

Legally Speaking

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Parents Bringing Guests to School

By David Koperski, School Board Attorney

*D*uring this last year, we have answered several questions about whether a parent can bring a guest to a meeting they have at the school with school staff, whether the meeting is a discipline meeting with the assistant principal, a parent-teacher conference, a Section 504 team meeting, or any other kind of meeting with school staff. Sometimes the other adult is a lawyer representing the parent or student, while in other cases the person is the parent's family member, neighbor, or friend. In short, Florida law allows parents to bring another adult to any school meeting, but there are some conditions we can insist upon in certain situations.

Many years ago, the Legislature enacted a law stating that "parents of public school students may be accompanied by another adult of their choice at any meeting with school district personnel." See Section 1002.20(21), Florida Statutes. So, as a general rule, parents may bring any other



Legal Department Mission Statement

The mission of the School Board Attorney and Staff Attorney Offices is to provide the highest quality legal services to the Pinellas County School Board, the Superintendent and the District by ensuring timely and accurate legal advice and effective representation on all legal matters.

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Service Animal Policy

By Heather Wallace, Assistant School Board Attorney

*S*chool Board Policy 2630, entitled "Service Animals" has recently been updated to reflect changes in the law regarding service animals and requirements surrounding them. If your school receives a request to allow a service animal, that policy should be reviewed to ensure that we are not requiring the student to provide documentation that they should not be required to provide - for example, documentation that the animal has been trained, is something that we can request, but cannot require prior to the animal being allowed to accompany the student to school. If the student has a disability and the animal performs a service (a task) for the student, then the student should be allowed to be accompanied by the service animal as long as the animal meets the requirements of behavior for a service

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Parents Bringing Guests*(Continued from page 1)*

adult to a school meeting. The law does not specifically allow the other adult to take an active role in the meeting, but we recommend that they be allowed, within reason, to give their input so long as they do not dominate the meeting – the meeting is supposed to be between the parent and the school personnel and the other adult is present only to “accompany” the parent. If the other adult is dominating the meeting, or if they become rude or disruptive, the school personnel should remind the parent of the other adult’s role and the need to redirect the meeting back to the issues between the school and the parent. If the disruption continues, you can end the meeting and seek to reschedule it. In these extreme cases, we recommend you contact our office for further guidance.

More recently, the Legislature amended this law as it relates to meetings with parents of students with disabilities, which would include ESE students (other than gifted students) and students with a Section 504 Plan. This amendment stated that school personnel cannot “discourage or attempt to discourage, through an action, statement, or other means, the parents of students with disabilities from inviting another person of their choice to attend a meeting. Such prohibited actions include, but are not lim-

ited to, attempted or actual coercion or harassment of parents or students or retaliation or threats of consequences to parents or students.” In addition, for meetings with parents of students with disabilities, the parents and school staff must sign a form that includes the parent’s indication of “whether any school district personnel have prohibited, discouraged, or attempted to discourage the parents from inviting a person of their choice to the meeting.” Depending upon what type of meeting you are in (e.g., IEP team meeting), the relevant form will include this designation.



When you meet with any parent, in order to protect the legal interests of the District and its staff, we recommend schools contact our office if the parents bring a lawyer to a school meeting. Many times, the school will know in advance whether the parent intends to bring a lawyer. In those cases, preparations can be made ahead of the meeting, such as scheduling attendance by one of us, either in person or by phone, and/or pre-meeting conversations between the parent’s lawyer and one of us, which may defuse some of

the issues concerning the parent and school staff. If a parent arrives at a meeting with a lawyer and the school did not know they were bringing one, we recommend you immediately contact our office for guidance. Depending upon the specific circumstance, we may attend by phone right on the spot, advise that the school may proceed without our attendance if the staff feels comfortable, or, in contentious cases, advise that the school reschedule the meeting to a date that one of us could attend in person. In these latter cases, you may simply advise the parent that you were unaware they were bringing legal counsel and you wish to include yours.

Schools should not refuse to allow parents to bring another adult to a school meeting. In fact, Florida law grants parents that right. Neither should school staff be concerned about this other person hearing confidential student information since the parent is essentially consenting to the release of this information by inviting the other adult in the first place. However, the presence of the person cannot be disruptive and, in the case of parents bringing a lawyer, schools have the right to contact our office for advice before proceeding with the meeting. ■

On a Lighter Note - More Transcripts from Actual Courtroom Testimony

Attorney: Doctor, how many autopsies have you performed on dead people?

Witness: All of them. The live ones put up too much of a fight.

Attorney: The youngest son, the 20-year old.... how old is he?

Witness: He’s 20, much like your IQ.

Update from the Courts

By David Koperski, School Board Attorney

In recent years, several court cases have addressed issues of public education. Sometimes, these cases involve our School Board as a plaintiff, while others see other organizations taking the lead. This article will provide a brief update on these cases, whether they are still pending or have reached a final conclusion.

As the timeliest, let's start with the challenge to Amendment 8 that was scheduled to be on the November 6, 2018, general election ballot. Amendment 8 was approved for the ballot by the Florida Constitution Revision Commission (CRC), which is a body that meets every 20 years to bring proposed revisions to the Florida Constitution. Amendment 8 combined three separate proposed amendments into one proposal: (i) imposing school board member term limits, (ii) enshrining civic literacy in the Florida Constitution, and (iii) allowing public schools to be created in a county by a body other than the local school board. The third provision was, by far, the most controversial because it would overturn long-held principles of local control of public education at the school board level and it was ambiguously worded so that someone unfamiliar with public education might not understand the significant impact it would have on the Florida public education system. For context, in 2008, our School Board, along with a few others, obtained an appellate court order overturning a state statute that allowed a state agency in Tallahassee to approve new charter schools to operate in Pinellas and other counties – the constitutional provision we relied upon to win that case would have

been nullified had Amendment 8 remained on the ballot and passed.

After a lawsuit filed by the League of Women Voters and others, the Florida Supreme Court ruled on September 7, 2018, that the Amendment be stricken from the ballot. The Court agreed with the lower court's ruling that the "misleading" Amendment "fail[ed] to inform voters of the chief purpose and effect of this proposal," and that the CRC intentionally bundled all three parts of the Amendment in order "to increase, in its view, their chances of passage." As a result, your general election ballot will go immediately from Amendment 7 to Amendment 9. A couple of other amendments not relating to public education are still being challenged.



Next, our School Board, along with about a dozen others, is a plaintiff in a pending lawsuit challenging several portions of a law passed by the Florida Legislature in 2017 known as HB 7069. This case is discussed in more detail in Volume XVIII, Issue 1 of *Legally Speaking*. In short, the case seeks to overturn six portions of this large law that, we argue, violate the Florida Constitution, including some of the local control provisions discussed above. About five months ago, the trial court ruled against the school boards, citing deference to the Florida Legislature. However, we and most of the other school board plaintiffs have appealed that decision and are currently submitting written briefs with the appellate court. As you can imag-

ine, regardless of who prevails at the lower court level, most of these cases are appealed, giving higher courts an opportunity to weigh in on these issues of statewide importance.

Lastly, there is a long-standing court case challenging the sufficiency or "adequacy" of state funding of public education overall. A parent and education advocacy group known as Citizens for Strong Schools initiated this lawsuit in 2009 based upon Florida constitutional grounds. The Florida Constitution indicates that the state – that is, the Legislature who can pass bills and the Governor who can sign them into law – must make "adequate provisions for the education of all children" in Florida and "[a]dequate provision shall be made by law for a . . . high quality system of free public schools that allows students to obtain a high quality education. . ." Throughout the country, these cases are known generally as "adequacy" lawsuits and our constitutional language certainly makes that moniker appropriate here in Florida. However, also throughout the country, these cases rarely succeed as courts are reticent to enter the arena of policy-making and shaping statewide budgets. To date, the plaintiffs have not succeeded in their arguments, but the Florida Supreme Court has agreed to hear the issues in the case. An oral argument is scheduled for November 8, 2018, and a final ruling should be issued shortly thereafter. While history suggests an uphill battle for the plaintiffs in this adequacy lawsuit, any relief granted to them by the Florida Supreme Court would certainly make the 2019 Legislative Session and state budgeting process more interesting than usual. ■

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Child Abuse Reporting

By Heather Wallace, Assistant School Board Attorney

Section 1006.061(4), Florida Statutes, requires that each school post a sign written in both English and Spanish that contains the statewide toll-free telephone number for the central child abuse hotline. The signs must be posted in a prominent place in a clearly visible location and public area of the school that is readily accessible to and used by students. Posters that provide this information are available in the School Board Attorney's office. If your school does not have these required signs posted, please contact the Board Attorney's office at 588-6220.■

Service Animal Policy
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animal which are detailed in Policy 2630. The District has developed a Service Animal Application Form to assist schools in gathering the appropriate information to be considered. The form can be found under ESE Compliance on the District's ELearn site. If you receive a re-

quest to allow a service animal to accompany a student and you have any questions, please contact Heather Wallace, Assistant School Board Attorney, for assistance.■

Subpoenas - Reminder

By David Koperski, School Board Attorney

Remember, if you receive a subpoena that requires your attendance at a deposition or court hearing, that does not involve your own personal litigation, you are entitled to receive a TDE that allows you to comply with the subpoena without needing to take personal leave or sacrificing your normal pay. If you receive a subpoena, please tell your supervisor and feel free to contact us for further guidance. We can offer advice on how to handle your specific situation. However, in general, you should always be truthful and not exaggerate your responses. Also, you should not guess at answers- if you do not know or cannot remember, simply just state that.■

