



SAI Annual Conference 2012

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Legislative Update

- Standing Appropriations – HF 2465
- *Preschools & Administrative Expenses*
- Codifies law that school district may use no more than 5% of preschool funds for administrative expenses.
Effective this fiscal year.
- If partnering, school districts must pass through at least 95% of preschool funds to community providers, based on per-pupil enrollment.



Legislative Update

- Standing Appropriations – HF 2465 (cont.)
- AEAs
- Reduces AEA funding by an additional \$10 million, on top of last year's \$10 million cut for FY13, thus totaling \$20 million.
- AEA's no longer have to spend 30 percent of their media services budget on media resource materials. They now may spend up to 30 percent on such materials.



Legislative Update

- Public Information Board – SF 430
- This bill establishes the Iowa Public Information Board (PIB), a state agency charged with enforcing Iowa's open meetings and public records laws.
- Nine member board with no more than 3 from the media and 3 from political subdivisions.
- The board will begin accepting complaints on July 1, 2013.



Legislative Update

- Public Information Board – SF 430 (cont.)
- The board will:
 - (1) accept complaints;
 - (2) enforce the law;
 - (3) seek resolution with both informal and formal means (with a focus on informal),
 - (4) issue advisory opinions, and;
 - (5) provide training.
- The board may issue orders with the force of law, and impose civil penalties.
(TO INCLUDE INDIVIDUAL PAYMENT OF DAMAGES)



Legislative Update

- Public Information Board – SF 430
- The law amends the open meetings and public records law to include a new defense that allows a government body to rely on a court decision or a formal opinion of:
 - 1) the Iowa public information board;
 - 2) the attorney general;
 - 3) the attorney for the government body, in writing or a formal oral opinion noted in the minutes for a meeting;
 - 4) or, a written advisory opinion of the Iowa public information board, the attorney general, or the attorney for the government body.



Legislative Update

- Public Information Board – SF 430 (cont.)
- The bill also added a new exemption to the public records law.
- Drafts can now be considered confidential records.
- A draft is defined as a document that is preliminary in nature and used prior to its final form which is when it is submitted for formulation, adoption, recommendation or execution.



Knock on Desk Points!

- **Remind staff members not to send emails on the school's email system that they would not want printed in the newspaper! (Consider Gmail, Hotmail and other accounts for personal communications!)**
- **Determine what level of personal technology use your district will permit during work time or using district technology. Your policy may impact whether an email is subject to an open records request!**
- **When in doubt, check with your attorney if you receive an open records request that you are unsure about.**



Legislative Update

- Modified Allowable Growth for Dropout Prevention– SF 451
- This bill expands the list of eligible expenditures on which MODIFIED ALLOWABLE GROWTH FOR DROPOUT PREVENTION MAY BE SPENT. List of eligible expenditures:
 - 1) Salary and benefits for instructional staff, instructional support staff and school-based youth services staff who are working with students who are participating in dropout prevention programs, alternative programs, and alternative schools, if the staff person's time is dedicated to working with returning dropouts or students who are deemed to be at risk of dropping out (or prorated portion of time).



Legislative Update

- Modified Allowable Growth for Dropout Prevention– SF 451 (cont.)
- List of eligible expenditures:
- 2) The bill allows a district to use up to five percent of those funds for at-risk programs to help prevent students not identified as at-risk.
- CONTACT ME ABOUT ADDITIONAL DETAILS ABOUT EXPENDITURES!



Legislative Update

- Bus Driver Background Checks – SF 2221
- Prior to hiring an applicant for a school bus driver position, including a contract position, an employer shall review the following public information:
 - (1) the Iowa court information system;
 - (2) the sex offender registry
 - (3) the central registry for child abuse, and;
 - (4) the central registry for dependent adult abuse.



Legislative Update

- Bus Driver Background Checks – SF 2221
- An employer shall follow the same procedure every five years upon the renewal of an employee's school bus driver's license issued by the department of transportation valid for the operation of a school bus.
- An employer shall maintain documentation demonstrating compliance with this subsection.
- *Individuals found on any of the registries WILL NOT receive a bus driver authorization.*



Legislative Update

- Bus Stop Arm Violations – SF 2218
- A bus driver who violates the pick-up and drop-off provisions may be charged with a simple misdemeanor.
- An individual who does not slow down or stop when meeting a bus with flashing red or amber lights, OR passes a bus with its red or amber lights flashing or stop arm out may now be charged with a simple misdemeanor or serious misdemeanor.
- If injury or fatality results from a violation, individuals are subject to greater penalties.



Legislative Update

- Justice System – HF 2335 (Bus inspections)
- Legislature clarified that troopers are to patrol highways and not conduct school bus inspections.
- DE inspectors will perform that duty.



Legislative Update

- Mandatory Reporters – SF 2225
- Employees who report child abuse or assist in an assessment of a child abuse report are protected from employment retaliation.
- The individual who retaliates is individually liable for back pay, attorney's fees, etc., if awarded by a court.



Legislative Update

- Employee Misconduct – HF 2383
- This bill requires school or AEA boards, superintendents, and AEA chief administrators to report to the Board of Educational Examiners (BoEE) any disciplinary action taken against an employee for:
 - 1) Inappropriate relationship with a student, including soliciting or encouraging the relationship;
 - 2) Falsifying grades, test scores or other information; or,
 - 3) Using public property or funds for private purposes.
- An employee is defined as anyone who has a license, certification, authorization or statement of professional recognition from the BoEE. An administrator who violates this law could have his/her license revoked or denied.



Legislative Update

- Education Reform– SF 2284
- Compulsory attendance age lowered to 5 year olds
- This provision establishes that a child who is at least 5 years old by September 15 AND is enrolled in kindergarten is of compulsory attendance age.
- **However. . .**
 - a parent or guardian may make a written request to remove the student from school and the child will no longer be considered of compulsory attendance age.



Legislative Update

- Education Reform– SF 2284 (cont.)
- Competency-Based Instruction:
 - This provision allows districts to award credit based on a high school student's competency (as approved by a teacher licensed under chapter 272), and;
 - Allows the district or accredited nonpublic school to determine the assessment method for awarding that credit.



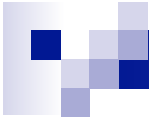
Legislative Update

- Education Reform– SF 2284 (cont.)
- **Professional Development:** Requires districts to designate a minimum of 36 hours of professional development time during the school calendar for:
 - 1) teacher collaboration to deliver educational programs and assess student learning, or;
 - 2) to engage in peer review.
- These 36 hours must be held:
 - 1) outside of the minimum school day (5.5 hours);
 - 2) outside of negotiated preparation time or designated professional development time.



Legislative Update

- Education Reform– SF 2284(cont.)
- **Teacher Review:** Changes the existing teacher review process to include formative peer group reviews in years one and two and the comprehensive review by a certified evaluator in year three.
- Information from the peer review process shall not be the basis to put a teacher into an intensive assistance program or to determine the compensation, promotion, layoff or termination of a teacher.
- *As a result of a peer group review process, a teacher may elect to participate in an intensive assistance program.*



Legislative Update

- Education Reform– SF 2284 (cont.)
- Administrator Review: Changes the existing administrator review process to require an annual review of administrators.



Legislative Update

- Education Reform– SF 2284 (cont.)
- Online learning:
 - (1) Through June 30, 2015, students who meet open enrollment requirements may enroll in online programs through CAM and Clayton Ridge.
 - (2) Limits the number of pupils who can receive their educational instruction primarily over the Internet to no more than 18 one-hundredths of one percent of statewide enrollment.
(approximately 750 total students)
 - (3) It also limits the number of students who use open enrollment to receive online education to no more than one percent of the sending district's student enrollment.



Legislative Update

- Education Reform– SF 2284 (cont.)
- Online learning: (cont.)
- (4) Includes a requirement that the teacher providing online instruction and conferring grades must be licensed under chapter 272.
- (possibility of 1 year waiver from the DE if a good faith effort is made to obtain a licensed teacher)



Legislative Update

- Education Reform– SF 2284 (cont.)
- **Early childhood literacy:**
- (1) **Requires districts to administer a kindergarten readiness assessment to every resident pre-kindergarten or four-year-old child who enrolls in the district after July 1, 2013.** The assessment shall be aligned with state early learning standards.
- (2) **Requires districts to assess all students' reading proficiency in K-3 at the beginning of the school year. The district may determine the assessment method.**
- (3) **Requires districts to provide intensive reading instruction to students with substantial reading deficiencies, based on the assessment or teacher evaluation.**



Legislative Update

- Education Reform– SF 2284 (cont.)
- **Early childhood literacy:**
- **(4) Requires notification of parents of a student who fails to meet reading proficiency. The notification must include the following:**
 - a) That the child has been identified as having a substantial deficiency in reading.
 - b) A description of the services currently provided to the child.
 - c) A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area of reading deficiency.
- **(5) Requires districts with more than 15 percent of K-3 students identified as reading deficient to include strategies for reading proficiency in their Comprehensive School Improvement Plan.**



FERPA – Recent Changes

- ***FERPA Directory Information Changes***
- ***Limited recipients/purposes for directory information disclosures.*** The regulations clarify that an educational agency or institution may adopt a directory information policy limited to disclosure to specific parties, for specific purposes, or both – and not just a directory information policy for disclosure of directory information to the public – if it specifies those limits in the annual public notice it provides to parents and eligible students. (Parent consent is not required for the release of directory information.)
- "Directory information" is personally identifiable information in a student's education record – such as a student's name, address, dates of attendance, etc. – that would not generally be considered harmful or an invasion of privacy if disclosed. A parent or eligible student still has an opt out right to require that directory information relating to the student not be disclosed without prior written consent.



FERPA – Recent Changes

- ***Authorizing disclosures from postsecondary institutions/data systems to K-12 officials/data systems and from K-12 agencies/data systems to publicly funded early childhood learning programs/data systems.*** The regulations reverse ED's prior interpretation that data could be disclosed only to evaluate or audit programs of the disclosing agency. That previous interpretation barred postsecondary institutions from disclosing data to local school districts if the purpose was to evaluate how well the K-12 system or secondary schools had prepared students for college. It had a parallel effect on the disclosure of data by elementary schools to publicly funded early childhood learning programs, an effect also reversed by the new regulations.



Iowa Cases

- ***American Civil Liberties Union Foundation of Iowa, Inc. v. Records Custodian, Atlantic Community School District, (Iowa 2012).***
- **Facts:**
- Civil liberties group filed this suit in an effort to require a **school** district to provide records relating to the discipline of two employees, pursuant to Open Records Act. The District Court and Court of Appeals decided in favor of the district. ACLU appealed.
- The **categorical exemption at issue in this appeal exempts from disclosure “[personal information in confidential personnel records of public bodies . . .]”** Iowa Code § 22.7(11).
- [ALWAYS REMEMBER THAT AN EXEMPTION MUST APPLY IF YOU ARE NOT GOING TO TURN RECORDS OVER DURING AN OPEN RECORDS REQUEST.]



Iowa Cases

- *American Civil Liberties Union Foundation of Iowa, Inc. v. Records Custodian, Atlantic Community School District, (Iowa 2012).*
- The Iowa Supreme Court held:
- **Disciplinary records and information regarding discipline are nothing more than in-house job performance records or information.**
- Under our prior case law and that of other jurisdictions, we can easily conclude that **the plain language of the statute supports the exemption in this case**. Accordingly, it is unnecessary to apply a balancing test.
- Therefore, we agree with the district court that section 22.7(11) exempts the information requested by the ACLU of Iowa from disclosure under the Open Records Act.



Iowa Cases

- ***Ben Lange v. Allamakee Community School District*, 808 N.W.2d 754 (table) (Iowa Ct. of App. 2011).**
- **Facts:**
- Journalism teacher at public high **school**, who was reprimanded by principal for allowing students to **publish purportedly inappropriate articles in student newspaper**, sought declaratory judgment against principal and **school** district that publications did not violate Student Free Expression Law (SFEL), and also sought removal and expungement of reprimands from teacher's personnel file. The District Court granted summary judgment to defendants. Teacher appealed.
- [Principals and superintendents with student newspapers in their districts are encouraged to read Iowa Code §280.22.]



Iowa Cases

- *Ben Lange v. Allamakee Community School District*, 808 N.W.2d 754 (Iowa Ct. of App. 2011).
- **Facts:**
- Points of concern in the student newspapers included:
- Articles headlined “**Cheerleaders on ‘Roids’** “; “**Meth Lab Found in Biology Lab, [Teacher] Faces Criminal Charges**” with an accompanying photo of a biology teacher;
- Photographs of a student wearing a hooded sweatshirt and displaying “gang signs” and a student with a dead cat; and
- **Quotes from one student who said** she wanted to be “**an all-American gangster, dog**” after graduation; and one student who said he “**totally, like, want[s] to be a super model for Victoria's Secret!**”



Iowa Cases

- ***Ben Lange v. Allamakee Community School District*, 808 N.W.2d 754 (Iowa Ct. of App. 2011).**
- **The Iowa Court of Appeals held:**
 - **(1) Iowa law gives students of public schools more robust free-expression rights than those articulated by United States Supreme Court in *Hazelwood*;**
 - **(2) exceptions to free expression under Iowa law are to be read narrowly;**
 - **(3) parody editions of high school newspaper did not encourage students to engage in unlawful acts, rule violations, nor were they libelous, so as to violate Iowa law;**



Iowa Cases

- ***Ben Lange v. Allamakee Community School District*, 808 N.W.2d 754 (Iowa Ct. of App. 2011).**
- **The Iowa Court of Appeals held: (cont.)**
- **(4) libel exception to free speech rights of students should be read to include affirmative defenses such as parody and consent; and**
- **(5) district must remove reprimands from teacher's personnel file.**
- **Reversed and remanded.**



8th Circuit Court of Appeals Cases

- *Schmidt v. Des Moines Public Schools*, 655 F.3d 811 (8th Cir. 2011).
- **Facts:**
- **Mother, who was joint legal custodian of children**, brought legal action against city and police officers **alleging they unlawfully impeded her access to her children**, and **against the school district and five employees alleging they unlawfully denied her access to the children and their educational records.**
- **The children resided with their father, who was the primary physical custodian.** The divorce decree restricted mother's visitation with children to specific schedule and allowed her to exercise visitation outside of that schedule only with ex-husband's assent.
- The United States District Court dismissed the claims against the city defendants **and granted summary judgment for the school district defendants.** Mother appealed.



8th Circuit Court of Appeals Cases

- *Schmidt v. Des Moines Public Schools*, 655 F.3d 811 (8th Cir. 2011).
- The 8th Circuit Court of Appeals held:
- (1) one time interruption of mother's right to visitation by police officers did not amount to deprivation of mother's liberty;
- . . .
- (3) mother had no fundamental liberty interest in contacting her children at their schools; and
- . . .
- Affirmed.



8th Circuit Court of Appeals Cases

- *Schmidt v. Des Moines Public Schools*, 655 F.3d 811 (8th Cir. 2011).
- The 8th Circuit Court of Appeals held:
- It is not clear that a parent's fundamental liberty interest in the care, custody, and management of her children includes unfettered access to the children during a school day. But whatever the scope of that liberty interest, it can be “substantially reduced by the terms of [a] divorce decree and [state] law.” Schmidt's liberty interest was substantially reduced by the relevant divorce decrees, which restricted her visitation with the children to a specific schedule and allowed her to exercise visitation outside that schedule only with her ex-husband's assent. **Schmidt thus had no fundamental liberty interest in contacting her children at their schools.**
- [Follow language in court orders concerning visitation, but remember that both parents usually have a right to records.]



8th Circuit Court of Appeals Cases

- *D.J.M. v. Hannibal Public School District*, 647 F.3d 754 (8th Cir. 2011).
- Facts:
- High school student brought legal action against school district and district's superintendent, alleging that his suspension, based on alleged threats he made to shoot other students, violated his right to free speech.
- D.J.M., a student in the Hannibal Public School District, sent instant messages from his home to a classmate in which he **talked about getting a gun and shooting some other students at school.** The alarmed recipient contacted the school principal about her concerns. School authorities decided they must notify the police, who took a statement from D.J.M. that evening and then placed him in juvenile detention. **D.J.M. was subsequently suspended for ten days and later for the remainder of the school year.**



8th Circuit Court of Appeals Cases

- *D.J.M. v. Hannibal Public School District*, 647 F.3d 754 (8th Cir. 2011).
- The 8th Circuit Court of Appeals held:
- (1) student's statements were not protected speech under either “true threat” or substantial disruption analysis.
- Affirmed.
- The First Amendment did not require the District to wait and see whether D.J.M.'s talk about taking a gun to school and shooting certain students would be carried out.
- The student “had the requisite intent to communicate his threat because he communicated his statements to [another student],” and he “should have reasonably foreseen that his statements would have been communicated to his alleged victims” since a reasonable person should be aware that electronic communications can now be easily forwarded.



8th Circuit Court of Appeals Cases

- *D.J.M. v. Hannibal Public School District*, 647 F.3d 754 (8th Cir. 2011).
- The 8th Circuit Court of Appeals points:
- **True threats are not protected under the First Amendment**, and the District was given enough information that it reasonably feared D.J.M. had access to a handgun and was thinking about shooting specific classmates at the high **school**.
- The Court in *Tinker* explained that “in class or out of it, conduct by a student which “might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities” is not protected by the First Amendment.