

SNIFFEN & SPELLMAN, P.A.



Education Law Alert

January 2017

U.S. Supreme Court Grants Certiori of Special Education Benefit Case

The U.S. Supreme Court granted certiori a case about the level of benefit a special education child must receive under the Individuals with Disabilities Act (IDA). The circuit courts are split as to the requisite level of benefit guaranteed to individuals under the IDA.

The issue is whether a school must provide a student with some educational benefit or with a higher standard of meaningful educational benefit. Proponents of the higher standard include the U.S. Solicitor General under the Obama Administration who urged the Supreme Court to review the case and solidify a high standard.

Read more [here](#).

School District Employee Fired After Tweeting Student

A public school employee in Maryland was fired after correcting a student's spelling in a tweet sent via the school's twitter account. In his original tweet, the student misspelled tomorrow as "tammarow." The teacher responded, through the school's twitter account, "But then how would you learn how to spell 'tomorrow?'" School district authorities asked the employee to delete the tweet and she was let go shortly thereafter.

Although the school district would not comment on the circumstances surrounding the teacher's dismissal, the teacher believes it was in response to her tweet. The student said he was not offended and didn't take the tweet personally.

Read more [here](#).

Department of Education Released First Debt-to-Earnings Rates

The U.S. Department of Education (DOE) released its first debt-to-earnings rates for career training programs. The data is being used to determine if certain post secondary educational institutes qualify for federal student aid. To qualify graduates of these programs must be gainfully employed and their debt payments must not be more than 8 percent of their total earnings.

Over 800 programs serving hundreds of thousands of students failed to meet the DOE's accountability standards with an annual loan payment exceeding 12 percent of their graduates total income. The complete of list of programs and their debt/earning rates are available for download on the DOE's website.

Read more [here](#).

ABA Task Force Set To Consider Due Process Rights in College Sexual Misconduct Cases

The American Bar Association's Criminal Justice Section created a task force to address and develop guidelines for universities handling sexual misconduct claims. The guidelines are intended to ensure due process for both the accused and the accuser.

Several defense attorneys and law professors have complained that the current standards are unfair to the accused and "lack the most basic elements of fairness and due process." Examples of the allegations of unfairness include the inability to learn the accuser's name or question the accuser during hearings. The task force hopes the new guidelines will aid in providing equal justice to both the accused and the accuser.

Read more [here](#).

NCAA's Power Five Conferences Unanimously Adopt Rules Lessening Time Demands on College Athletes

At the annual meeting on January 23, the National Collegiate Athletic Association (NCAA) voted on and unanimously passed legislation designed to lessen the time demands placed on college athletes participating in sports in the "Power Five" (the Atlantic Coast Conference, the Big Ten, the Big 12, the Pac-12, and the Southeastern Conference) leagues.

The new rules give athletes one day off per week during a season, fourteen days off at the end of a season, and two days off per week during the off-season. Representatives at the conference also considered various amendments to the new rules, including one requiring athletes to attend "life skills activities" organized by athletic departments and another allowing athletes to participate in recruiting activities. After debate, the NCAA passed the "life skills activities" amendment, but voted against the recruiting amendment.

Amongst those in attendance at the NCAA meeting were student athlete representatives from each conference, former student athletes, board members from various universities and conference commissioners.

Read more [here](#).

From the Lighter Side: Lawyer Files Unusual Motion in Response to Counsel's Motion to Strike Run-on Sentence Ridden Filing

A personal injury lawyer in Ohio filed a complaint that contained a run on sentence that spanned more than two pages. Opposing counsel filed a motion to dismiss the lawsuit accusing the Plaintiff's lawyer of violating the rules of civil procedure by filing a complaint that included run-on sentences, multiple allegations in the same paragraph, verbose exaggerations and stream of consciousness rhetoric. The two counsel are long time friends and have litigated against each other for years.

In response to the motion to dismiss, the Plaintiff's lawyer decided to really show opposing counsel what a run on sentence looked like and included in his response a sentence, part of which read:

“I hope the judge does not allow defendant to prevail on this affirmative defense which is as worthless as his other defenses and they should just pay the dough because I just would never resort to stream of consciousness or use run on sentences or otherwise be verbose but I supposed that’s why we have judges who have to make tough decisions and I feel sorry for the judge anyway because he is a Browns’ fan and suffers like everyone else who has the misfortune to follow that inept team for decades and decades.”

At the end of the day, the one thing the lawyers did agree on was that we lawyers tend to take ourselves too seriously, and the motion and response were a funny and witty departure from the norm.

Read more [here](#).