

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT January 2017

U.S. Supreme Court Grants Certiorari of Special Education Benefit Case

The U.S. Supreme Court granted certiorari a case about the level of benefit a special education child must receive under the Individuals with Disabilities Act (IDA). The circuit courts are split as to the requisite level of benefit guaranteed to individuals under the IDA.

The issue is whether a school must provide a student with some educational benefit or with a higher standard of meaningful educational benefit. Proponents of the higher standard include the U.S. Solicitor General under the Obama Administration who urged the Supreme Court to review the case and solidify a high standard.

Read more [here](#).

School District Employee Fired After Tweeting Student

A public school employee in Maryland was fired after correcting a student's spelling in a tweet sent via the school's twitter account. In his original tweet, the student misspelled tomorrow as "tammarow." The teacher responded, through the school's twitter account, "But then how would you learn how to spell 'tomorrow?'" School district authorities asked the employee to delete the tweet and she was let go shortly thereafter.

Although the school district would not comment on the circumstances surrounding the teacher's dismissal, the teacher believes it was in response to her tweet. The student said he was not offended and didn't take the tweet personally.

Read more [here](#).

Department of Education Released First Debt-to-Earnings Rates

The U.S. Department of Education (DOE) released its first debt-to-earnings rates for career training programs. The data is being used to determine if certain post secondary educational institutes qualify for federal student aid. To qualify graduates of these programs must be gainfully employed and their debt payments must not be more than 8 percent of their total earnings.

Over 800 programs serving hundreds of thousands of students failed to meet the DOE's accountability standards with an annual loan payment exceeding 12 percent of their graduates

total income. The complete of list of programs and their debt/earning rates are available for download on the DOE's website.

Read more [here](#).

ABA Task Force Set To Consider Due Process Rights in College Sexual Misconduct Cases

The American Bar Association's Criminal Justice Section created a task force to address and develop guidelines for universities handling sexual misconduct claims. The guidelines are intended to ensure due process for both the accused and the accuser.

Several defense attorneys and law professors have complained that the current standards are unfair to the accused and "lack the most basic elements of fairness and due process." Examples of the allegations of unfairness include the inability to learn the accuser's name or question the accuser during hearings. The task force hopes the new guidelines will aid in providing equal justice to both the accused and the accuser.

Read more [here](#).

NCAA's Power Five Conferences Unanimously Adopt Rules Lessening Time Demands on College Athletes

At the annual meeting on January 23, the National Collegiate Athletic Association (NCAA) voted on and unanimously passed legislation designed to lessen the time demands placed on college athletes participating in sports in the "Power Five" (the Atlantic Coast Conference, the Big Ten, the Big 12, the Pac-12, and the Southeastern Conference) leagues.

The new rules give athletes one day off per week during a season, fourteen days off at the end of a season, and two days off per week during the off-season. Representatives at the conference also considered various amendments to the new rules, including one requiring athletes to attend "life skills activities" organized by athletic departments and another allowing athletes to participate in recruiting activities. After debate, the NCAA passed the "life skills activities" amendment, but voted against the recruiting amendment.

Amongst those in attendance at the NCAA meeting were student athlete representatives from each conference, former student athletes, board members from various universities and conference commissioners.

Read more [here](#).

From the Lighter Side: Lawyer Files Unusual Motion in Response to Counsel's Motion to Strike Run-on Sentence Ridden Filing

A personal injury lawyer in Ohio filed a complaint that contained a run on sentence that spanned more than two pages. Opposing counsel filed a motion to dismiss the lawsuit accusing the

Plaintiff's lawyer of violating the rules of civil procedure by filing a complaint that included run-on sentences, multiple allegations in the same paragraph, verbose exaggerations and stream of consciousness rhetoric. The two counsel are long time friends and have litigated against each other for years.

In response to the motion to dismiss, the Plaintiff's lawyer decided to really show opposing counsel what a run on sentence looked like and included in his response a sentence, part of which read:

"I hope the judge does not allow defendant to prevail on this affirmative defense which is as worthless as his other defenses and they should just pay the dough because I just would never resort to stream of consciousness or use run on sentences or otherwise be verbose but I supposed that's why we have judges who have to make tough decisions and I feel sorry for the judge anyway because he is a Browns' fan and suffers like everyone else who has the misfortune to follow that inept team for decades and decades."

At the end of the day, the one thing the lawyers did agree on was that we lawyers tend to take ourselves too seriously, and the motion and response were a funny and witty departure from the norm.

Read more [here](#).

Firm News

Join Us for the Sniffen & Spellman Lunch and Learn Seminar Series

This year Sniffen & Spellman is proud to offer quarterly lunch and learn seminars for our clients and friends to discuss and answer questions on important labor and employment and business liability issues.

The first seminar will take place on March 30 from 12:00 p.m. to 1:00 p.m. This seminar will address labor and employment compliance changes to look out for in 2017. Jeff Slanker will present an overview of relevant employment trends for 2017 and moderate the discussion in conjunction with Wade Shapiro, President of [Legacy Insurance Solutions](#), who will address insurance issues for companies to be aware of in 2017. The seminar will be held at the Firm's office at 123 North Monroe Street in Tallahassee. Lunch will be provided. Space is limited.

If you would like to attend this seminar, please contact Hannah McKinney at hmckinney@sniffenlaw.com or at 850-205-1996.

Tentative dates (topics to be announced later) for the rest of the 2017 series are as follows:

June 29

September 28

December 7

These dates are subject to change.

We hope you can join us for lunch and a great discussion!

The Firm congratulates **Rob Sniffen** for achieving an AV Preeminent[®] Rating from Martindale-Hubbell[®] once again this year. The AV Preeminent rating is the highest rating given to an attorney by Martindale-Hubbell – the leading attorney rating organization - and reflects the fact that a lawyer's peers rank him or her at the highest level of professional ethics and legal ability

Michael Spellman provided an Employment Update at the Winter Conference of the Florida Association of Self Insureds in January. FASI is comprised of employers who self-fund some aspect of their insurance program, or are engaged in a profession or business related to self-funding.

Hetal Desai McGuire presented “Age and Disability Discrimination in Employment and Housing” to the Florida Bar Elder Law Division at its Essentials of Elder Law & Annual Update on January 14, 2017.

Past Issues of the Education Law Alert Available on Website

You may view past issues of the Education 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.