

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT July 2018

Trump Administration Weighs in on Race in College Admissions

Earlier this month the Trump administration rescinded Obama era guidance regarding how colleges can legally consider race and ethnicity in admissions decisions. The rescission is unlikely to have an immediate impact, however, it speaks to how the administration would likely handle future complaints.

The Department of Justice and Education Department withdrew seven documents issued by the agencies between 2011 and 2016, all dealing with the use of race in college admissions. The documents generally reiterated that colleges had various means of considering race in admissions, as previously articulated by the United States Supreme Court.

One of the central themes of the rescinded guidance is that diversity is an important educational goal, and colleges should be able to use a number of methods, including considering race and ethnicity in admissions, to achieve diversity.

Education Secretary Betsy DeVos issued a statement requesting that schools focus on what the Supreme Court has said. “The Supreme Court has determined what affirmative action policies are constitutional, and the Court’s written decisions are the best guide for navigating this complex issue.”

Read more [here](#).

State of Florida Ban on Campus Early Voting Deemed Unconstitutional

U.S. District Judge Mark Walker has determined that a ban on using college and university campuses as early voting sites is unconstitutional. The ban originated in 2014 when Secretary of State Ken Detzner informed officials in Gainesville they could not use the University of Florida student union as an early voting location.

Judge Walker opined that the ban appeared to be put in place to stop younger voters from casting ballots. It is important to note this decision does not require the state to use college campuses as early voting sites but rather election supervisors are allowed to use campus buildings if they so desire.

Read more [here](#).

Hope Scholarships to Launch this Fall

The State Board of Education has approved rules for the new Hope Scholarship program developed by the Legislature and signed by Governor Rick Scott. The program aspires to give children who are bullied or victims of violence in their schools the means to attend another institution.

The scholarship will be paid for by residents who buy new cars and decide to earmark money they would otherwise pay in state taxes to a scholarship fund instead. The state will begin collecting money October 1, 2018, but the funds will not be available until late November or early December.

The Office of Economic & Demographic Research estimates that over 7,000 students will get scholarships during 2018-19 at a cost of around \$27 million. To be eligible for a scholarship parents must report one of about a dozen incidents including bullying but also hazing, sexual offenses, fighting and harassment to the school.

The scholarships range from \$6,500 to \$7,100, depending on the child's grade level.

Read more [here](#).

New Website Accessibility Guidelines Published by the World Wide Web Consortium

The World Wide Web Consortium ("W3C") recently released its updated Web Content Accessibility Guidelines ("WCAG 2.1"). The updated guidelines are used to ensure that non-profit organizations' and companies' websites are accessible for individuals with certain disabilities. Although the U.S. Department of Justice has yet to formally adopt the WCAG 2.1 as the standard for website accessibility under the Americans with Disabilities Act, many government agencies and courts are using the W3C's guidelines as the standard to measure website accessibility.

Several of the updated changes relate to removing even more accessibility barriers from mobile devices. Further, the changes include removing barriers for individuals who suffer from colorblindness or low vision, and individuals with cognitive disabilities such as attention deficit disorder.

Although The Department of Justice has declined to formally adopt any guidelines for website accessibility, companies would be wise to consider bringing their websites and mobile applications into compliance with WCAG 2.1 in an effort to stave off any future litigation regarding website accessibility.

Read more [here](#).

Federal Judge Determines Jewish Heritage Qualifies as Race or National Origin Under Title VII

An alum who applied for a football coaching position at Louisiana College filed a lawsuit under Title VII alleging that he did not receive the position because of his "Jewish blood." The College

filed a motion to dismiss arguing that Jewish heritage does not qualify as race or national origin under Title VII.

Federal District Court Judge Mark Hornsby disagreed noting “Jewish citizens have been excluded from certain clubs or neighborhoods, and they have been denied jobs and other opportunities based on the fact they are Jewish, with no particular concern as to a given individuals religious leanings. Thus they have been treated like a racial or ethnic group that Title VII was designed to protect from employment discrimination based on membership in that group.”

Read more [here](#).

Public Records and Security Plans

In a recent informal opinion from the Office of the Attorney General, Senior Assistant Attorney General Ellen Gwynn reiterated that security plans are generally exempt from being subject to the open meetings requirements of the Sunshine Law and the disclosure requirements of Chapter 119, Florida Statutes. As noted in the opinion, which was directed to the Town of Bay Harbor Islands, whether a particular meeting or portion thereof will contain information regarding security plans is a factual determination which should be decided on a case by case basis. To read the full opinion, please refer to the official release, which is available [here](#).

From the Lighter Side: What Came First the Chicken or the Anchor?

A day at the beach took an usual turn when some chicken cooking on the grill was allegedly ruined. A 41 year old Fort Pierce man was observed by a deputy being aggressive towards another man and attempting to initiate physical altercations after discovering his chicken had been tainted. Witnesses stated that the man was swinging a metal boat anchor around in the air and cursing loudly toward others on the beach. When approached by law enforcement, the man who smelled of alcohol began crying and stated that he had done nothing wrong. He was arrested on a disorderly intoxication charge.

Read more [here](#).

Firm News

Sniffen & Spellman, P.A. is pleased to announce that **Dawn Pompey Whitehurst** has joined the Firm. Mrs. Whitehurst brings 25 years of litigation experience in various practice areas, and is a member of the prestigious invitation only American Board of Trial Advocates (ABOTA). She received her Bachelor of Science and her Juris Doctorate degree from Florida State University. Mrs. Whitehurst will focus her practice on matters involving civil rights cases, employment law and insurance defense.

Robert J. Sniffen, Michael P. Spellman, and Mark K. Logan have once again been rated as AV-Preeminent by Martindale Hubble. The rating is the highest given by Martindale Hubble and is based upon confidential ratings by members of the Bar and judiciary. Additionally, the Firm also earned an AV Preeminent rating.

Robert J. Sniffen presented “Employment Law Issues – What’s Hot,” at the Florida Association of County Attorneys 2018 Continuing Legal Education Program in Orlando, Florida.

Michael P. Spellman and **Kevin C. Kostelnik** spoke at the Florida School Boards Insurance Trust (FSBIT) conference on July 10th presenting an “Overview and lessons learned from a Title IX case.”

Michael P. Spellman spoke to the Florida Municipal Attorneys Association at their 37th annual conference about defending whistle-blower retaliation claims.

Michael P. Spellman spoke at the Florida Association of Self Insureds (FASI) 49th annual conference in Sarasota on July 16th presenting a “Legislative/HR Update.”

Lisa B. Fountain was invited by the Tallahassee Sunrise Rotary to speak to their group about the important topic of sexual harassment in the workplace and the #MeToo movement.

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.