

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT August 2018

Campus Concealed Carry Challenge Rejected by Appeals Court

A challenge to a 2015 Texas law permitting holders of concealed carry permits to have their weapons on college campuses has been struck down by the Fifth Circuit Court of Appeals. The challenge, which alleges that the law was in violation of the First Amendment, alleges that conversations in classrooms would be chilled due to the potential for violence in the classroom. Noting that the three professors who raised the challenge did not even plead with certainty that license holding owners of firearms legally authorized to carry firearms on campus would use the weapons in violent or illegal way, the Fifth Circuit found that the professor's arguments were without merit and upheld the District Court's decision.

Read more about this decision [here](#).

Annual Financial Disclosure Season

As a reminder, elected officials and select public employees are required to file their annual financial disclosures before September 4. Failure to file these forms in a timely manner can result in fines of \$25 for each day that the forms are late. The appropriate forms are available online [here](#).

Department of Education Considering Funding School Firearms Training

Education Secretary DeVos is considering using federal funds to provide firearms and training to schools. While most Congressional grants to the Department of Education explicitly prohibit the use of funds for firearms, the Student Support and Academic Enrichment grant program does not carry any such restriction. While the Department of Education has yet to release an official statement related to these plans, with the recent school shootings in Parkland and Santa Fe, there is certain to be scrutiny of the Department's position regardless of what the Department decides.

To read more on this issue, click [here](#).

DOJ and Sexual Harassment

The U.S. Department of Justice filed a lawsuit against a Michigan education agency in connection with the sexual harassment of two female employees, who claimed the former principal at the school where all three worked verbally abused and physically assaulted them.

The lawsuit charges that the education agency didn't do enough to prevent the harassment, and is part of the DOJ's new Sexual Harassment in the Workplace Initiative it announced in February. According to a news release, the initiative is aimed at eradicating sexual harassment in state and local government workplaces, and focuses on litigation, outreach, and development of effective

remedial measures to address and prevent sexual harassment and hostile work environments in violation of Title VII.

Public sector employers such as school districts, intermediate units and local government agencies could be subject to a similar DOJ lawsuit. It is clear from this lawsuit that the DOJ intends to actively enforce its workplace initiative against sexual harassment in the public sector. Now is the time to review policies to ensure proper procedures for reporting and investigating allegations of unlawful sexual harassment, to assess employee morale and workplace culture for warning signs of unlawful conduct, and to renew and revisit necessary employee and supervisor training.

To read more on this issue, click [here](#).

Eleventh Circuit Sides with School Board

In the matter of *Saphir v. The School Board of Broward County* the Eleventh Circuit affirmed summary judgment in favor the school board on Plaintiff's claims of Title IX discrimination, negligence, and negligent hiring, retention, and supervision.

The lawsuit arose from a teacher's inappropriate romantic behavior towards an adolescent student with special education needs. The plaintiff's parents noticed the teacher's untoward actions at a school dance and informed a school official of the incident. Thereafter the teacher was directed to stay away from the student and other staff were informed as well. In the following years there were allegations of incidents with other teachers, and each time, once informed, the school responded promptly.

The Court held that summary judgment was appropriate to the negligence claim because the plaintiff did not show that the school board failed to exercise the degree of care that a person of ordinary prudence would under the circumstances. The negligent supervision claim failed because there were no allegations that any sexual harassment occurred after the dance incident and the school board took reasonable corrective action. Further, summary judgment was appropriate for the Title IX discrimination claim because the plaintiff failed to show the school official to whom the parents reported the dance incident was high enough up the chain of command for the school to have been given appropriate notice and the plaintiff failed to show the school district was deliberately indifferent to the teacher's conduct.

Read the opinion [here](#).

From the Lighter Side: Think Your Employees are Full of Hot Air

A security guard at a Polk County hospital was fired from his position after filming himself discharging gas, repeatedly. The former employee who refers to himself on social media as "Paul Flart" has become an internet sensation for filming himself passing gas at work. He was terminated for filming while working. It looks as though he will land on his feet as Mr. Flart is getting the ball rolling on some merchandising deals.

For more information, click [here](#).

Firm News

Robert J. Sniffen and **Michael P. Spellman** have been selected by their peers for recognition in the 25th edition of The Best Lawyers in America for their work in Employment Law-Management, Labor Law-Management, and Litigation Labor and Employment.

Jeffrey D. Slanker has been admitted as a new member of the William H. Stafford Inns of Court.

Jeffrey D. Slanker was quoted in HR Daily Advisor regarding his thoughts on possible changes to union access to company email.

[https://hrdailyadvisor.blr.com/2018/08/07/nlrbsignalspossiblechangeunionaccesscompany-e-mail/](https://hrdailyadvisor.blr.com/2018/08/07/nlrbsignalspossiblechangeunionaccesscompanyemail/)

Mitchell J. Herring was recently published in SOURCE magazine which is published by the Florida Society of Association Executives. The article focused on the importance of severance agreements.

Past Issues of the Education Law Alert Available on Website

You may view past issues of the Labor and Employment 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.