

Legal odds and ends



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House Bill 136

- Teacher Prep programs must include a 3-hour course on teaching students with dyslexia
- Lots of stuff on what must be included
- Each program must designate a faculty member to teach the coursework. The faculty member shall be provided specialized training to provide instruction to students.
- Upon implementation, the governing authority of the program shall eliminate the requirement for three credit hours of course instruction.



Senate Bill 377

- Beginning 2024-2025 teacher education programs shall not require more than 120 semester hours of college credit for degree completion, inclusive of any classroom observation time or mentorship requirements.
- Dual certification programs can require more.

HB 214

- For initial elementary education certification, a teacher candidate shall pass a rigorous test of scientifically-researched, evidence-based reading instruction and intervention, including data-based decision-making principles related to reading instruction and intervention as approved by DOE
- “Elementary education” is means grades kindergarten through fifth.
- Effective January 1, 2024
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HB 269 Reading Bill

- Student with reading deficiency (lowest achievement level) shall not be promoted to 4th grade.
- Public school will provide including by not limited to
 - Intensive instructional services – 90 minutes – small group instruction – reduced teacher-student ratio – tutoring – option of transition class – extended school day, week or year – summer reading – A highly effective teacher as determined by student performance date
 - Written notification of interventions
 - Plan for reading at home outlined in a parental contact including participation in regular parent-guided home reading.
 - Begins 2023-2024 school year

HB 509 Teacher Training

- Create and maintain a database of training that professional teachers are required to complete
- Legal requirement
- Subject matter
- Resources available to complete the training
- Frequency of repeat or update
- Time in hours to complete
- Report every five years to House and Senate Committee on Education
- List of recommendations for change.

HB 649 Corporal Punishment

- Current law allows district to decide
- Proposed law would have abolished Corporal Punishment
- Failed to pass

- So why is it added to list?
- Issues;
 - Tort, abuse, consistency
 - Principal's beliefs
 - Internal vs. external motivation

HB 837 Sexual Orientation and Gender Identity

- No coverage of topics about sexual orientation or gender identify in any classroom discussion or instruction in kindergarten through grade eight
- No discussion of own sexual orientation or gender identify with students in kindergarten through grade twelve.
- Pending before House Committee of the Whole



SB 44 Fairness in Women's Sports Act

- Lots of legislative findings and justifications
- Teams based on gender as stated on official birth certificate
- Coed/mixed teams allowed
- Injunctive relief/protective order/mandamus
- Actual damage, reasonable attorney fees and costs

HB 546 – Admission to Teacher Preparation

- Requirements for admission into a teacher education program used to be an ACT score of 22 or higher OR Passage of all of Praxis 1 exams
- Only program at the university that had additional requirement to enter the program
- Could impact up to 1,000 students statewide

HB 369

- Proposed - requires public school governing authorities and schools to post an easily understandable summary and the full text and legal citation of present law relative to parental access to instructional materials and other parental rights relative to their children's education:
- (1) Present law (R.S. 17:355), which provides that the parent of a child attending a public elementary or secondary school is entitled to access instructional materials
- (2) Present law (R.S. 17:406.9), which, in the Parents' Bill of Rights for Public Schools, provides that parents of public school children who have not reached the age of majority shall have certain rights, including those relative to examining textbooks, curricula, and supplemental materials.
- Proposed law also requires that the information be distributed to parents during the first week of school annually via paperwork sent home means through which communication is routinely delivered to parents.

Mirich v. State of Wyo, 481 P.3d 627 (Wyo.2021)

- Which rules – parent or school when teacher is a parent too.
- During school day – teacher rules apply
- Teacher also coached track team
- Shoving, profanity, pulling her to the floor
- Scared other students

- Caused a disruption at school

Foster v. Sunflower Cnty 311 So.3d 705 (Miss. Ct. App. 2021)

- Naming and renaming schools
- Public Input and notification by board limited
- Name change does not impact school quality
- No impact on plaintiffs
- District court should not have heard case, but did
- District wins, but process did not create positive relationship with community. No real communication, no community committee, no way for public to be involved.

Dozier v. Duval Cnty. Sch. Bd., 312

So. 3d 187 (Fla. Dist. CAPP. 2021)

- Parents sued regarding board policy to allow school employees to carry firearms at school
- Florida law mandates one or more safe-school officers in every school
- One option was to rely on school employees
- Contradictory laws on firearms at school-sanctioned activities (exception to weapons non-law officer)
- Judges have to patch laws around for results
- School guardians have no law enforcement capacity except to the extent necessary to prevent active assailant incident

L.G. v. Columbia Pub. Sch., 990 F.3d 1145 (8th Cir. 2021)

- SRO escorted 16 year old girl to the office and once arrived informed her police there to question her.
- 10-15 minutes and girl left distraught and shaking
- Claim by student was unreasonable seizure under 4th Amendment
- Claim is by SRO was he had qualified immunity
- Was there clear precedent that this was violation?
- Court said SRO role was minimal and ministerial.
- SRO was noncoercive
- Students have more modified rights at school

Matter of D.A.H., 857 S.E. 2d 771 (N.C. Ct. App. 2021)

- Are Miranda Warnings due when SRO is present during School Interrogation?
- Yes if (1) Custody and (2) interrogation. Does the person believe himself to be in custody?
- One end is just school folks – the other end is heavy SRO involvement
- Here student interrogated with SRO present but silent. Court said yes. For our purposes – the presence of SRO while interrogated by school official weighs heavily on the scale of custody. Plus, age is relevant factor as younger are more sensitive

Doe v. ABC School, 316 So. 3d 1086 (La. Ct. App. 2020)

- Is school responsible for Janitor's sexual assault?
- Factors: (1) Whether the act was primarily employment-rooted; (2) whether the violence was reasonable incidental to the employee's duties; (3) Whether it occurred on employer grounds; and (4) whether it occurred during working hours.
- Lied on application that he had not been convicted of any criminal offense.
- Louisiana is comparative negligence so lumped school and janitor together 50% each. Louisiana courts have found vicarious liability in the past even when district did not know of employees capability of criminal act

Martin for C.M. v. Hermiston Sch. District

8R, 499 F. Supp. 3d 813 (D. Ore. 2020)

- Football player with head injury and then another
- No medical clearance
- Baseline ImPACT testing done at start of 2016-2017, no follow up testing after either injury
- Student changed and suffered anxiety, depression, diminished cognitive function and suicide attempts
- Need formal tracking system to ID and document proper and timely care for students injured in sports
- Discuss with all involved and include training.

Davidson v. Arlington Comm. Schs., 847 F.

App' x 304 (6th Cir. 2021)

- Principal demoted and filed 1st A. retaliation claim
- Didn't like idea of all schools with same mascot
- Invited to speak to board by Superintendent (who wanted single mascot)
- Board decided not to change to single mascot.
- Was principal speaking as private person or employee?
- Was it within scope of duties and ordinary job? YES
- Not obligated to attend, but invited but still job
- Matter of public concern – is it as citizen or employee? Interests of ER operating workplace?
- Hard to win a retaliation claim based on expression.

Hilsenrath v. Sch. Dist. of the Chathams Bd. of

Educ., 500 F. Supp. 3d 272 (D.N.J. 2020)

- Parent filed suit because son had lessons about Islam in a required 7th grade course call World Cultures and Geography claiming they crossed the line to reaching religion
- Said curriculum favored Islam, while disfavoring Christianity and Judism, particularly a set of videos
- Superintendent saw no need to change, but after threats against Board members, videos were removed
- Court dismissed for standing as he graduated 7th grade and declined to address HS potential
- Clashes of a pluralistic society in future

Fisher v. Basehor-Linwood Unified Sch. Dist. No.

458, 851 F. App' x 828 (10th Cir. 2021)

- Teacher terminated after 2 written reprimands and then incident for failure to supervise at pep rally, plus discussing and texting messages of personal nature with students.
- Sued under ADA alleging principal made improper inquiry about her disability. Claimed 4 other teachers violated school policy but were not fired
- Court said other teachers not similarly situated
- OK that principal asked in private meeting about psychiatric appointment as it occurred after classroom issue, and one day after panic attack.
- court said business necessity to ask for ability to work
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M.J. Akron City Sch. Dist. Bd. Of Educ.,

1 F.4th 436 (6th Cir. 2021)

- Impersonation of police officer at elementary school for purposes of Scared Straight Program.
- Impersonator roamed hallways, seized students, placed them in handcuffs, made them exercise and assaulted some.
- Parents sued school. Failure to act by teachers and principal did not constitute an affirmative act to increase danger to students or be considered conscience- shocking.
- No failure to train
- Constitution does not provide remedy for every wrong! Must be affirmative act by school folks

Thomas v. Varnado, 511 F. Supp. 3d 761

(E.D. La. 2020)



- Painting of assigned parking space by students
- For \$25 you can paint spot but no offensive language, pictures, or symbols; negative or rude language; or the use of another student's name
- Likely unconstitutional language
- Student painted Donald Trump wearing sunglasses and a Stars & Stripes banner. It was approved.
- Superintendent changed mind and said too political causing substantial disruption but no facts
- Court said violated student 1st A. as it was not lewd, vulgar, or obscene and did not promote drugs & no substantial disruption and not school speech.
- Can't suppress expression because uncomfortable

Andrews v. Bd. Of Educ. Of Prince George's

Cnty, 513 F. Supp. 3d 648 (D. Md. 2021)

- Volunteer aide at elementary school pled guilty to multiple acts of sexual misconduct toward students
- Previously a paid employee of district.
- Parents sued – what did principal know? Bizarre behavior reported (wearing PJs to school and removing kids from classes)
- Reminds us that students Title IX rights can potentially be violated if immediate action is not taken to remove adults exhibiting grooming behavior and schools are responsible for volunteers and others allowed on campus.

Todd v. Fayette Cnty. Sch. Dist., 998 F.3d 1203

(11th Cir. 2021)

- Teacher suffered from major depression
- Over several days she threaten to kill herself and her son who was student at same school she taught
- Overmedicated herself with Xanax at school
- Teacher sued when contract not renewed
- ADA and 504 do not require employers retain employee who it believes behaved threateningly even if it is caused by major depressive disorder.
- Distinguishes between unlawful discrimination and lawful responsibility to ensure a safe workplace even if it is a result of their mental disability.

Ison v. Madison Local Sch. Dist., 3 F.4th 887

(6th Cir. 2021)

- Public Policy: (1) Complete form in person during school office hours 2 days before meeting; (2) Be resident of district; (3) Limited to 3 minutes; (4) Had to address the Presiding officer not individual board
- Participation policy: Prohibits comments that are frivolous, repetitive and/or harassing; Presiding officer can interrupt personally directed; request to leave when not observing reasonable decorum and request law enforcement help
- Unconstitutionally vague and viewpoint discrimination, but reasonable decorum OK
- Perfect clarity not required restrictions must be content neutral and evenly applied.

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