

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT May 2018

Widespread Legal Gambling on Collegiate Athletics?

The United States Supreme Court, in *Murphy v. National Collegiate Athletic Association* (“NCAA”), struck down a law that had forbidden gambling on college and professional sports in most states. The 1992 Professional and Amateur Sports Protection Act prohibited sports gambling in every state except Nevada.

The decision will permit states to pass their own sports gambling legislation and is anticipated to create a lack of uniformity among the states. The NCAA had argued permitting gambling on college athletics would “undermine integrity” and “jeopardize players’ welfare.”

Justice Samuel A. Alito Jr., writing for the court’s majority, stated that individual states had the right to legalize sports gambling and that Congress had overstepped by banning it, a “commandeering” of states’ sovereignty.

Read more [here](#).

University of Denver Settles EEOC Lawsuit Alleging Violations of the Equal Pay Act

In 2016 the Equal Employment Opportunity Commission (“EEOC”) sued the University of Denver for alleged violations of the Equal Pay Act and federal non-discrimination laws. The suit was prompted by seven female law professors’ complaints that they were paid less than their male colleagues for the same work.

In 2013, the university employed nine female full professors whose average salary was \$140,000, compared to \$159,700, for male full professors. Additionally, no female full professor earned more than the average salary for male full professors.

The university has consistently defended its position that it operates on a merit-based pay system. Nevertheless, in settling the case, the university has agreed to \$2.66 million in back pay, legal fees, compensatory damages, and raises for the complainants. The university also agreed to provide annual salary data to faculty members about similarly situated colleagues, and to notify professors of the criteria used to determine raises ahead of time.

Read more [here](#).

Changes to Public Records Laws Impact Educational Institutions

The Florida legislative session is over, and in its wake there are several new exemptions under the public records laws. While the vast majority of these exemptions will have little effect on schools there are several that educational institutions should be aware of. As was discussed in a previous newsletter, Chapter 2018-01, Laws of Florida creates several new exemptions related to

school safety officers, the Marjory Stoneman Douglas High School Public Safety Commission, and the reporting of unsafe or violent conditions at schools. Additionally, Chapter 2018-146, Laws of Florida, exempts plans related to fire safety systems from disclosure under either Chapter 119, Florida Statutes, and Chapter 296, Florida Statutes.

For additional information regarding these exemptions as well as others, click [here](#).

Department of Education Targets Fall Release of Campus Sexual Misconduct Draft Regulation

The Department of Education plans to issue a draft regulation in September which could replace Obama era guidance on campus sexual assault that had been rescinded by Education Secretary Betsy DeVos. After release of the proposed regulation there would likely be a three to four month period to review comments and submit a final regulation. Realistically, a September release date of the proposed regulation would result in a final regulation not being released until next spring.

Read more [here](#).

Active Shooter Insurance; The New Norm for Florida Schools?

In the wake of recent shootings, such as the one at Parkland High School in February 2018, schools have had to endure the tragic deaths of its students and faculty. Schools have also had to endure the inevitable rise of civil lawsuits arising from these events, prompting Florida school districts to consider the option of active shooter insurance. According to Reuters, since the Parkland shooting, at least seven Florida school districts have bought active shooter coverage sold by an Ohio-based insurer. The insurance coverage under this policy pays up \$250,000 per shooting victim for death or serious injury depending on the type of coverage a school district buys.

Read more [here](#).

Former College Football Player Files Lawsuit Against University – Alleges University Mishandled Title IX Sexual Assault Investigation

Keith Mumphrey filed suit against Michigan State University (MSU) for dismissing him from the University after a female student accused him of sexual assault. After a female student accused Mumphrey of sexual misconduct, MSU conducted a Title IX investigation. After an initial finding of “no responsibility,” MSU reversed course and found Mumphrey in violation of the school’s Title IX and student conduct codes. The University expelled Mumphrey in 2016 and banned him from campus for violating the university’s sexual misconduct policy. Mumphrey’s suit alleges MSU violated his due process rights, claiming the investigation was based on flawed evidence and claiming he was not given adequate notice of the appeal proceedings after MSU’s finding.

Mumphrey had been drafted by the NFL’s Houston Texans, but the Texans released him after learning of MSU’s finding against Mumphrey. In addition to claiming the University’s violation of his rights resulted in his being released from Texans, Mumphrey also claims he is unable to find a job outside the NFL because he was unable to complete his studies because he was banned from campus.

Read more [here](#).

From the Lighter Side: Flavor Country

A man employed by the City of Winston-Salem, North Carolina, learned the hard way that e-cigarettes may contain unexpected hazards.

In 2015, Larry Brooks ventured into a convenience store on his break to purchase an e-cigarette for the first time. He returned to his city truck and smoked the e-cigarette inside the vehicle, flouting his employer's tobacco-free policy.

He began violently coughing and in order to get fresh air he opened the vehicles door and stepped out while continuing to cough. Mr. Brooks then passed out and fell to the ground landing on a cement curb. The fall caused injury to his hip back, and head.

Thereafter he filed a workers' compensation claim which was denied by his employer. Several appeals followed, all siding with his employer noting that his fall resulted from his own idiopathic condition and was not caused by a hazard of his employment.

Read more [here](#).

Firm News

Michael P. Spellman spoke at the 2018 Florida Educational Negotiators (F.E.N.) 38th Annual Conference in Orlando, Florida. His topics were wage issues related to natural disasters and proper documentation for employee discipline and discharge.

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