

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT July 2019

Florida Statewide Grand Jury Report on School Safety

On July 19, 2019, the Statewide Grand Jury issued its First Interim Report regarding compliance with the 2018 Marjory Stoneman Douglas High School Safety Act (SB 7026) and the 2019 Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (SB 7030). Without identifying any school districts by name, the report was highly critical of implementation and enforcement efforts. The Statewide Grand Jury emphasized that now is the time “to take action” and that it would continue investigating, monitoring, and exercising its authority over compliance with SBs 7026 and 7030.

A copy of the First Interim Report is available at the following link: [First Interim Report](#).

New Hazing Laws as of October 1, 2019

On October 1, 2019, stricter hazing laws will take effect in Florida. SB 1080 (2019) amended F.S. 1006.63 by expanding the definition of hazing and making it a criminal act for any person to intentionally or recklessly solicit a person to commit an act of hazing or to be actively involved in the planning of an act of hazing. However, SB 1080 also created “Andrew’s Law,” which is designed to provide protection from prosecution if an individual is able to establish all of the following:

1. That he or she was present at an event where, as a result of hazing, a person appeared to be in need of immediate medical assistance;
2. That he or she was the first person to call 911 or campus security or report the need for immediate medical assistance;
3. That he or she provided his or her own name, the address where immediate medical assistance was needed, and a description of the medical issue to the 911 operator or campus security at the time of the call; and
4. That he or she remained at the scene with the person in need of immediate medical assistance until such medical assistance, law enforcement, or campus security arrived and that he or she cooperated with such personnel on the scene.

An individual is also immune from prosecution if he or she can establish that they rendered “aid” (as that term is defined in the new law) to a hazing victim before medical assistance, law enforcement, or campus security arrived on the scene of the hazing event.

The full text of SB 1080 is available at the following link: [2019-133 \(SB 1080\)](#).

Florida College System Institutions, State Universities, School Districts, and Charter Schools Must Establish Internal Controls

As a result of SB 7014 (2019), Florida College System Institutions, State Universities, School Districts, and Charter Schools are required to establish and maintain a specific system of internal controls. Pursuant to SB 7014, the system must be designed to:

1. Prevent and detect fraud, waste, and abuse as defined in F.S. 11.45(1);
2. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices;
3. Support economical and efficient operations;
4. Ensure reliability of financial records and reports; and
5. Safeguard assets.

The full text of SB 7014 is available at the following link: [2019-015 \(SB 7014\)](#).

FL DOE Proposed Rule Requires Annual Instruction to K-12 Students in Youth Substance Use and Abuse Health Education

On July 25, 2019, the Florida Department of Education published a proposed rule requiring school districts to provide annual instruction to K-12 students on youth substance use and abuse health education. The proposed rule requires school districts to submit an implementation plan by December 1 of each year and an annual report by July 1 of each year verifying that the instruction was provided. The public is invited to make comments until August 15, 2019.

A copy of the proposed rule is available at the following link: [Proposed Rule 6A-1.094122](#).

FL DOE Working on Rule Requiring Expedited Report of Misconduct

FL DOE will be accepting comments until August 15, 2019, on a proposed rule requiring expedited reporting of allegations of misconduct by school district staff that affects the health, safety or welfare of a student. Proposed Rule 6A-10.082 (Mandatory Reporting of Offenses Affecting the Health, Safety or Welfare of Florida Students) would require, among other things, as follows:

Beginning with the 2019-20 school year, within twenty-four (24) hours of the matter coming to the attention of a school district, a school district superintendent must report to the Department of Education an arrest or conviction of any administrative or instructional personnel for any of the offenses listed below. The same reporting requirements apply where there are substantiated allegations of misconduct by any administrative or instructional personnel that would constitute any of the offenses listed below, regardless of whether there has been an arrest or conviction.

A copy of the proposed rule, which lists the offenses that must be reported within twenty-four (24) hours, is available at the following link: [Proposed Rule 6A-10.082](#).

Ransomware Attacks Target Educational Institutions

The recent prevalence of cyberattacks and ransomware has crippled the email and technology systems of private and public entities. In July, Monroe College in New York City was the latest reported victim. The cyberattack there disabled many of the college's technology systems, locking out students, faculty, and staff with a demand from hackers for a ransom of approximately \$2 million in Bitcoin to restore access. Educational institutions have been shown to have 10 times the rate of ransomware infections found in the financial industry and three times the rate of healthcare organizations. K-12 school districts and higher education institutions should review their cybersecurity measures and take steps to prevent a cyberattack as well as plans to restore service if one occurs.

Link: [Security Boulevard](#)

Is Partying and Cruising a Qualifying Reason for FMLA Leave? Nope.

In the days of catchy article titles, the old mantra that if an article's title is a question the answer is invariably "no" holds true in this instance as well. Three employees from the City of Chicago's Office of Emergency Management and Communications took leave at the same time for various so-called ailments. Rather than recuperate on the couch, the employees flew together from Chicago to the Caribbean for a "Booze Cruise" and other sun-related fun. Turned out two of the employees took a total of 10 combined cruises over a seven-year period, using Family Medical Leave Act ("FMLA") leave each time. A fourth employee took 19 FMLA days for two cruises to the Caribbean "just to get away." When the pattern of their activities surfaced, they were terminated for outrageous FMLA abuse.

You can read more [here](#).

Firm News

Congratulations to [Robert Sniffen](#) and [Michael Spellman](#) who were recently recognized in the 2019 edition of Florida Trend's Florida Legal Elite™ in the Labor and Employment practice area. The list of 1,126 honorees includes attorneys in private practice as well as top government and non-profit attorneys. The winner list represents just over 1% of the active Florida Bar members who practice in Florida.

[Jeff Slanker](#) was quoted in Tammy Binford's news article *Jobseekers' Market? Maybe Not for Professionals Over 50*, published in the Diversity Insight section of the HR Daily Advisor, a publication of BLR. The article can be found [here](#).

[Michael Spellman](#) presented an employment law update at the 50th Annual Conference of the Florida Association of Self-Insureds in Naples.

[Michael Spellman](#) served on a panel with Amanda Waltemath, PharmD, MPH (Healthsystems), and Linda Trefethen (Johns Eastern Company, Inc.) for an informative presentation on Medical

Marijuana in the Drug-Free Workplace at the 2019 summer conference of the Florida Educational Risk Management Association in Lido Key.

Past Issues of the Education Law Alert Available on Website

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