

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT

July 2016

Supreme Court to Hear Case Involving Service Dog on Campus

On June 28th, the U.S. Supreme Court agreed to hear a special education case to determine whether a student with cerebral palsy was permitted to bring her service dog to school. The school district claims that the student, Ehlena Fry, has an individualized education program which calls for a human aide to assist her, rendering her companion dog, Wonder, unnecessary.

Following a complaint filed by Fry's parents, the U.S. Department of Education's Office for Civil Rights led an investigation which concluded that the school district violated Fry's rights pursuant to the Americans with Disabilities Act ("ADA") and the Rehabilitation Act ("Rehab Act").

Fry's parents have unsuccessfully sued for damages under the ADA and Rehab Act in two federal courts; the suit is now on appeal to the Supreme Court, which will determine whether the Fry family was required to exhaust remedies available under the Individuals with Disabilities Education Act before bringing a claim under the ADA or Rehab Act.

The Supreme Court is expected to hear the case in Fall 2016.

To learn more, visit:

http://blogs.edweek.org/edweek/school_law/2016/06/high_court_takes_case_involving_service_dog.html

U.S. Department of Education Issues Revised Handbook for Campus Safety and Security Reporting

For the first time since 2011, the U.S. Department of Education ("DOE") has updated *The Handbook for Campus Safety and Security Reporting*, which provides institutions of higher education with guidance on campus safety and security reporting obligations pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). The handbook contains guidance on Title IX of the Education Amendments, the Violence Against Women Act Reauthorization of 2013, and the Clery Act.

The Clery Act requires institutions to file an Annual Security Report with the DOE and to publish the report to students and employees. The DOE's handbook provides technical guidance for collecting and publishing this data, which includes dating violence, domestic violence, and sexual assault statistics.

The DOE's Office of Federal Student Aid is responsible for monitoring compliance with the Clery Act, and works in conjunction with the DOE's newly established Student Aid Enforcement Unit to take a more aggressive posture with regards to reporting procedures.

Read more at: <http://www.jdsupra.com/legalnews/u-s-department-of-education-issues-18470/>

ABA Threatened with Suspension Regarding Law School Accreditations

On June 22nd, a Department of Education panel, the National Advisory Committee on Institutional Quality and Integrity, recommended suspending the American Bar Association's ability to accredit new law schools for one year.

According to the panel, the grounds for imposing the suspension are the ABA's failure to implement student achievement standards and probationary sanctions, and not meeting audit process analysis responsibilities regarding students' debt levels. The panel held three votes regarding the recommendation, which were reported to be "contentious" by Inside Higher Ed.

The ABA has recently published a pending proposal seeking to change the requirement that 75% of ABA-accredited law school graduates who sit for bar exams pass the tests in two years, rather than the current five-year requirement. The proposal will be heard on August 6 at the ABA Annual Meeting.

See more at: http://www.abajournal.com/news/article/aba_threatened_with_1-year_suspension_of_law_school_accreditation_powers

Supreme Court to Hear Case of Deaf Students Seeking Interpreter in Driver's Education Class

The U.S. Supreme Court has agreed to hear a case to decide whether a Texas agency was required to ensure that driver-education classes accommodated deaf students by providing a sign-language interpreter.

Currently, the state of Texas requires individuals under age 25 to provide driver-education certificates in order to obtain driver's licenses. A class of deaf, would-be drivers brought suit alleging the Texas Education Agency violated the Americans with Disability Act and the Rehabilitation Act by failing to provide sign-language interpreters at the driver-education classes.

According to the petition for certiorari, if Texas's position is upheld then "each state agency in the nation could, without running afoul of [federal disability laws], avoid having to provide accommodations for the deaf simply by 'licensing' private businesses to administer the component of the state program that requires direct interaction with the public."

See more at:

http://www.abajournal.com/news/article/supreme_court_to_consider_whether_state_licensed_driver_ed_classes_had_to_a

Read the petition for certiorari at: <http://www.scotusblog.com/wp-content/uploads/2016/03/Ivy-Cert-Petition.pdf>

U.S. Department of Education Settles Sexual Assault Case with Minot State University

On July 7th, the U.S. Department of Education's Office of Civil Rights ("OCR") announced a resolution with Minot State University regarding the University's violations of Title IX.

The University violated Title IX by failing to process a sexual assault complaint by a former student after she reported the incident to school authorities. The OCR's investigation found that only one in four sexual harassment complaints led to campus Title IX investigations and that the University's Title IX and nondiscrimination policies and procedures were noncompliant.

As a part of the resolution, the University agreed to take several steps to remedy the Title IX violations, including: provide counseling and other remedies to the former student; develop a procedure to document future student complaints; submit all grievances and investigative documentation for the past three academic years to the OCR; and revise policies and procedures related to Title IX investigations and reporting.

Read more at: <http://www.ed.gov/news/press-releases/us-education-department-settles-sexual-assault-case-minot-state-university-nd>

The resolution can be found in full at:

<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/05142061-b.pdf>

Members of U.S. Legislature Introduce Stronger Together School Diversity Act of 2016

U.S. Senator Chris Murphy and Congresswoman Marcia L. Fudge have introduced a new bill, the Stronger Together School Diversity Act of 2016 ("STSDA"), which builds on the 2017 Stronger Together budget proposal to create a voluntary program to support the development and expansion of new and existing community-driven strategies to increase diversity in schools across the country.

The bill comes after an April 2016 report by the Government Accountability Office found an increase in the segregation of socioeconomic status and race in public schools. The data shows the lack of resources to segregated schools and adverse affect on students. The STSDA purports to expand diversity initiatives to promote academic achievement and increase diversity in staff, resources, and student populations in public schools.

Read more at: <http://www.ed.gov/news/press-releases/murphy-fudge-introduce-stronger-together-school-diversity-act-2016>

From the lighter side: ‘Ding Dong Ditch’ Left Shorewood Insurance Agent an Emotional Wreck: Lawsuit

A State Farm Insurance Agent has brought suit against a 14-year-old boy and his parents after being “left an emotion wreck” when the teenager repeatedly rang his doorbell and ran away. The insurance agent, John Wright, claims the teenager intentionally chose his residence for the prank because the teenager’s father is also a State Farm Insurance Agent.

After several instances of responding to the doorbell, but finding no one at the door, Wright called the police. The lawsuit represents that “upon information and belief,” the teenager confessed to police that he “ding dong ditched” at Wright’s residence at least once.

Wright claims to have suffered from severe emotional distress, severe anxiety, sleeplessness, and extreme and rapid weight loss; requires medical treatment to function in daily living; and has lost more than \$30,000 in income.

Read more at: http://patch.com/illinois/joliet/ding-dong-ditch-left-shorewood-insurance-agent-emotional-wreck-lawsuit?utm_content=buffer88ef6&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

Firm News

Sniffen & Spellman, P.A. has become a member of the Professional Liability Underwriting Society, a nationwide organization of insurance industry representatives and insurance defense attorneys.

Jeffrey Slanker and Robert Sniffen wrote an article titled *A Defense Litigator’s Toolbox: Judicial Estoppel*, which was published in the Summer 2016 Trial Advocate Quarterly of the Florida Defense Lawyers Association.

On July 30, 2016, Hetal Desai McGuire gave a presentation titled *Employment Liability Law Update* at the Florida Municipal Attorneys Association (“FMAA”) at their Annual Conference at Bonita Spring, Florida. Ms. Desai McGuire spoke on important trends and rulings in employment law including gender identity discrimination, recent Supreme Court cases and EEOC actions.

On July 18, 2016, Lisa Fountain presented at the Florida Association of Self Insured 47th Annual Educational Conference and Trade Show in Naples, Florida. Ms. Fountain spoke about recent updates in the area of labor and employment law including changes to the Department of Labor’s overtime pay rules, as well as federal guidance and recent cases involving LGBT individuals in the workplace.

Past Issues of the Labor & Employment Law Alert Available on Website

You may view past issues of the Labor & Employment Law Alert on the Firm’s website:

www.sniffenlaw.com. After entering the Firm's website, click on the "Publications" page. Our Firm also highlights various articles of interest on our official Twitter feed, @Sniffenlaw.