

LEGAL UPDATES

March 2008

- The 11th Circuit court of appeals upheld the lower court's decision to award parents of a disabled child four years of prospective private school placement as compensatory relief. In its opinion, [Jarron Draper v Atlanta Independent School System](#), the court of appeals specifically rejected the claim that the student had to prove the district was incapable of providing compensatory education prior to receiving continued prospective placement at a private special education school.
- The U.S. Department of Education announced a new NCLB pilot program, the [Differentiated Accountability Pilot Program](#), which is aimed at helping states differentiate between underperforming schools which need "dramatic interventions," as opposed to schools which are closer to meeting the NCLB goals.
- A new study, [The Teaching Penalty - Teacher Pay Losing Ground](#), was released by the Economic Policy Institute, which indicated that teachers' salaries across the country over the last decade are increasingly lower than other occupations requiring similar education and skills. Illinois' teachers specifically were, on average, found to be earning just 76% of other comparable professions.

February 2008

- The 7th Circuit court of appeals affirmed the dismissal of a lawsuit against the U.S. Department of Education and the Illinois State Board of Education that alleged the No Child Left Behind Act ("NCLB") and the Individuals with Disabilities Education Act ("IDEA") are legally incompatible. The decision, [Board of Education of Ottawa Township High School District 140 v U.S. Department of Education](#) (07-2008) comes after two Illinois school districts and several special education students and their parents filed the suit, asking for the court to invalidate the NCLB requirements for changes in a child's IEP without regard to the students' individualized needs.
- A new law, HB 5578, is introduced to the Illinois legislature which would require parties seeking public school employees to testify during school hours to obtain a court order for testimony. In addition, it would require the party to pay a witness and mileage fee to the witness, as well as a fee to the school district to reimburse it for costs associated with providing a substitute teacher or other substitute staff member in the employee's absence.
- New legislation (H.B. 4448) has been introduced, which would provide for the public release of profiles of professionals falling under the Medical Practice Act of 1987 (namely physicians), including information relating to criminal charges, administrative disciplinary actions and hospital privilege revocations.

January 2008

- The "Civil Rights Act of 2008" was introduced in both the U.S. House (H.R. 5129) and U.S. Senate (S. 2554). The bill, among other provisions, impacts the IDEA by reversing two important U.S. Supreme Court rulings: *Buckhannon* and *Murphy*. In *Buckhannon*, the Supreme court ruled that parents were not allowed attorneys fees as "prevailing parties" if parents entered into settlement agreements with school districts. In *Murphy*, the Supreme court ruled that parents were not entitled to expert fees as part of the fee shifting provision in the IDEA. The purpose of these these new bills is stated as being "To restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes."
- The Illinois House of Representatives also introduced a bill, H.B. 4268, which would require school districts who expel a student to "permit the student to transfer to another attendance center within the district for the remainder of the expulsion."
- The Illinois High School Association's Board of Directors voted 10-0 to begin mandatory, random drug testing for all student athletes, including for steroids. Testing is to begin with the 2008-2009 school year. This is the first time the IHSA has mandated statewide testing, and Illinois will now become the fourth state in the country to test for steroids.
- New legislation (H.B. 1509) went into effect on January 1, 2008 which will now allows employees to commence civil actions in a circuit court based on violations of the Illinois Human Rights Act. Previously, these complaints were handled administratively by the institution. However, with the new addition to the Act, employees are now afforded full litigation rights, including depositions and the right to a jury trial, for alleged violations.

RECENT PUBLICATIONS

[Transition of Children from 0 - 3 Programs to Early Childhood Programs](#)
[Section 504 in the Public Schools: How Does It Differ from the IDEA?](#)
[School Residency in 2008: An Attack on Non-Traditional Families](#)

UPCOMING PRESENTATIONS

Date	Title/Topic	Organization
5/6/08	Managing Student Records	National Business Institute

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