

# Legally Speaking

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School Year End 2003

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**PINELLAS COUNTY SCHOOLS**

*Pinellas County Schools is an equal opportunity institution for education and employment.*

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## Politics in the Classroom and Workplace

By John W. Bowen, School Board Attorney



During the last gubernatorial election there were reports of classroom teachers wearing T-shirts during class and around the school that supported their particular candidate for office. Employees wore campaign buttons to work supporting their candidate. More recently, complaints were raised about teachers advocating in their

classes their support for the war effort in Iraq, or urging opposition to it, instead of teaching the curriculum.

These and similar activities are political in nature and contrary to School Board policy. **School Board Policy 8.07(3)(d), Political Activities**, provides that "employees engaging in political activities ... shall not use time, facilities, or personnel of the school system to engage in such activities." Employees can engage in political activities but not while on duty or using School Board property or personnel. While political activity is a protected First Amendment right, it is subject to reasonable time, place and manner restrictions.

One teacher sued the School Board for violating her First Amendment rights, claiming her contract was non-

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### Mission Statement

*The mission of the School Board Attorney's Office is to provide the highest quality legal services to the Pinellas County School Board and district by ensuring timely and accurate legal advice and effective representation on all legal matters.*

## Code of Ethics for Educators

By Jim Barker, Administrator, Office of Professional Standards

Florida's Code of Ethics for educators was established in 1963. There was no legal means of enforcing the Code until 1982, when it was revised by the State Board of Education, upon recommendations by the Education Standards Commission. The revision created the Code of Ethics, followed by the Principles of Professional Conduct of the Education Profession in Florida, which are now State Board of Education Rules 6B-1.001 and 6B-1.006, FAC.

The Code of Ethics and Principles of Professional Conduct cover educators who hold any type of certificate issued by the Department of Education. This includes

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# MUST BE PRESENT TO WIN

By Donna Sicilian, Supervisor,  
School Social Work and Full Service Schools

The phrase "must be present to win" is never truer than when dealing with a student's education. With this in mind, what would you do in the following situations?

A family says that they plan to home-school their 8 year-old daughter, who has a history of absenteeism. Do you:

- Wait for awhile and see what happens;
- Withdraw the student, "whereabouts unknown," or
- Check with the home-school office to see if the child is enrolled?

A high school student has had a poor attendance record. The student has now missed 10 consecutive days from school, during which time he has celebrated his 16<sup>th</sup> birthday. Do you:

- Send him a birthday card;
- Withdraw him because he is over compulsory attendance age; or

c) Contact the family and continue interventions to improve attendance? \*

If you answered "b" on either of these situations, your answer is not only incorrect, but illegal! Section 1003.21, Florida Statutes (2002), requires that all children who are either six years of age, who will be six years old by February 1 of any school year, or who are older than six years of age but who have not attained the age of 16 years must attend school regularly during the entire school term.

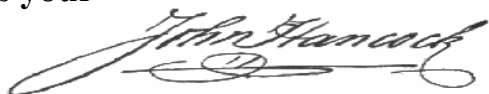
A student between 16 and 18 years of age is not subject to compulsory attendance if the student completes a formal declaration of intent to terminate school enrollment. The declaration must acknowledge that leaving school will likely reduce the student's earning potential and must be signed by the student and the parent. According to section 1003.21(1)(c), Florida Statutes (2002), the school district must notify

the child's parent or legal guardian that it has received the student's declaration of intent to leave school.

Under **School Board Policy 4.03, Attendance**, paragraph (3), the school may withdraw a student who is over age 16 for non-attendance only if, after having made diligent inquiry, it has been unable to contact the parent(s)/guardian or the student. The school should document its unsuccessful attempts to establish contact with the family, to show that diligent effort. We understand that working with non-attending students can be frustrating. However, truancy is sometimes symptomatic of underlying issues of the student and family. Please keep in mind that your recognition of the student's truant behavior is often the catalyst that brings much-needed help and services to the student and family. Every school has a child study team (CST), the purpose of which is to intervene in cases of non-attendance.

\*The correct answers are "c."

## What does your



## represent?

By Jackie Spoto Bircher, Staff Attorney



What's in a name? A lot when it is your name and you are signing it on a district form or document.

Our employees sign a variety of documents and forms in this district, including their employment applications; certificates of absence; TDE requests; Individualized Education Programs (IEPs) for students; accident, injury and incident reports; evaluations; expense authorizations; travel vouchers; time sheets; asset transfer forms; inventory reports and purchase orders.

Sometimes signing a form has

limited meaning. For example, signing your evaluation means you are acknowledging its receipt; it does not signify agreement with the evaluation.

At other times your signature on a form is your representation to the district that the information you provided on the form is true and correct. When you sign a certificate of absence form designating that you took sick time, your signature is your representation to the district that you actually met the requirements for using sick time. When you sign an IEP, you are acknowledging your presence and input at the IEP meeting. It is always important to make

sure that you carefully review the information you are submitting on any form that you sign, especially if it is a form with which you are unfamiliar.

Why? Pursuant to **School Board Policy 8.25(1)(i) Disciplinary Guidelines for Employees**, the falsification or alteration of employment paperwork, district forms, documents or certification is a basis for employee discipline. Further, because the School Board is a government entity, some violations can rise to a criminal level. So, the next time you sign your name, take the time to **carefully** read what you are signing. ■

# The Flame Burns On

Brian Chepren, Supervisor Central Printing Services

Almost every company or institution has a visual identity and promotes that identity through the materials it produces. An effective visual symbol, also called a "logo", is one that people easily recognize and associate with that organization. Think of McDonald's "golden arches," US Postal Service's "eagle" or Nike's "swoosh."

In 1990, a School Board committee, composed of marketing and public relations professionals from the community and school system representatives, started a project to create a new visual mark for the school system. With the help of a professional design firm, the committee surveyed people within and outside the school system and used that information to develop the new design. The result was the familiar torch and flame design, shown above, that our School Board adopted as the logo for this district.



**PINELLAS COUNTY  
SCHOOLS**

The torch and flame design is a registered service mark with the Florida Secretary of State's office. The logo is used on the district's letterhead, brochures, public announcements, curriculum guides and other official communications. It is also shown on signs, vehicles and buildings. A color version is used for some print applications, and for TV and other media, the website and the Intranet. To see the color logo visit our website at: [www.pinellas.k12.fl.us/attorney](http://www.pinellas.k12.fl.us/attorney), then go to the *Legally Speaking* page

and click on: Volume III, Issue 4, School Year End, page 3.

Wherever the logo is shown, the circle surrounds the torch and flame, and the words "Pinellas County Schools" appear below on two lines. For the non-color version, the circle is black and the torch and flame are the color of the surrounding background. The color and non-color designs are the **only** authorized versions of the logo.

School district personnel may use the torch and flame logo in official communications from the district. Any other organization may use the logo only with permission for specific applications. Any questions about use of the district's logo should be made through the central printing office.

Look for the flame/torch logo -- it's the official and exclusive mark of our school district! ■

## Dear John ...

**Q.** I noticed in [Policy 8.25, Disciplinary Guidelines for Employees](#), one of the grounds for disciplinary action against an employee is the "misuse of corporal punishment." Does that mean that as long as the employee does not "misuse" corporal punishment that there is some use of corporal punishment that is permissible?



necessary to maintain discipline or to enforce school rule," is not allowed in Pinellas County.

In the past the Legislature prohibited school boards from outlawing corporal punishment. The Legislature reconsidered and now allows school boards the discretion to decide whether to allow corporal punishment. The statutes require that if corporal punishment is going to be used, it will be administered by the principal or teacher in the presence of another adult who is informed beforehand in the student's presence of the reason for the punishment. The parents are entitled,

upon request, to receive a written explanation of the reason for the punishment and the name of the other adult who was present. These requirements can be found in sections 1002.20 (4) (c) and 1003.32 (1) (k), Florida Statutes (2002).

Both sections contain one additional very important requirement. They both require that corporal punishment be administered *in accordance with school board policies*. The Pinellas County School Board has not adopted any policies authorizing the use of corporal punishment. Therefore, any use of corporal punishment in Pinellas County would be contrary to the statutes. Any use would be a "misuse" of corporal punishment and grounds for discipline of the employee who uses corporal punishment. ■

**A.** The quick answer is "no." Corporal punishment, defined in section 1003.01(7), Florida Statutes (2002) as "the moderate use of physical force or physical contact by a teacher or principal as may be

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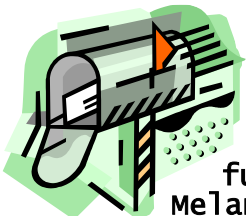
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***Code of Ethics for Educators***

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teachers and administrators. Any educator who violates any of the principles is subject to having his or her certificate suspended or revoked or other penalties that could be imposed by the Education Practices Commission (EPC) as provided by law.

The Principles of Professional Conduct contain sections addressing the educator's obligation to the student, the public and the profession of education.

Violations of the Code of Ethics or The Principles of Professional Conduct are reported to Professional Practices Services (PPS), which is the investigatory arm of the Department of Education. PPS investigates allegations of criminal, unethical, incompetent or unprofessional conduct by certified educators. The commissioner of education determines if probable cause exists and recommends prosecution to the EPC.

The EPC consists of 17 members, including seven teachers, five administrators and five lay citizens (two of whom are required to be former district school board members), appointed by the State Board of Education from nominations by the Commissioner of Education, subject to Senate confirmation.

The EPC meets several times a year to consider action against educators. Educators are afforded due process in the proceedings and may be represented by an attorney. In many cases, settlement agreements are made between the educator and the EPC. In all cases fines may be imposed, rehabilitation or counseling may be required, drug or alcohol testing may be ordered, reprimands may be given, and in more severe cases, certificates may be suspended or revoked.

It should be noted that non-certificated and certificated employees in the district are all bound by **School Board Policy, including 8.25 Disciplinary Guidelines for Employees**. (see *Legally Speaking* Volume III, Issue 1, page 1) ■

***Politics in the Classroom and Workplace***

*(Continued from page 1)*

renewed because of her political activities. She had discussions with her class about the reasons for political picketing at her school. She even allowed her class to leave the classroom to observe the picketing. That may have been appropriate if it had been an American government class. However, she was teaching math. Although her nonrenewal was based in part on her political activities at school, the School Board prevailed because her conduct was inappropriate and contrary to School Board policy. Freedom of speech is not an absolute right.

The reasons for the policy should be obvious. First, it is inappropriate for a teacher to use his or her position of authority to attempt to persuade a captive audience of students to convert to the teacher's political position. The wearing of political T-shirts or campaign buttons in classes clearly is an attempt to do this. Second, it is doubtful there is any job description of any employee of the district that includes "trying to convince others to vote for a particular candidate or adopt a particular political position." No employee in the school district is being paid to conduct such activities.

Failure to comply with School Board policies has a penalty range from caution to dismissal from employment under **Policy 8.25, Disciplinary Guidelines for Employees**. To avoid problems, keep political activities outside the classroom and workplace. ■