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M&M's Study Hall: School Law Updates



New York school district ordered to pay the private school tuition of a bullied student

On January 20, 2016, a federal appellate court held that the New York City Department of Education (the "Department") denied a student a free appropriate public education ("FAPE") because the school refused to discuss bullying during the development of the student's Individualized Education Program ("IEP"). The Department was required to pay for the student's private school tuition.

The Department placed L.K., a third-grade student with a disability, in an inclusion room with general and special education students. Although L.K. made academic progress throughout the school year, other students "bullied her so severely that she came home crying and complained to her parents about the bullying on a near daily basis." Three of L.K.'s teachers later testified that L.K. was the subject of constant bullying (one describing the classroom as a "hostile environment" for L.K.). Instances of bullying included pinching, stomping on L.K.'s toes, name-calling ("ugly," "stupid," "fat"), and ostracizing L.K. (some students avoided touching her or things she touched). L.K.'s teachers failed to intervene and her academic and non-academic development were affected.

School officials repeatedly refused to discuss bullying during L.K.'s IEP meetings, labeling it an "inappropriate topic" to consider when developing L.K.'s IEP. The court held that the Department denied L.K. a FAPE by violating her parents' procedural right to participate in the development of her IEP. The court likened this violation to other procedural violations, such as predetermining an issue prior to an IEP meeting, or the failure to inform parents about a fact significant to the development of the IEP.

The court then held that the private school the parents chose was an "appropriate placement" and L.K.'s parents were entitled to reimbursement for tuition.

"Ban the Box": Be sure you are in compliance with Ohio's recent employment law

Recently, the Ohio Legislature passed a "ban the box" law. RC 9.73. This law prevents public employers (including school districts) from including in their employment applications any question concerning the criminal background of an applicant. Employers may include "a statement notifying an applicant of any provision of the [Ohio] Revised Code or federal law that disqualifies an individual with a particular criminal history from employment in a particular position."

This law becomes effective March 23, 2016. School districts should review their employment applications for compliance and make any necessary changes before the effective date.

School districts should also be mindful of the "unemployable offenses" listed in RC 3319.39. As the name suggests, if an individual has been convicted of or pleaded guilty to any of the offenses listed, no school board or governing board of an educational service center shall employ that individual.

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SAVE THE DATE

- Marshall & Melhorn's School Leaders Series: March 15th, 2016 – 8:30am-11:45am

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