

Education Law Report

A PUBLICATION OF
ANCEL, GLINK, DIAMOND, COPE & BUSH, P.C.

Supreme Court Reviews Sexual Harassment in Schools

Teacher/Student Sexual Harassment . . .

Sexual harassment in the nation's schools has become a matter of increasing urgency to educators. Gebser v. Lago Vista Independent School District, 118 S.Ct. 1989 (1998), is significant for school districts because it defines the standard for recovery of money damages under Title IX in cases involving teacher-student sexual harassment.

Alida Star Gebser, a high school student in Lago Vista Independent School District, had a sexual relationship with one of her teachers. She did not report the relationship to district officials even though she realized the teacher's conduct was improper. According to Gebser, she was uncertain how to react and she wanted to continue having him as a teacher. Except for prior complaints from the parents of two other students that the teacher made inappropriate remarks in the classroom, the district was unaware of any other instances of misconduct.

After the district learned of the relationship, the teacher's employment was terminated and his teaching license was subsequently revoked. During this time, the district did not have a formal grievance procedure for reporting sexual harassment complaints, nor did it have

an anti-harassment policy. Gebser and her mother sued the school district, alleging sexual harassment under Title IX.

Title IX of the Education Amendments of 1972 provides in pertinent part that:

No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

20 U.S.C. §1681(a).

One of the principal objectives of Title IX is to ensure that federal moneys are not used to support discriminatory practices in educational programs.

In *Cannon v. University of Chicago*, 441 U.S. 677 (1979), the Supreme Court first recognized an implied private right of action under Title IX. Later, *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992), established that under Title IX a school district can be liable for money damages in cases involving gender-based discrimination. *Franklin* did not go so far as to define the contours of that liability. *Gebser* goes a long way toward resolving that issue.

In a 5 to 4 decision, the Court held that a school district is not liable for money damages under Title IX unless a district official actually knows of the teacher's misconduct and does nothing about it. The Court concluded that it would "frustrate the purposes" of Title IX to permit a plaintiff to recover damages against a school district for a teacher's sexual harassment of a student unless a school official with authority to institute corrective measures on the district's behalf or the district has *actual notice* of, and is *deliberately indifferent* to, the teacher's misconduct.

Continued on page 2

Education Law Report ISSUE NUMBER 1—NOVEMBER 1998

Sexual Harassment in Schools:

Teacher/Student; Student/Student	1
Suspicionless Drug Testing	4
Regulatory Developments	6
Case Law Update	7

Continued from page 1

“The number of reported cases involving sexual harassment of students confirms that harassment unfortunately is an all too common aspect of the educational experience,” Justice Sandra Day O’Connor wrote for the Court. But she added that the “independent misconduct” of a teacher cannot be blamed on the school district that hired him absent actual notice to district officials.

In ruling against Gebser, the court emphasized that Title IX is unlike the 1964 Civil Rights Act, which flatly bans sex discrimination and harassment in the workplace. Under Title IX, schools risk losing federal funding only when district officials are told of some violation and fail to take corrective measures. The court observed that Congress did not intend to make school districts responsible in private lawsuits for sex discrimination without a finding of actual knowledge and “deliberate indifference to discrimination.”

In *Gebser*, the high school principal was the only district official alleged to have information about the teacher’s misconduct. However, the only alleged “knowledge of misconduct” was limited to complaints from the parents of *other* students that the teacher had made inappropriate comments during class. That information alone was insufficient to alert the principal of the existence of the sexual relationship involving Gebser.

The court also rejected the argument that the school district’s failure to adopt an anti-harassment policy, contrary to regulations requiring one, should subject it to monetary liability. The ruling does not affect whether a teacher can be criminally prosecuted, or whether a student can attempt to recover money damages under either state law or civil rights statutes.

It is clear from *Gebser* that school districts are not liable for money damages under Title IX unless a student can show that district officials knew about the sexual harassment and did nothing to correct it. District officials would include superintendents, Title IX officers, or other district officials with authority to stop the harassment.

. . . and Student/Student Harassment

In August 1997, the Eleventh Circuit Court of Appeals decided *Davis v. Monroe County Bd. of Educ.*, ruling that a Georgia school district was not liable for student/student sexual harassment under Title IX of

the Education Amendments of 1972. The Supreme Court has agreed to review *Davis*, and its decision is likely to resolve many questions concerning student/student harassment claims.

In *Davis*, a fifth grade student (LaShonda) was repeatedly subjected to abhorrent behavior by another student, G.F., including repeated inappropriate touching, reviling statements and other offensive conduct. LaShonda allegedly reported the incidents to her teacher, who also allegedly reported the incidents to the principal. In all, the complaint described eight separate incidents of sexual misconduct during a six month period.

The court drew several important conclusions in holding that Title IX does not allow a claim against a school board based on school officials’ failure to remedy a hostile sexual environment under a claim of sexual harassment of one student to another. First, while the court acknowledged “G.F.’s speech or conduct created an atmosphere that was sufficiently hostile or abusive to alter the conditions of LaShonda’s learning environment,” the court held that the standards of liability applicable to employment contexts under Title VII of the Civil Rights Act of 1964 do not control student/student sexual harassment claims.

The crux of the court’s analysis looked to the underlying statutory framework giving rise to Title IX as distinguished from Title VII. Title VII creates general prohibitions against discrimination in the employment context. Title IX applies to educational institutions receiving federal funding. Through Title IX, Congress “in effect offers to form a contract with potential recipients of federal funding [and] a prospective recipient is free to decline a grant of federal funding” if it is not satisfied with the obligations thereunder.

The court held the school board was not sufficiently “on notice” of any contractual obligation that would cause it to be held liable for student/student harassment under Title IX. The court noted the Office for Civil Rights (“OCR”) issued a document entitled “Sexual Harassment Guidance: Peer Sexual Harassment,” in 1996, and final policy guidance on student sexual harassment on March 13, 1997. Since there was no such guidance at the time of the alleged harassment of LaShonda, the court held the Monroe County School Board was not “on official notice” of potential liability for student/student harassment by virtue of its acceptance of federal funds. (Note: This part of the decision leaves open the question of whether the court

would find liability for alleged harassment occurring after March 13, 1997.)

The court concluded by stating:

We condemn the harm that has befallen LaShonda, a harm for which Georgia tort law may indeed provide redress. The present complaint, however, fails to state a claim under Title IX because Congress gave no clear notice to schools and teachers that they, rather than society as a whole, would accept responsibility for remedying student/student sexual harassment when they chose to accept federal financial assistance under Title IX.

The dissent took exception to the majority's rationale that, because the legislative history did not discuss student/student harassment, Congress did not intend to create such a cause of action. The dissenters countered that, if the majority's analysis was correct, the teacher/student harassment found actionable in *Franklin v. Gwinnett County Public Schools* would not be actionable, either because there is no discussion of teacher/student sexual harassment in the legislative history. In arguing that Title IX should provide a cause of action for student/student harassment, the dissent turned to the principles of the law of "agency" relationship used in Title VII cases to analyze potential liability. In applying the Title VII "elements" to this case, the dissent concluded "there is no question that the allegations satisfy" those requirements.

The *Gebser* decision (*see page 1 article*) may have already determined the outcome of the *Davis* appeal. The *Davis* case will be decided by the Supreme Court this term. We note that in March, 1998, the Seventh Circuit Court of Appeals adopted standards similar to those set forth in *Gebser* in the case of *Doe v. University of Illinois*, which held that a school district may be liable for peer harassment if it has actual knowledge that such harassment was taking place. In the decision, the court rejected the reasoning in *Davis* as inconsistent with the ruling in *Gwinnett*.

At the very least, we would recommend that school districts familiarize themselves with the OCR peer harassment guidance. Further, school districts should not rely too strenuously on the non-liability result in *Davis*; allegations of peer sexual harassment should be taken seriously, fully investigated, and effectively dealt with in accordance with board policies.

Nine Steps To Prevent Sexual Harassment

Adoption of strong preventive measures is often the best way to confront the serious problem of sexual harassment and to protect school districts from liability for this high profile claim. The U.S. Department of Education, Office of Civil Rights, suggests a school may take the following steps to prevent harassment:

1. Develop and publish a sexual harassment policy that clearly states sexual harassment will not be tolerated and that explains what types of conduct will be considered sexual harassment.
2. Develop and publish a specific grievance procedure for resolving complaints of sexual harassment.
3. Develop methods to inform new administrators, teachers, guidance counselors, staff, and students of the school's sexual harassment policy and grievance procedure.
4. Conduct periodic sexual harassment awareness training for all school staff, including administrators, teachers, and guidance counselors.
5. Conduct periodic age-appropriate sexual harassment awareness training for students.
6. Establish discussion groups for both male and female students where students can talk about what sexual harassment is and how to respond to it in the school setting.
7. Survey students to find out whether any sexual harassment is occurring at the school.
8. Conduct periodic sexual harassment awareness training for parents of elementary and secondary students.
9. Work together with parents and students to develop and implement appropriate, effective measures for addressing sexual harassment.

Suspicionless Drug Testing— Testing and Retesting Its Limits

It is safe to assume that the personnel in most Deans' offices are not working overtime on investigations of students in extracurricular activities for drug abuse. Yet, as a result of two recent decisions of the United States Court of Appeals for the Seventh Circuit, members of the glee and chess clubs could be subject to suspicionless drug testing while a student returning to school after a suspension might not. Understanding the legal and rational basis for this seemingly counterintuitive result is, however, crucial to any District considering any form of suspicionless drug testing.

THE ROAD TO THE SEVENTH CIRCUIT'S RECENT pronouncements begins with the Supreme Court's opinion in *Vernonia School District v. Acton*, 515 U.S. 646 (1995). In *Vernonia*, the Court found that a school policy requiring random urinalysis testing for participants in interscholastic athletics did not violate a student's Fourth Amendment right to be free from unreasonable searches. The Supreme Court supported its decision with a variety of rationale, including:

1. the government's responsibilities as a guardian and tutor of children entrusted to its care;
2. the severe physical, psychological, and addictive effect of drugs on children and the disruption of the educational process caused by drug infested schools;
3. the risk of immediate physical harm to drug users participating in physical activities;
4. the fact that students voluntarily engaging in extracurricular athletic activities have reason to expect intrusions upon their privacy. For example, student athletes must shower and change in communal school locker rooms. Participation in extracurricular activities also often involves minimum grade point standards, rules of conduct, training and other rules which subject students to a degree of regulation higher than that imposed on nonparticipants;
5. the documented state of rebellion in a large segment of the Vernonia School District's student body, characterized by epidemic disciplinary actions which particularly involved interscholastic athletics; and
6. the fact that the drug testing results were only

disclosed to necessary school personnel and not used for any law enforcement or internal disciplinary function.

Following *Vernonia*, it was difficult to assess the limits on suspicionless drug testing. The Court's opinion could be read narrowly or broadly, depending on which of the above factors are viewed as being outcome-determinative. Two new appellate decisions in our own Circuit have helped to clarify what suspicionless testing of students is permissible and what is not.

Testing of Extracurricular Participants

The Seventh Circuit first had the opportunity to directly address the scope of the *Vernonia* opinion in *Todd v. Rush County Schools*, 133 F.3d 984 (1998). In *Todd*, the random drug testing program went beyond interscholastic athletics to encompass all extracurricular activities. As in *Vernonia*, a positive test result only barred the student from participating in extracurricular activities and was not used in school disciplinary proceedings. The student in *Todd* was barred from videotaping the football team because his parents refused to sign a consent form authorizing drug testing. Other students barred from extracurricular activities also included members of the Library Club and the Future Farmer's of America. However, unlike *Vernonia*, the Rush County School District was unable to document a "state of rebellion" involving epidemic drug use. A survey of the school's students disclosed that cigarette use was higher than the state average, but that marijuana usage was lower than the state average.

In *Todd*, the Seventh Circuit upheld a drug testing program applicable to students who wished to engage in any extracurricular activity, even though all the factors relied on by the Supreme Court in *Vernonia* were not present. In support of its decision, the Court focused on the responsibilities a public school system has as a guardian of the children entrusted to its care, and noted that successful extracurricular activities required healthy students. The Court also focused on the fact that a student's decision to engage in extracurricular activities was a voluntary one. Since participation in interscholastic athletics is a benefit carrying with it

enhanced prestige and status in the student community, the court reasoned that it was not unreasonable to couple these benefits with an obligation to undergo suspicionless drug testing.

Post-Suspension Testing

Following *Todd*, the Seventh Circuit again considered suspicionless drug testing of students in *Willis v. Anderson Community School Corporation*, 1998 WL 569114 (1998). In *Willis*, the Court invalidated a school district policy which required drug and alcohol testing of students returning to school after a suspension of three or more days. The court again noted the District's custodial responsibility for children, but recognized that the consideration of only this factor could lead to broad based testing well beyond that ever envisioned by the Supreme Court in *Vernonia*. The court also expressed its fear of allowing testing to be authorized for so many different categories of students that essentially all but the most withdrawn and uninvolved students would be subject to testing.

In order to avoid sanctioning wide-ranging suspicionless drug testing, the *Willis* court found it had a duty to examine closely both the nature of the District's concern and the efficacy of the policy to ensure that the District's action fit within the closely guarded category of constitutionally-permissible searches. In so doing, the court recognized that the *Todd* opinion's extension of suspicionless drug searches from athletics to all extracurricular activities did not find the "locker room atmosphere" used in *Veronia* to support suspicionless drug testing as being a significant distinction between athletics and other extracurricular activities. The court also found that the documented "state of rebellion" which was used to support suspicionless drug testing in *Vernonia* would not always be required. Instead, the *Willis* court determined that the District's perceived need to address an increasing drug and alcohol problem was a sufficient interest.

In *Willis*, however, the court found it very important that the policies at issue in *Vernonia* and *Todd* only applied to students who voluntarily chose to participate in an activity. The *Willis* court recognized that the drug testing allowed in the *Vernonia* and *Todd* cases could be construed as part of the bargain a student strikes in exchange for the privilege of participating in extracurricular activities. In contrast, the policy at issue in *Willis* applied to all students returning to school after a suspension. Unlike the policies at issue in *Vernonia* and *Todd* (which excluded students only from extracurricular activities), the drug testing rejected in *Willis* could exclude students from attending school. Under the *Willis* policy, students who refused to submit

to drug testing after returning from suspension were considered to have admitted unlawful substance abuse, suspended again, and further advised that a second refusal to submit to testing would result in a third suspension and expulsion proceedings.

In *Willis*, the Court also found it important to analyze suspicionless drug testing policies in light of the feasibility of a suspicion-based search. The court noted that in *Vernonia* and *Todd* it would have been difficult for school authorities to meet individually with all students participating in extracurricular activities and that a suspicion-based policy could pin a "badge of shame" on the individual students suspected. In contrast, the policy in *Willis* was subject to a state law which required that suspended students be given a meeting with a school official. Because a meeting was already required, the court reasoned that this meeting would allow a disciplinary authority to evaluate a student's conduct for drug use without difficulty. Although the *Willis* court admitted that the nature and immediacy of the District's concern was analogous to that in *Vernonia* and *Todd*, it found that the efficacy of the policy and the privacy interest of the individual were different and accordingly found that the policy at issue in *Willis* violated the Fourth Amendment.

Conclusion

Although comparison of the *Todd* and *Willis* opinions leads to a result which would allow suspicionless drug testing of Glee Club members, while protecting students returning from suspensions, these cases are not without a rational basis. The brevity and cursory nature of the opinion in *Todd* speaks to the court's willingness to permit suspicionless drug testing where a student could only be banned from extracurricular activities. On the other hand, the *Willis* opinion shows that the Seventh Circuit will closely analyze any drug testing policy that may deprive a student of the opportunity to attend school.

In light of the number and variety of different rationale set forth in the Supreme Court's decision in *Vernonia*, it is likely that the Court will be forced to revisit this issue in order to better identify those specific factors which differentiate between constitutional and unconstitutional suspicionless drug testing policies in public schools. In the interim, school policies should be carefully reviewed for compliance with the suspicionless drug testing policy validated in the *Todd* opinion. Districts should keep abreast of the latest Supreme Court and Seventh Circuit precedents involving these issues and be prepared to amend their policies to conform with further developments in the law.

An Up-date on the E-Rate

The Telecommunications Act of 1996 significantly reformed and deregulated the television, telephone and cable industries by lifting regulatory barriers which had prevented these industries from offering services or competing in other segments of the telecommunications marketplace. One exception to the “free market” concept is in the area of education. Section 254(h)(1)(B) provides:

All telecommunications carriers serving a geographic area shall, upon a *bona fide* request for any of its services...provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount...to ensure affordable access to and use of such services by such entities.

The National Center for Education Statistics recently reported that wealthy schools are twice as likely to have Internet access in classrooms than poor schools. Currently, only around 30% of classrooms are linked to the Internet, while 74% of Americans agree that computers improve the quality of education.

In response, on May 7, 1997, the FCC adopted regulations to provide all K-12 schools and public libraries up to \$2.25 billion a year in discounts for telecommunication services, ranging from 20% to 90% on a sliding-scale formula, commonly referred to as the “E-Rate.” The average discount is about 60%, with the poorest schools receiving discounts of 80% to 90%. The discount applies to Internet access and internal connections necessary for connecting classrooms and libraries; the E-Rate does not cover computers, software, or other unrelated services. By April 15, 1998, more than 30,000 applications were

submitted, requesting total discounts worth \$2.02 billion. Illinois accounted for approximately 6% of the total requests.

Under the Telecommunications Act, the Schools and Libraries Corporation (SLC) is charged with reviewing and granting requests for discounted rates. Schools and libraries must certify they have a technology assessment plan demonstrating how discounts will enhance education. The plan must be approved by the Illinois State Board of Education.

The 1999-2000 funding period will begin July 1, 1999, and run through June 30, 2000. The SLC recently announced that the application cycle for the 1999-2000 E-rate funding period will begin with an 80-day window during which all completed applications received will be considered simultaneous filings. The application window will open on December 1, 1998, and will close on February 19, 1999. However, applications should be filed no later than by January 21, 1999, to provide for the requisite waiting periods.

According to the SLC, changing the opening date from October 1, 1998 to December 1, 1998, provides a period for schools and libraries who received funding under the first round to assess their future technology needs prior to filing applications for the second funding period. The additional time will also give new applicants the opportunity to benefit from “lessons learned by the SLC in the first year of the program.” The SLC plans to make available guidance based on those “lessons learned” after funding commitment decisions letters for the first funding period have been released, which, we have been told, will be by the end of October or soon thereafter.

While the application process may be cumbersome, the benefits of receiving discounted rates for your school district could be substantial.

Reproduction Becomes “Major Life Activity” Under ADA

In *Bragdon v. Abbott*, 118 S.Ct. 2196, decided June 25, 1998, the U.S. Supreme Court was called upon to clarify the reach of the Americans With Disabilities Act of 1990 (“ADA”). The extent of that reach is vast and may surprise and disturb public and private employers.

In *Bragdon*, Sidney Abbott was infected with the Human Immunodeficiency Virus (“HIV”), but her condition had not yet developed into AIDS. Abbott went for a dental examination, and advised the dentist of her HIV infection. When the dentist discovered a cavity in her tooth, he informed her of his office’s policy against filling cavities of HIV-infected patients in the office. He proposed to perform the work at a hospital, which could provide additional precautionary measures, without charging an extra fee; however, she would have to pay for hospital costs. The woman sued under the ADA, alleging that she had been discriminated against on the basis of her “disability” (HIV infection).

In order to articulate an ADA claim, a plaintiff is required to show that:

1. she had a physical impairment;
2. which substantially limits a major life activity.

With regard to Abbott, the Court recognized that HIV infection was indeed a “physical impairment” at all stages of the disease. The next step in the analysis was whether plaintiff’s impairment affected any “major life activity” of hers. Here the Court crafted a new legal theory by identifying reproduction and child bearing as the “major life activity” that was substantially limited by plaintiff’s HIV.

Applicable federal regulations provide guidance as to what constitutes a “major life activity” by listing

functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Some courts had previously ruled that “reproduction” does not qualify as a “major life activity” because it is neither on this list nor sufficiently similar to the items on the list. For example, in *Krauel v. Iowa Methodist Medical Center*, 95 F.3d 674 (8th Cir. 1996), the court specifically found that the items on the federal guidelines illustrative list were everyday activities which were fundamental to just about every aspect of normal everyday existence, while reproduction was substantively different.

The *Bragdon* decision rejects the *Krauel* rationale, and holds that reproduction and child bearing are central to the life process itself; thus reproduction is a major life activity. Because HIV infection inhibits conception by posing a risk of an infection to the sexual partner as well as *in utero* transmission to the fetus, the Court found that the major life activity of reproduction was indeed substantially limited by the virus.

What is the significance of this conclusion to school districts as public employers? The Court’s definition of reproduction as a major life activity under the ADA has potentially profound consequences. Most ADA claims state a connection between the employment/public accommodation sought and the major life activity which was impaired. In *Bragdon*, “reproduction” had no bearing on, and was an absolute *non sequitur* to, the dental services sought by Abbott. This decision raises the spectre of increasingly exotic claims and theories of liability by plaintiffs in the future.

Profile: William C. Kling

Ancel, Glink is pleased to welcome William C. Kling to our firm. Bill received his B.A. degree in Economics from the University of Colorado and his J.D. degree from the Illinois Institute of Technology-Chicago Kent College of Law. He has provided advice and counsel to educational institutions in both the board room and the

courtroom for over 10 years, as a private practitioner and as in-house counsel at a community college. He has extensive experience in all aspects of school governance. Bill also co-authored numerous publications and, in his “spare time” is an adjunct professor of law at IIT-Chicago Kent Law School.

Expulsion Hearings: A Student’s Right to Confront His Accusers

The Illinois Appellate Court for the First District (which covers Cook County) recently issued a decision that runs counter to most school districts’ practices regarding the use of student-hearsay in expulsion proceedings. In *Colquitt v. Rich Township High School District No. 227*, 699 N.E.2d 1109, the court held that a student’s due process rights may be violated when a school administrator testified about information he received from students who did not testify at the hearing.

Colquitt (the student) was alleged to have threatened other students, both verbally and with a gun. The District’s witnesses testified about the parts of the incident they had observed. However, none of the witnesses were present during the beginning of the incident, and no District witness saw Colquitt with a gun. In addition to the witnesses who testified, the District produced written statements from four students who stated that Colquitt had a gun during the confrontation. Those statements were introduced into the record through an administrator, but the students did not testify. Colquitt produced witnesses, including himself, who stated he did not have a gun at the incident and that he did not make a threat to anybody; rather, it

was the other students in the incident who threatened him. Following the hearing, Colquitt was expelled for gross misconduct and for making threats, but not for possession of a weapon.

Colquitt challenged the District’s action, claiming that he had been denied adequate due process. On appeal, the court found that the ability to cross-examine witnesses is a fundamental component of a fair hearing. The court reviewed the conflicting versions of the incident between Colquitt’s witnesses and the District’s witnesses and held that in cases like this, where if the outcome of an expulsion hearing is dependent upon the credibility of the witnesses, the witnesses must actually testify so that they may be subject to cross-examination, and the hearing officer can assess the credibility of their testimony.

The court’s decision also suggested an exception to this general rule. According to the court, use of students’ written statements in lieu of testimony may be justified where there is a showing of a significant risk of harm to the student witnesses. In this case, there was no evidence that any of the student witnesses were threatened or endangered if they testified, other than an assistant principal’s testimony that one unnamed student feared reprisals. In fact, the other three students were identified in their statements and Colquitt knew who they were. Accordingly, there was no confidentiality interest served by the District’s failure to produce the students to testify.

It is important to emphasize that the *Colquitt* decision is based on a fact pattern in which there was no showing that students would be at risk if they testified at the hearing. In those instances, *Colquitt* requires Districts in Cook County to present student witnesses to testify and be cross-examined. Districts outside of Cook County are not strictly bound by the *Colquitt* decision. Nevertheless, just to be sure, they may wish to protect themselves from potential liability by conducting their expulsion hearings under the *Colquitt* standards.

Education Law Report

Ancel, Glink, Diamond, Cope & Bush, P.C.
140 S. Dearborn Street, Chicago, Ill. 60603
312/782-7606; fax: 312/782-0943
www.ancelglink.com

Education Law Report is published periodically by Ancel, Glink, Diamond, Cope & Bush, P.C., as a service to our public education clients and friends. It is intended to provide timely information of interest, but it is not a substitute for legal advice. Be sure to consult with an attorney before taking action based on the contents. We welcome comments and questions. Permission to reproduce is granted provided credit is given to AGDC&B Education Law Report.

Contributors: Darcy Proctor, John Donahue, Bill Kling, Alan Mullins
 Editor: Timothy E. Guare; Design: Douglas M. Doty