

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT

June 2019

Texas Legislation Contrasts with DeVos take on Campus Sexual Misconduct

Education Secretary Betsy DeVos released a proposed Title IX rule last fall to assist with reducing the number of reports of sexual misconduct on college campuses. The Texas Legislature has taken a distinctly different approach to that of Secretary DeVos by signing into law three bills that place new pressure on colleges to address campus-based sexual harassment and assault.

The first bill demands that colleges provide additional resources to students that were victims of sexual assault. Another bill requires mandates that colleges place a note on a student's transcript if they are asked to leave campus for a nonacademic reason, such as sexual harassment. The third bill, and perhaps most significant, adds new criminal penalties for campus officials that fail to report sexual harassment or misconduct to their college's Title IX coordinator. Specifically, campus officials that fail to report sexual misconduct would face a misdemeanor and termination by their institution. The third bill also requires that colleges keep a public record of these reports, and colleges that fail to do so will face fines up to \$2 million.

The newly enacted laws make Texas the first State to make mandatory reporting of sexual misconduct a requirement on college campuses, and are likely to conflict with the upcoming requirements by Secretary DeVos, who is expected to issue a final Title IX rule later this year.

Read more [here](#).

Rhodes College Ruling Opens the Door for Due Process at Private Universities

A federal judge in a recent ruling indicated that a private institution may not have followed due process standards in an alleged rape case. The ruling marks the first time a federal judge, in a case involving a private college, directly linked due process to Title IX. The ruling emerged from a lawsuit against Rhodes College, in Tennessee, where a student, former football player, and fraternity member were accused of raping a female student at a party.

As federal regulations regarding Title IX are in flux, this decision marks a fundamental shift in the safeguards that private colleges owe to an accused student. The implications of due process being applied to private colleges would extend far beyond sexual misconduct cases and significantly expand the legal obligations of private institutions.

Read the order [here](#).

Oral Arguments Held on “Schools of Hope” Charter School Program

On June 15th, 2017, through the adoption of HB 7069, the State of Florida established Section 1002.333, Florida Statutes, which establishes the “Schools of Hope” program, which permits the creation of special charter schools, outside of the purview and jurisdiction of School Boards, in certain circumstances. In a lawsuit brought by a number of school boards following the approval of HB 7069, the law was upheld, and summary judgment granted in favor of the Defendants, namely the Florida Board of Education, Department of Education, and a number of intervening parents and charter schools. The School Boards appealed this opinion, claiming that the law circumvents the Florida Constitution, which vests powers related to the operation of schools with the School Boards. The Department of Education has taken exception to this provision, stating that the State’s power to make decisions related to education throughout the state is clear in a 1998 revision to Article IX Section 1 of Florida’s Constitution, which makes education of children a “paramount duty of the state.” An opinion has yet to be issued by the Florida’s First District Court of Appeals.

Read more [here](#).

From the Lighter Side: Some Like it Hot

Two men recently attempted to break into an ATM at a popular tourist destination, Boardwalk on Okaloosa Island. One aspiring thief carries a crow bar while the other toted the more exotic blowtorch. The gent with the blowtorch went to work on the ATM straight away but was confounded with the result of his labor. Rather than popping open and spewing money the ATM was welded shut and the two left empty handed.

Read more [here](#).

Firm News

The Firm participated in the Second Harvest of the Big Bend’s A Full Summer food packaging event on June 1st to package over 65,000 meals for the hungry and food insecure in our local area.

Terry J. Harmon attended the Florida School Boards Association (“FSBA”) conference in Tampa, Florida.

Terry J. Harmon authored “Removal of Dangerous Students with Disabilities (IDEA) from the School Environment” in The Florida Bar Education Law Committee’s July 2019 Florida Education Law publication. The article is available at the following link: [Florida Education Law \(July 2019 – Volume 1, Issue 1\)](#)

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