

**WHAT'S NEW IN SPECIAL**  
**EDUCATION LAW & RELIGION**  
**IN K-12 SCHOOLS**



4<sup>TH</sup> ANNUAL UL LAFAYETTE K-12 LAW CONFERENCE

MAY 18, 2018

# **STATE LAW UPDATE**

**HB 387 – Scheduled for concurrence on 5-16-18**

- \*Provide student records within 10 days**
- \*School calendar up at least 30 days prior to start of school**
- \*List of required fees: purpose and use**
- \*Required Uniform policy**
- \*Notification if grades could keep child from promotion**
- \*Charter schools included in the bill**

# **HB 509 – SCHEDULED FOR CONCURRENCE 5-16-18**

## **School board presentation in public meeting**

- \*plans for schools in need of academic improvement**
- \*All schools including charter schools submit plans for approval by LDOE for addressing the needs of the schools**
- \*Present Overview of plans, timeline for implementation and implications for the school**
- \*LDOE will publish list of schools with plans**

# **HB 498 – SENT TO GOVERNOR**

## **Crisis Management Plan**

**\*Provide for parental notification in event of a shooting or other violent incident or emergency situation.**

**\*No timeline required or procedure specified in the bill.**

# **SB 224 – SENT TO GOVERNOR**

**Requires instruction in the Flag and patriotic customs as listed in 36 U.S.C. 170 et. seq. by 5<sup>th</sup> grade**

**Patriotic Customs include the motto “In God We Trust”**

**Must display the motto at school at a minimum with a paper sign.**

**Patriotic Customs include – Anthem, Pledge, Display of the Flag, Motto, and Flower Emblem**

# **SB 315 SENT TO GOVERNOR**

- \*Required instruction in Personal Financial Management**
- \*Pre-requisite to graduation**
- \*Concept of achieving financial literacy**
- \*BESE will adopt rules & regulations that require teaching:**
  - Income**
  - Money Management**
  - Spending & Credit**
  - Saving & Investing**
- \*BESE will be clearinghouse for instructional materials and information**
- \*Charter Schools are included**

# **SB 512 – SET FOR FINAL PASSAGE IN SENATE**

**\*School employee participation in student initiated prayer IF:**

**\*Requested by students to attend and participate**

**\*Parent of each child in attendance has to submit signed request that he employee may participate in the gathering or prayer with his/her child**

**\*Doesn't interfere with work duties**

**Interesting Issues?**

# **SPECIAL EDUCATION** **UPDATES**

**Rowley “Some benefit” vs. Andrew F. “Meaningful benefit”**

**33 cases HO applied Rowley and Court applied Andrew F.**

**2 different outcomes out of 33 cases**

**Remand to District Court**

**Reverse against parents**

## ***Real Potential Impact Unknown***

**Not sure if HOs are ruling differently by applying Andrew F.**

**Not sure of influence on IEP team decisions applying Andrew F.**



# 504 DATA

**1.8% of students nationwide have a 504 plan only - up from 1% in 2009.**

**Leading states:**

**New Hampshire 5.5%**

**Louisiana 5.0%**

**Vermont 4.4%**

**Lowest states**

**New Mexico .5%**

**Nebraska & Utah .7%**



**Demographics show more white students than minority, more male students than female and more at non-Title I schools than Title I schools.**

# **O.M. VS. FALMOUTH SCHOOL** **DEPT. (1<sup>ST</sup> CIR. 2017)**



**Parent claimed IEP specified school would use Specialized Program Individualizing Reading Excellence (SPIRE).**

**Originally parent objected to SPIRE as not scientific based, teachers not qualified and no way to measure success.**

**The suggestion to use SPIRE was in ancillary documents including notices to parents, but not in IEP.**

**Court ruled for school district indicating no requirement to address specific instructional methods in IEP, although many districts do. SPIRE was in ancillary documents that court did not read into being part of official IEP. District instead created an 8 hour 45 minute Literacy & Math program (no title).**

# **M.L. V. SMITH, (4TH CIR. 2017)**

**Student with Down syndrome was member of Orthodox Jewish faith and attending a private religious school associated with that faith.**

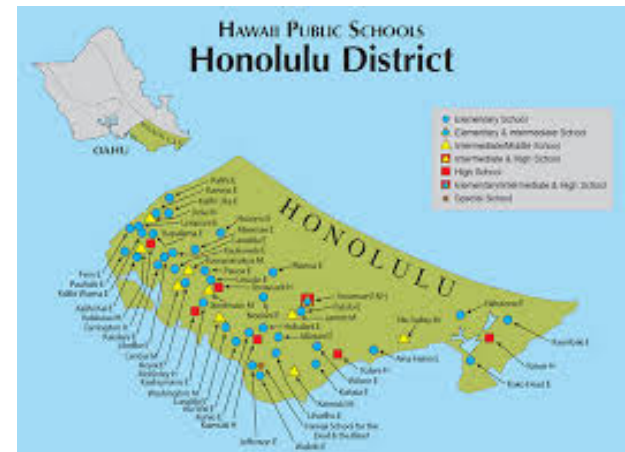
**Age 9 parents wanted public school and the public school assessment said he could learn in public school with constant repetition and consistency.**

**Parents rejected because it did not provide functional instruction to prepare for life in Orthodox Jewish community**

**Court ruled for district holding religious and cultural instruction does not fall within school's duty.**



**RACHEL H. V. DEPT. OF**  
**EDUCATION, STATE OF HAWAII**  
**(9<sup>TH</sup> CIR. 2017)**



**Location and placement issues**

**Family moving 30 miles away wanted private school as no public school was listed for location**

**Court said IDEA does not require identification of the anticipated school where special services would be delivered as student was moving. Location = General setting or type of environment where services will be provide (classroom)**

**Placement = general education program of the student and district is not required to list school in the IEP**

## **R.B. V. HAWAII DEPT. OF EDUCATION (9<sup>TH</sup> CIR. 2017)**



**Student transitioning from private Autism preschool to public kindergarten. Parents claimed no transition plan was included in IEP.**

**Court agreed saying transition plan is not just for students exiting the public school system. Rather, where transition services become necessary for disabled children to be educated and participate in new academic environments, these services must be included in IEPs in order to satisfy the IDEA's "supplementary aids and services" requirement.**

**Court also noted there was no description of LRE for regular and extended summer school and it should be in the IEP and "an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class" and "the anticipated frequency, location, and duration of [the special education] services and modifications."**

# **SUPREME COURT DENIES WRIT ON STAY PUT CASE**

**Is a student's "then-current educational placement" the Stay – Put placement simply because it is the placement listed in an individualized education program (IEP) drafted by the school district, even when the parents objected to the portion of the IEP listing that placement, and the child never actually attended that placement?**

**Court of Appeals in N.E. v. Seattle School District said yes, and Supreme Court refused the writ.**



# **RELIGION IN K-12** **SCHOOLS**

**Christmas Spectacular: winter concert with mix of secular & religious elements**

**Entertaining and pedagogically useful.**

**Conducted over 45 years**

**2015 sued by Freedom from Religion Foundation – got injunction**

**School removed scripture readings from nativity scene and added a Hanukkah and Kwanzaa song. District judge ruled for school**

**7<sup>th</sup> Circuit upheld ruling for school – A reasonable audience member, sitting through the 90-minute Spectacular, would not understand the production to be ratifying a religious message**



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