

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT October 2017

Department of Education Withdraws Six Hundred Pieces of Subregulatory Guidance

On October 27, the Department of Education announced that it will withdraw almost 600 pieces of subregulatory guidance. The to-be-removed materials have all been superseded or are no longer in effect, but remain on the books. The Department hopes removing these materials will help schools, parents, and the public understand what guidance is currently in effect. The Department's Regulatory Reform Task Force is leading the efforts to execute the withdrawal. The Task Force was appointed in April 2017 and has been working with General Counsel to sort through and identify subregulatory documents which have been superseded by statute.

Read more [here](#).

NCAA Ruling: No Academic Violations at UNC

The University of North Carolina was accused of – and later admitted to – creating a non-existing African and Afro-American Studies Course and providing students, many of whom were athletes, academic credit for the course, despite that it was never taught.

After nearly three and a half years of investigation, and an admission from the University of North Carolina that it engaged in academic fraud, the NCAA found that UNC did not violate its rules. The NCAA held that because it cannot definitively conclude that the fraudulent courses offered by UNC were designed to solely benefit athletes, there was no violation.

Read more [here](#).

Secretary DeVos Visits Florida Schools Impacted by Irma

The U.S. Department of Education has been providing continual assistance to students and institutions affected by the latest hurricanes to hit the United States. On October 6, Secretary Betsy DeVos visited two affected schools in southern Florida, Everglades City School and Pinecrest Elementary School. Secretary DeVos spoke with administrators and students to learn more about the communities' recovery efforts and needs.

Read more [here](#).

Upcoming Supreme Court Cases in Education Field

Certain big education issues are on the horizon as the U.S. Supreme Court continues to take up cases for this term's docket. Specifically, the Court has decided to take up the issue of public-employee union fees, which could mean overturning a 40-year-old precedent that teachers' unions could charge fees for collective bargaining for individuals who do not wish to join the union.

In addition, the Court may decide to take up cases on school prayer and transgender rights.

Read more [here](#).

Ruling: *Barret v. Walker County School District, Damon Raines, Mike Carruth*

The Eleventh Circuit recently entered a ruling striking down a school district's policy limiting public input at board meetings. The Court held that the district's policy inappropriately gave "unbridled discretion" to the superintendent, which had the potential to chill speech and lead to censorship of certain criticisms.

The three-judge panel determined that one particular aspect of the school district's policy was inappropriate. The policy required prospective speakers to discuss their concerns with the superintendent at least one week before a district meeting. The superintendent then had a ten day window to report back to the prospective speakers. As a result, the superintendent had the ability to "control the clock" and determine when and if individuals could speak at the subsequent meetings. This policy was held to be inappropriate and struck down on its face.

Read the opinion [here](#).

From the lighter side: Honest Company Job Posting

Presumably, the company, Time Out NY, might need a job posting for a public relations director, after their posting for a new photo editor went viral.

The posting, which essentially published an internal memorandum regarding the overwhelming need to quickly and cheaply hire a new photo editor, made a less than appealing case for potential applicants. After providing a detailed rationale for how a full-time photo editor could be underpaid to perform the same function as multiple freelance photo editors, the author explained that the employee currently charged with overseeing these tasks is burnt out and may want to leave the company. A mere inch below the honest - and unpalatable - job description read the words "Apply Now." Truth hurts.

Best of luck to all the applicants.

Read the full story [here](#).

Firm News

On October 5, 2017, **Kevin Kostelnik** spoke at the Florida Association of Police Attorneys Legal Update Conference on the recent legal developments in qualified immunity defenses as applied to law enforcement officers.

On October 19, 2017, **Jeff Slanker** presented on the Florida Public Whistleblower Act and Cat's Paw claims at the 43rd Annual Florida Public Employee Relations Forum presented by the Florida Bar's Labor and Employment Law Section.

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