals. Upon learning about the policy, the law school revoked CLS's official status on the grounds that their policy violated SIU's affirmative action/equal employment opportunity policy and a policy which states, "No student constituency body or recognized student organization shall be authorized unless it adheres to all appropriate federal or state laws concerning nondiscrimination and equal opportunity." CLS sued claiming a violation of its First Amendment rights to expressive association, free speech,

and free exercise of religion and its Fourteenth Amendment rights to equal protection and due process.

Upon looking at the claim of expressive association, found that CLS is an expressive association in that it requires its members to affirm particular beliefs and adhere to specific behaviors, one of which is abstaining from sexual intimacy outside of marriage. If CLS was required to accept members whose beliefs and behaviors were directly contrary to the beliefs of the organization, the ability of CLS to convey its message of disapproval of such behavior would be severely compromised. The United States Supreme Court was very clear in its decisions in *Hurley v Irish-American Gay, Lesbian & Bisexual Group of Boston*, 515 U.S. 557 (1995) and *Boy Scouts of America v Dale*, 530 U.S. 640 (2000) that antidiscrimination regulations may not be applied to expressive conduct with the purpose of either suppressing or promoting a particular viewpoint. In other words, the state can not apply antidiscrimination policy in a viewpoint discriminatory manner. The court recognized that many other SIU student groups, such as the Muslim Student Association and the Seventh Day Adventist Campus Ministries, restrict their membership yet have not be censored.

LEGISLATION

[This information is the work of the Illinois Statewide School Management Alliance and was obtained from the web site of the **Illinois Statewide School Management Alliance** at <http://www.iasb.com/files/billspassed06.htm>]

Resolutions: Resolutions are statements adopted by the House or Senate to show the opinion or sentiment of that body on a given topic. Resolutions are not law and therefore are not binding on local school districts. HR is a House Resolution. SR is a Senate Resolution. A joint resolution is passed by both houses. A SJR starts in the Senate, a HJR starts in the House.

HR 765

Character Matters Month: The resolution recognizes the month of May as Character Matters Month in the State of Illinois and urges schools to promote common ethical values.

HR 770

Multiple Birth Children Policy: The resolution recommends that school districts develop a policy concerning the separation of multiple-birth children that considers multiples on a case-by-case basis, the preference of the parents, and the children's best interest.

HR 1029

Encourage School Recycling: The resolution urges all Illinois school districts to provide recycling containers in all Illinois public school cafeterias to allow and encourage students to recycle and help reduce waste in Illinois.

HR 1084

Technology in the Classroom: The resolution urges the incorporation of increased technology programs in the classroom and the provision of the appropriate training, hardware, software, and other resources needed to expand technology-based learning activities.

HR 1038

YMCA Healthy Kids Day: The resolution recognizes April 8, 2006, as YMCA Healthy Kids Day in the State of Illinois.

HR 1055

Autism Awareness Month: The resolution names the month of April 2006 as Autism Awareness Month in the State of Illinois, commends those that deal with autism on a daily basis, and states support for the goals of expanding supports and services for individuals with autism across their lifespan, promoting understanding of the special needs of people with autism, and promoting their inclusion in their communities, increasing federal, State, and private funding for aggressive research to learn the root causes of autism and the best methods of early intervention and treatment.

HR 1085

Respect Your Peers Day: The resolution encourages the students of Illinois to develop an understanding of the value of respectful behavior, become aware of the many ways in which they show both respect and disrespect, and discover more about themselves and their schoolmates and declares April 5, 2006, as Respect Your Peers Day in Illinois.

SR 675

National Hunger Awareness: The resolution proclaims June 6, 2006, as "National Hunger Awareness Day" in Illinois to help secure additional resources to help end child hunger.

SR 688

YMCA Healthy Kids Day: The resolution recognizes April 8, 2006, as YMCA Healthy Kids Day in the State of Illinois.

SJR 87

No Child Left Behind Task: The resolution urges the United States Department of Education to use more flexible criteria in determining adequate yearly progress under the federal No Child Left Behind Act, and creates a No Child Left Behind Growth-Model Task Force to examine the models proposed by other states and to explore the potential for a growth model to give a clearer, fairer picture of individual student progress.

Public Act: These are bills which have been passed and have been signed into law by the Governor.

HB 1463: provides for the cancellation of the drivers' license or permit of any person under 18 certified to be a chronic or habitual truant and prohibits the issuance of a driver's license or permit to an unmarried person under 18 years of age who fails to maintain school attendance. The bill provides that each school district shall establish

written criteria for the school superintendent to use in determining whether a pupil's failure to attend school is the result of extraordinary circumstances of economic or medical necessity or family hardship and provides for quarterly notice by every local school district to the Secretary of State of the names of students no longer enrolled.

Public Act 94-0916, effective July 1, 2007.

HB 4987 amends the Children with Disabilities Article of the School Code to include in the definition of "professional worker" a school behavior analyst. **Public Act 94-0948, effective January 1, 2007.**

HB 5416 regarding the inspection and review of school facilities, provides that the State Board of Education shall adopt rules for qualifications of persons performing the reviews and inspections, which must be consistent with the recommendations of the task force established for this purpose. If the municipality, county, or fire protection district wishes to perform new construction inspections under the jurisdiction of the regional superintendent of schools, the entity must register with the regional superintendent and the inspections must be based on the building code authorized in the School Code at no cost to the school district. **Public Act 94-0973, effective January 1, 2007.**

SB 859 includes under the reasons to revoke a teacher's certificate, the failure to disclose on an employment application any previous conviction for a sex offense. **Public Act 94-0991, effective January 1, 2007.**

SB 2191 requires the State Board of Education to develop and adopt curricula, materials, and guidelines for school boards to use in implementing a program of instruction on financial literacy within courses currently offered in public high schools in this State. **Public Act 94-0929, effective June 26, 2006.**

SB 2197 provides for increased services to truant youth prior to filing of a petition as a Truant Minor in Need of Supervision. The regional superintendent or a community truancy review board is required to certify that truancy intervention services were provided by the local school. If it is determined by the ROE or community truancy review board that services were not provided by the local school, the youth is referred to a comprehensive community based youth service agency for services. This agency is required to make periodic progress reports to the ROE or the community truancy review board. **Public Act 94-1011, effective July 7, 2006.**

SB 2235 amends the Grow Your Own Teacher Act. It defines "developmental classes" and makes changes to the definition of "parent and community leaders" and "schools serving a substantial percentage of low-income students". The bill also provides that the State Board shall establish criteria that address the inclusion in the planned program of strategies derived from community organizing that will help candidates develop tools for working with parents and other community members. **Public Act 94-0979, effective June 30, 2006.**

SB 2336 amends the School Breakfast and Lunch Program Act and the Childhood Hunger Relief Act to make changes concerning the breakfast incentive program, the report the State Board of Education provides to the Governor and the General Assembly

concerning school breakfast and lunch programs, surveys to identify parental interest in school breakfast programs and the barriers to establishing school breakfast programs, the requirement that a school district establish a school breakfast program for certain schools, and opting out of the school breakfast program requirement. **Public Act 94-0981, effective June 30, 2006.**

SB 2455 moves the provisions requiring course material and instruction to advise pupils of the Abandoned Newborn Infant Protection Act out of the sex education provisions of the School Code and into the health education provisions. **Public Act 94-0933, effective June 26, 2006.**

SB 2546 provides that the State Board of Education has the power and duty to collect and maintain data, for each institution of higher education engaged in teacher preparation in this State, concerning the number of individuals taking the test of basic skills, the number of individuals passing the test of basic skills, the total number of subject-matter tests attempted, and the total number of subject-matter tests passed. **Public Act 94-0935, effective June 26, 2006.**

SB 2630 provides that each school district may make suitable provisions for instruction in bullying prevention in all grades and include such instruction in the courses of study regularly taught therein and provides that a school board may collaborate with a community-based agency providing specialized curricula in bullying prevention whose ultimate outcome is to prevent sexual violence. **Public Act 94-0937, effective June 26, 2006.**

SB 2898 [Public Act 94-0792; Effective May 19, 2006]

Self Administration of Medication — Allergies: In provisions that require a public or nonpublic school to permit the self-administration of medication by a pupil with asthma, the bill adds the requirement that the school also permit the self-administration of medication by a pupil with allergies by the use of an epinephrine auto-injector.

SB 1520 [Public Act 94-0798; Effective July 1, 2006]

Appropriations for Fiscal Year 2007: The bill contains the omnibus appropriations for all of State government for Fiscal Year 2007. For elementary and secondary education, the bill provides an increase of approximately \$416 million over FY '06. Specifically, the bill:

- Increases the foundation level by \$170 per pupil to a total of \$5,334 per pupil (\$238 was needed to reach this level)
- Prorates mandated categorical grant funding at the same level as FY '06 (\$56 million was needed to reach this level)
- Increases the School Safety and Educational Improvement Block Grant (ADA Block Grant) by \$10 million over FY '06
- Increases the Early Childhood Block Grant by \$45 million over FY '06. This is necessary to fund the Governor's universal pre-school program
- Provides that the "poverty grant" would be funded at 100%

- Provides "transition assistance" funding of \$11.8 million. This is to guarantee that no school district can receive less State funding in FY '07 than it did in FY '06
- Increases the Teacher Education/National Board Certification line item by nearly \$5 million over FY '06
- Increases the bilingual education line item by \$4.5 million over FY '06
- Increases the After School and Student Support Programs/Mentoring program funding by nearly \$12 million over FY '06
- Increases the Arts and Foreign Language line item by \$2 million over FY '06
- Increases the summer school line item by \$500,000 over FY '06
- Increases the Alternative Learning/Regional Safe Schools line item by \$500,000 over FY '06
- Increases the Truant Alternative Optional Education line item by \$500,000 over FY '06
- Increases the Agriculture Education line item by \$500,000 over FY '06
- Increases the Career and Technical Education line item by \$500,000 over FY '06
- Increases the District Consolidation costs line item by \$150,000 over FY '06

Several new line items are established in SB 1520, including:

- \$10 million for a new class size reduction grant necessary to fund the Governor's pilot program for class size reduction (contained in SB 2882)
- \$5 million for grants to law enforcement agencies for school security
- \$5 million for the School Technology Revolving Loan Fund that was "zeroed out" last year and not funded.
- \$3 million for the "Children's Mental Health Partnership"
- \$2 million for the Teacher Mentoring Pilot Project
- \$1 million for costs associated with a Bullying Prevention program established in SB 2630
- \$800,000 for a new principal mentoring program established in SB 860
- \$500,000 for "Regional Superintendent Initiatives"
- \$500,000 for "Building with Books"
- \$500,000 for implementation of the ISBE's strategic plan
- \$100,000 for "Autism Training and Technical Assistance"

SB 14 [Public Act 94-0774; Effective May 19, 2006]

Budget Fund Transfers: The bill is a part of the final budget package for Fiscal Year 2007. It redirects State funds that were "swept" over the last two years but that were never released by the State Treasurer. According to the Governor's Office of Management and Budget, the legislation directs the Treasurer and Comptroller to perform certain transfers of up to \$250,000,000 into each to the Drug Rebate Fund, Hospital Provider Fund, and the Long Term Care Provider Fund (which will in turn generate an equal amount in federal Medicaid reimbursement), completing these transactions will reduce the payment cycles to providers paid by these funds by as many as twenty-two days, which will in turn reduce prompt payments interest penalties paid to providers.

Bills which have been passed by both Houses, have been sent to the Governor, but have not yet been signed into law by the Governor:

HB 4832

Community Service Education: The bill creates the Community Service Education Act to allow a school district to establish and operate a community service education program that qualifies for a grant from the State Board of Education. The program is voluntary for school districts, but certain components of a program are recommended, including: the program should be mutually beneficial for the school district and community, the program makes school facilities available for citizen use, the program has local resident input, the program provides effective youth training and involvement.

SB 2303

Good Samaritan – First Aid: The bill provides that any person who is certified in first aid by the American Red Cross or the American Heart Association, who in good faith provides medical care without fee to any person shall not, as a result of his or her acts or omissions, except willful and wanton misconduct on the part of the person, in providing the care, be liable to a person to whom such care is provided for civil damages.

HB 4986

Agricultural Education and FFA: The bill provides specificity for what must be included in secondary school agricultural education programs that are approved for State and federal funding including an affiliated FFA chapter. However, no program in place prior to the effective date of this legislation will be kept from continuing to operate or from receiving funding.

HB 5550

Textbook Loans: The bill requires the State Board of Education to provide the loan of secular textbooks free of charge to any student in this State who is enrolled in grades kindergarten through 12 at a public school or at a school other than a public school which is in compliance with the compulsory attendance laws of this State.

SB 2882

Class Size Reduction: The bill requires the State Board of Education to create a pilot class size grant program. It provides that grants shall be awarded to schools to defray the

costs and expenses of operating and maintaining classes of no more than 15 pupils per teacher per class and applies only to grades kindergarten through 3.

HB 4768

Driver's Education – Increased Instruction: The bill increases the hours of driver's education behind-the-wheel instruction a minor is required to complete (as certified by the parents) to 50 (rather than 25), at least 10 hours of which must have been at night.

HB 4193

Violent Offender Against Youth Registration Act: The bill creates the Child Murderer and Violent Offender Against Youth Registration Act. Among the many new requirements under the Act, it requires law enforcement officials to notify school districts if a resident of the school district has registered as a violent offender against youth. It also requires school districts, before hiring applicants for employment, to check the newly created Statewide Child Murder and Violent Offender Against Youth Database, in addition to the statewide sex offender data base.

HB 5249

Sex Offender-Day Care: The bill prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or a part-day child care facility. Under the provision that prohibits a child sex offender from working at certain child care facilities, it specifically adds day care center, part-day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age, to the list of facilities under the prohibition.

HB 4987

Behavior Analyst: The bill amends the Children with Disabilities Article of the School Code to include in the definition of "professional worker" a school behavior analyst.

HB 5331

TRS Annuitant Work Days: The bill allows TRS annuitants to work for a school district for 120 paid days or 600 paid hours in each school year through June 30, 2011. The law was scheduled to expire on June 30, 2006.

Bills which have been passed by both Houses but have not yet been forwarded on to the Governor for his signature:

SB 585

Open Meetings Act – Electronic Communication: The bill amends the Open Meetings Act to redefine a "meeting" to include gatherings, whether in person or by telephone call, video or audio conference, electronic means (such as e-mail, chat, and instant messaging), or other means of contemporaneous interactive communication for the purpose of discussing public business. It requires that the number of public body members necessary to constitute a quorum must be physically present at an open meeting and permits participation and voting by other members by audio and video conference. The bill also requires that a quorum of members of a public body must be physically

present at a closed meeting and permits participation and voting by other members by video or audio conference.

SB 1497

Pre-School for All Program: The bill contains the language for the Governor's "Pre-School for All Children" program by expanding the current preschool provisions in the School Code. The grants, based on the appropriations the legislature makes in a given year, will give first priority to at-risk children and second priority to qualified programs serving primarily children with a family income of less than 4 times the federally-defined poverty level. The provisions expire on June 30, 2008.

SB 2795

Reorganization of School Districts: The bill contains the Governor's school district reorganization proposal. According to the Governor, the bill is designed to "add greater flexibility and efficiency to the reorganization process, only include options that ensure any reorganization will be approved by the voters, ensure no reorganization will raise taxes without approval by voters in affected districts, and consolidate Articles 7A, 11A, 11B, and 11D of the School Code into new Article 11E". The bill would:

- Eliminate minimum EAV and population requirements for formation of unit districts and school district combinations
- Eliminate size limits for school district conversions
- Authorize elementary districts within the same high school district to consolidate even if they are not contiguous
- Allow a unit district to be formed from a high school district and any elementary district that approves consolidation (may only be formed from dual territory with tax rates suggesting the newly formed district can be viable at unit district rates)
- Allow a high school district to combine with a unit district as long as both districts approve and are physically contiguous
- Standardize requirements for resident signatures or board approval of petitions for all types of reorganizations and
- Standardize hearing requirements and review and approval by the Regional Office of Education for all types of reorganizations

SB 3016

Sex Offender Registration: Among many new changes to the Sex Offender Registration Act, the bill requires the principal or teacher of a public or private elementary or secondary school to notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in the Act.

SB 176

Budget Implementation (Education): The bill contains language to implement the education-related provisions of the budget. The bill:

- Allows for the Transition Assistance payment to school districts to guarantee that no school district receives less State funding in Fiscal Year 2007 than it did in FY '06
- Increases the State education foundation level by \$170 per pupil (from \$5,164 to \$5,334)
- Retains the poverty grant payment level at 100%
- Establishes procedures to distribute the Arts Education funding increase

SB 49

Pension Changes to 6% Salary Limit: The bill addresses some of the consequences of last year's SB 27 (Public Act 94-0004) – specifically exempting some salary components from the 6% salary limitation. The bill:

- States that a school district reorganization constitutes a change in employment, thus exempting the salary from the 6% limitation
- Gives the local school district an opportunity to dispute the TRS penalty calculation places a July 1, 2011 expiration date on the changes
- Exempts from the 6% salary limitation "overload" work salary
- Exempts from the 6% salary limitation salary increases from an in-district promotion that requires a change in certificates
- Exempts from the 6% salary limitation salary paid to a teacher when the teacher is 10 or more years from retirement eligibility
- Exempts from the 6% salary limitation salary paid to a teacher from the State over which the school district has no discretion (Master Teacher stipend)
- Requires TRS to prepare a report that gives details of the costs and payments of the program
- Gives school districts 90 days (instead of 30 days) to pay the contribution to TRS. A school district may go beyond 90 days (up to 3 years) to make the payment, but would be assessed an 8 ½ % interest charge by TRS

SB 859

Teacher Certification Revocation: The bill includes under the reasons to revoke a teacher's certificate, the failure to disclose on an employment application any previous conviction for a sex offense.

SB 860

Principal Mentoring and Evaluation: The bill restructures the processes for the mentoring, evaluation, and induction of new principals in Illinois. This bill contains the following components:

- Establishes a new principal mentoring program on July 1, 2007 to allow experienced principals to serve as mentors to new principals during their first year as principal (subject to annual appropriations)
- Any principal hired on or after July 1, 2007 must participate in the mentor program for the duration of his/her first year as principal
- Principals serving as mentors must have a minimum of three years of experience as a successful, instructional leader, attend mentor training sessions, and meet other requirements as stipulated by the Illinois State Board of Education
- The mentor and new principal will complete a verification form developed by the Illinois State Board of Education to certify mentor program completion
- An assistant principal acting under an administrative certificate for 5 or more years hired on or after July 1, 2007 as a principal by the same school district where he/she served as assistant principal may opt to participate in the mentor program. The employing school district may require participation of this principal in the mentoring program.

The bill also recommends that continuing professional development for renewal of an administrative certificate must include:

- Completion of an Administrators' Academy course in each of the 6 Interstate School Leaders Licensure Consortium standard areas in the first five years of serving as an administrator in a position that requires certification
- If the certificate holder evaluates certified staff, he/she must complete a one-day teacher evaluation course and participate in an additional 6 hours of Administrators' Academy-approved coursework
- Introduces a "Master Principal" designation program
- Requires each school district to establish a principal evaluation plan that must include the job duties and the standards to which the principal is expected to conform
- The evaluation, in writing, must be conducted by the superintendent, his/her designee, or a school board member who holds a registered Type 75 State administrative certificate
- Provides that failure to evaluate a principal at least once in the final year of the principal's contract by February 1st of each year is evidence that the principal is performing his/her duties and responsibilities in at least a satisfactory manner. Failure to evaluate by the February 1st date automatically extends the principal's contract for a period of one year beyond the expiration date of the contract
- Creates an alternative route to administrative certification for certain National Board certified teachers on or before July 1, 2007