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School Law Notes

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MICHAEL D. GRESENS
CHRISTOPHER J. IAMARINO
RAYMOND M. DAVIS
MICHELE R. EADDY
KIRK C. HERALD
ROBERT A. DIETZEL
KATHERINE WOLF BROADDUS
DANIEL R. MARTIN
JENNIFER K. STARLIN
TIMOTHY T. GARDNER, JR.
IAN F. KOFFLER
FREDRIC G. HEIDEMANN
RYAN J. NICHOLSON
CRISTINA T. PATZELT
PHILIP G. CLARK
PIOTR M. MATUSIAK
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ERIN H. WALZ
RYAN J. MURRAY
MACKENZIE D. FLYNN
MARYJO D. BANASIK
CATHLEEN M. DOOLEY
KELLY S. BOWMAN
AUSTIN W. MUNROE

GORDON W. VAN WIEREN, JR. (Of Counsel)
ROY H. HENLEY (Of Counsel)
BRADFORD W. SPRINGER (Of Counsel)

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Summer Tax Resolution Reminder

Revised School Code Section 1613 allows a school district or intermediate school district to direct local taxing jurisdictions to levy half or all of its school taxes on July 1 by filing a summer tax resolution with the local taxing jurisdictions. If your school has previously authorized a summer tax levy and would like it to continue in 2027, your board of education must adopt a resolution and file a copy with each city and township within your school's boundaries on or before **December 31, 2026**.

The December 31 deadline is statutory and provides no grace for a missed deadline. When we receive calls from clients asking what they can do when the deadline has been missed, the unfortunate answer is "nothing." Failing to adopt and file a summer tax resolution by December 31 means that all school taxes for the subsequent year must be levied in December.

A suggested resolution form is attached to this newsletter. *Do not use the attached resolution if your school is considering (1) the implementation of a summer tax levy for the first time or (2) changing the percentage of the summer tax collection.*

Section 1613 states that a "[summer tax] resolution by its terms may be applicable until revoked by the board." Although this language seems to suggest that a school board does not need to adopt and file a summer tax resolution each year, the Michigan Court of Appeals held that Section 1613 requires annual school board action to effectuate a summer tax levy. School officials should not rely on language in a summer tax resolution stating that it is effective "until specifically revoked by the Board" to bypass the required annual summer tax resolution process. Doing so would jeopardize the school's ability to levy summer taxes for the given year.

A school that did not levy a summer tax in 2026 may institute a summer tax levy for 2027. Likewise, a school that previously authorized a 50% summer tax collection and wants to increase to a 100% summer tax collection (or vice versa) may make that modification for 2027. To authorize a summer tax levy for the first time, or to modify the collection percentage, the board must adopt a different resolution at a properly noticed public meeting and file the resolution with each city and township within your school's boundaries by December 31, 2026. To implement or modify a summer tax collection for 2027, please contact a Thrun Law Firm finance and election attorney who will provide you with the required resolution(s) and forms.

The State of Michigan pays the collection costs for the State's education tax (6 mills) if no other summer property tax is collected by the tax collecting unit (other than the State education tax and county taxes). If your school has a partial or full summer tax levy and the only other summer tax collection in your jurisdiction is the

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State's education tax and county taxes, your school will be solely responsible for the applicable summer tax collection costs.

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Back-to-Basics: The Foundation Allowance

While most school officials are familiar with monthly state aid payments, they may not spend much time thinking about how those payments are calculated. Understanding the per-pupil foundation allowance is important both from the school funding perspective, as well as for communicating with the public regarding upcoming operating millage elections.

The Foundation Allowance

In 1994, Proposal A fundamentally changed how Michigan school districts are funded. To reduce funding disparities among districts, Michigan adopted a per-pupil foundation allowance calculated as a combination of both (1) local operating millage dollars and (2) state aid from the School Aid Fund.

Each year, the Legislature sets a target foundation allowance. For 2026-27, that amount is $10,300 per pupil.

In determining state aid allocations, the State generally assumes that each district is levying an operating millage of 18 mills, which is the general millage limit under Revised School Code Section 1211 on "non-homestead property" (e.g., business, rental, and second-home property). The revenue generated by that operating millage is divided by the district's pupil count to determine the "local portion" of the foundation allowance. The local portion is then subtracted from the year's foundation allowance, and the State makes up the difference between the assumed local revenue and the target foundation allowance.

There are exceptions to the general formula. "Hold-harmless districts" are authorized to levy additional millage on "homestead" properties to maintain a historically higher foundation allowance. "Out-of-formula districts" generate sufficient local operating millage revenue to meet or exceed the district's foundation allowance, precluding any State foundation allowance contribution.

Applying the Concepts

Assume a district has 1,000 pupils and a per-pupil foundation allowance of $10,300, for a total foundation allowance of $10.3 million. Assume also that the district's local operating revenue through the 18-mill levy would generate $5,000 per pupil, for a total of $5 million. The State's portion of the district's foundation allowance would be approximately $5,300 per pupil, for a total of $5.3 million.

But what happens if a Headlee rollback reduces the district's operating millage levy from 18 mills to 17.7 mills, and the district ultimately collects only $4,917 per pupil in local operating revenue, for a total of $4.917 million? In that case, the district would collect $83 less per pupil, or $83,000 less in total, than the State assumes under an 18-mill levy. The State will not increase its payment toward the foundation allowance to make up the difference. The district would instead receive only $10,217 per pupil ($10.217 million total) in combined local and state aid revenue, rather than the full $10,300 per pupil ($10.3 million total).

Millage Informational Campaigns

Understanding how the foundation allowance works is important when communicating with voters about operating millage proposals. For instance, using the example above, it is technically inaccurate to say, "The State will take away $83,000 in funding if voters do not approve the millage," or "The district will lose state funding if the millage is not approved." Such statements suggest that the State reduces an otherwise available payment to penalize the district, which is not the case.

The more factual explanation is that the State's formula assumes the required local revenue will be generated, and the State does not make up local revenue that is not collected. As school officials communicate with voters about operating millage proposals, they should explain that:

- the foundation allowance is funded through a combination of State and local revenue;
- the State's formula generally assumes the district will levy operating millage at the full 18 mills;
- the State does not replace local revenue that the district does not collect because of Headlee erosion; and
- if a district levies less than 18 mills through its operating millage, it will not receive its full per-pupil foundation allowance because of the gap in the local revenue portion of the funding equation.

Factually accurate informational campaign communications are critical during election season, especially when explaining school funding. School officials should carefully review all voter communications before publication and provide materials to their election attorneys with sufficient time for review. Remember, as a complimentary service, Thrun Law Firm election attorneys will review your election materials for accuracy and compliance with the Michigan Campaign Finance Act.

New USDOE Guidance Addresses Student Discipline and Title VI

On August 18, 2026, the U.S. Department of Education's Office for Civil Rights (OCR) issued new guidance addressing student discipline and compliance with Title VI of the Civil Rights Act of 1964. The 20-page "Dear Colleague Letter" (DCL) represents a significant change in the federal government's approach to racial disparities in school discipline and provides schools with a framework for evaluating their discipline policies and practices.

At the heart of the guidance is a distinction between "intentional discrimination" (disparate treatment) and "disparate impact." OCR's position is that Title VI prohibits intentional discrimination based on race, color, or national origin, but does not generally prohibit a race-neutral policy simply because it produces different outcomes among racial groups.

For example, according to OCR, if a school has a neutral policy requiring discipline for a particular offense and that policy results in a higher rate of discipline for a particular racial group, the disparity itself does not establish a Title VI violation. Instead, OCR says schools should focus on whether similarly situated students are treated consistently and whether disciplinary decisions are made without regard to race.

OCR also advises that schools generally should not change disciplinary policies or disciplinary consequences for the purpose of reducing racial disparities. According to OCR, doing so may itself constitute race-based decision-making and could raise legal concerns under both Title VI and the Equal Protection Clause.

OCR's guidance also recognizes that discipline policies may appropriately provide administrators and teachers with discretion, including in areas such as classroom disruption, disrespect, insubordination, and inappropriate behavior. According to OCR, such discretion is not inherently unlawful if the policies are facially neutral, applied evenhandedly, and adopted and implemented without wrongful racial intent.

The guidance represents a significant departure from previous federal guidance. Earlier guidance placed greater emphasis on racial disparities in discipline and the possibility that a facially neutral policy could violate Title VI because of its disproportionate impact. The new guidance expressly rejects that interpretation.

Importantly, the DCL is not a law, regulation, or binding legal requirement. OCR expressly states that the guidance "lacks the force and effect of law," does not create new legal standards, and does not directly determine the rights or obligations of schools. Instead, it is an interpretive rule explaining how the USDOE currently understands, and intends to apply, Title VI.

The DCL represents the current position of the federal agency responsible for enforcing Title VI in education and therefore provides persuasive insight into how OCR is likely to approach complaints and investigations involving student discipline.

However, the DCL does not mean that schools should stop reviewing discipline data or examining whether students are being treated fairly. Schools can – and should – continue to monitor discipline, evaluate consistency, review individual cases, and ensure that policies are applied fairly.

For school officials, the takeaways are relatively straightforward: discipline policies should be race-neutral, applied consistently, and based on student behavior and individual circumstances. A racial disparity in discipline does not, by itself, establish a Title VI violation. At the same time, school officials should remain attentive to evidence that similarly situated students are being treated differently because of race.

Ultimately, the DCL signals a shift toward an individualized, behavior-based approach to school discipline. For school officials, the most prudent response is not necessarily to overhaul existing discipline systems, but to carefully review whether policies are neutral, whether similarly situated students are treated consistently, whether staff understand the importance of nondiscrimination, and whether disciplinary decisions can be supported by legitimate, behavior-based reasons.

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The Daily Dose: Administering Medication at School

School staff are permitted, and at times required, to administer medication to students at school under specific circumstances. State law and school board policy contain requirements that school staff must follow when administering medication to students.

MDE's Medication Guidelines for Administering Medications to Pupils at Schools and the Michigan School Nurse FAQ (updated in January 2026) identify relevant statutes and provide best practices for school medication administration. School officials should ensure staff understand how and when to give students medication.

Prescription Medication

School staff may only administer prescription medication to a student if the school has a signed order from a licensed health care provider with prescribing

authority. The order must include instructions for storing, administering, and disposing of the medication.

The medication itself must be in its original child-proof container, which must state:

- the student's name;
- the prescriber's name and contact information;
- the date the medication was filled and the date it expires; and
- information about medication storage, administration, and disposal.

Finally, the school must obtain a parent/guardian's signed written permission to administer the medication.

Authorized Staff for Medication Administration

Only a school administrator, teacher, school employee designated by a school administrator, or licensed professional school nurse may administer medication. It is common, and permissible, for an administrator to designate office staff as employees who may administer medication. It is particularly important that those staff members are trained on the appropriate school policy.

School staff must administer medication in the presence of another adult *except* in an emergency that threatens a student's life.

If the school receives the required documentation and a permitted employee administers the medication in accordance with the health care provider's orders with another adult present, the employee generally is immune from criminal action or for civil damages resulting from the administration of the medication. An exception to that immunity applies to an employee if the administration constituted gross negligence (e.g., conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results) or willful and wanton misconduct (e.g., conduct that is intentionally wrong or reckless).

Medication Storage Requirements

Medication must be kept in a locked location unless it is an emergency medication that needs to be readily accessible to a person designated to administer it.

Controlled substances must be counted and recorded when school staff receive them from the parent/guardian, recounted on a regular basis (monthly or bi-weekly), and reconciled with the medication administration log/record. Controlled substances must also be double locked in a secure area.

Administration of Epinephrine

All schools must keep epinephrine in stock. Schools with ten or more administrative and instructional staff members must have at least two employees trained in the appropriate use and administration of an epinephrine auto-injector. Schools with fewer than 10 administrative and instructional staff members are only required to have one trained employee. The employee(s) must have anaphylaxis training upon assignment and every two years thereafter.

Over-the-Counter Medication (OTC) and Self-Administration

School officials may decide to administer OTC medications (e.g., Tylenol or Benadryl), and if they do, the school should have protocols identifying which medications will be available. A parent/guardian must annually consent in writing to allow OTC medication administration to their student.

School policy may, but is not required to, allow students to self-administer medications, including asthma inhalers and epinephrine auto-injectors, with written parental permission and authorization in writing from a health care professional.

For Thrun Policy Service subscribers, student use of medications is addressed in Policies 5703 (Medications) and 5705 (Emergency Anaphylaxis).

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USDOE Issues Guidance on Responsible Use of Classroom Technology

On August 20, 2026, the U.S. Department of Education (USDOE) issued a "Dear Colleague Letter" (DCL) offering general guidance on the responsible use of education technology in the classroom. The stated purpose of the DCL is to help states, schools, educators, families, and education technology providers make informed decisions about the responsible use of technology in classrooms as artificial intelligence (AI) continues to evolve at a rapid pace.

The DCL generally maintains that educational technology use should have a clear instructional purpose, be backed by independent evidence, be transparent in design and data use, and be supported by strong implementation. When considering the use of technology in the classroom, the DCL asserts that the "core question" remains whether a given technology strengthens instruction, expands opportunity, and improves student learning. In addition, the DCL suggests that as they continue leading decisions about education technology, schools should:

- distinguish between policies that address recreational technology use and those that govern instructional technology;
- evaluate educational technology based on demonstrated learning outcomes and

instructional value rather than screen time alone;

- incorporate evidence of effectiveness into procurement and renewal decisions, looking for products that have conducted randomized control trials and demonstrated positive outcomes;
- establish processes for reviewing implementation and outcomes to ensure technology investments continue to meet instructional goals; and
- support professional learning that helps educators integrate technology effectively into instruction.

The new DCL references an earlier "Dear Colleague Letter" issued on July 22, 2025 that offered guidance on the use of federal grant funds to improve education outcomes using AI. That earlier guidance generally outlined five principles for the responsible use of AI, saying that it should be: (1) educator-led, (2) ethical (e.g., helping students evaluate the validity of AI outputs and learn *with,* rather than exclusively *from,* AI), (3) accessible, (4) transparent and explainable, and (5) protective of student data. The new DCL asserts that these same principles provide a foundation for the use of educational technology more broadly.

Schools should ensure that any educational technologies they seek to deploy will be consistent with relevant privacy laws (e.g., Family Educational Rights and Privacy Act, Children's Online Privacy Protection Act, Children's Internet Protection Act, and Michigan's Student Online Privacy Protection Act) and with relevant school policies regarding acceptable use of technology. Any time student information is given to or collected by a third party, the agreement should clearly indicate what information is and is not being shared, where and how long it will be stored, for what purpose, to whom, and what will happen if there is a data breach.

For Thrun Policy Service subscribers, relevant policies include Policies 3116 and 4215 (District Technology and Acceptable Use), and optional Policy 4229 for employees (Acceptable Use of Generative AI).

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Back to Basics: Teacher Classroom Observations

Classroom observations are the cornerstone of the teacher evaluation process. Failing to follow statutory procedures for teacher observations could result in a teacher challenging their year-end performance evaluation.

Because the teacher evaluation process is a mandatory bargaining subject, school officials must also comply with applicable collective bargaining agreement (CBA) evaluation provisions. For positions not covered by a CBA, school officials should refer to applicable employee handbooks and board policy for evaluation requirements. Individual employment contracts may also address evaluations.

Teacher Observation Tools

Revised School Code Section 1249 generally requires a school to use a state-approved evaluation tool for classroom teachers. MDE recently updated its list of state-approved observation tools for teachers to the following five:

1. The 5 Dimensions of Teaching and Learning;
2. Charlotte Danielson's Framework for Teaching;
3. The Marzano Teacher Evaluation Model;
4. The Redmer Continuous Growth Model for Digital Teaching; and
5. The Thoughtful Classroom.

A school may use an evaluation tool that is not on the state-approved list *if* the school publicly reports on certain criteria, including the tool's research base and evidence of reliability, validity, and efficacy (or a plan for developing that evidence). Regardless of which tool is used, a school must report information about its selected evaluation tool on its website, including the process for collecting evidence to be used in the year-end evaluation.

Teacher Observations

School officials should create a document that outlines observation procedures based on the school's selected evaluation tool. This document should address how evaluators will provide feedback to teachers after an observation and the difference between a formal observation and an informal walk-through. *All* evaluators and observers must be trained in these procedures and follow them when performing observations.

Evaluators must perform observations *at least* twice during the school year to support a teacher's annual performance evaluation. One observation may be unscheduled. Although the law does not address when observations must occur during the school year, all observations must be completed before finalizing the year-end evaluation.

At least one observation must be conducted by the teacher's year-end evaluator. Other qualified observers may also conduct observations. MDE identifies "teacher leaders, master teachers, instructional specialists, and/or district administrators" who are trained on the

evaluation tool as examples of qualified observers. However, school officials should review the applicable CBA to determine if a teacher may participate in the evaluation of another teacher.

In some cases, the school may designate an additional qualified observer (e.g., an administrator) to observe a teacher for a "second opinion." If more than one administrator conducts an observation, school officials should inform the teacher that the year-end evaluator will use his or her own observations, the other observer's input, and any other relevant information to complete the evaluation.

An observation must include a review of the lesson plan and the state curriculum standard used in the lesson. The evaluator must review student "engagement" during the observation.

While the evaluation tool typically provides criteria to evaluate student engagement, the evaluator also should provide a narrative summary to support all conclusions. If the evaluation is challenged, the narrative will help explain how the evaluator scored the teacher. Also, the lesson plan, state curriculum standard used in the lesson, and student engagement must be discussed during a post-observation meeting between the evaluator and the teacher.

A classroom observation must last at least 15 minutes, but it is not required to last an entire class period. School officials must comply with the adopted observation tool's recommended observation length and any additional contractual requirements.

Under the statute, within 30 calendar days after an observation, the evaluator must give the teacher written feedback. A CBA may establish a shorter period for feedback. This feedback should provide the teacher with recommendations about areas for improvement and notify the teacher of any performance deficiencies to give the teacher "ample opportunity" to improve.

The evaluator should also note any improvement, or lack thereof, in a previously documented area of deficiency recognized during any later walk-throughs or observations. If applicable, improvement or lack thereof should also be documented in an individualized development plan (IDP) or a mid-year progress report. We recommend that the evaluator give the teacher an opportunity to discuss the feedback.

Although an informal walk-through can provide valuable information to the evaluator, it does not count as one of the two required observations unless it satisfies all observation requirements. Evaluators may still conduct walk-throughs for monitoring purposes, especially when a teacher is subject to an IDP requiring periodic feedback. Regardless, when conducting an observation or a walk-through, the evaluator should always document the times when the evaluator entered and exited the classroom as well as any noteworthy observations.

School officials and evaluators should ensure that teacher observations are calendared and that a detailed plan is in place to avoid noncompliance. They should also review applicable contracts (including CBAs) for additional negotiated processes, timelines, or other requirements.

Failure to follow Section 1249, contractual, and policy requirements may undermine the evaluation process, affect the school's ability to rely on the evaluation for personnel decisions, and generate unnecessary legal exposure. For Thrun Policy Service subscribers, Policy 4403 (Performance Evaluation) governs teacher evaluations, including classroom observations.

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Freedom of Information Act Reminder: Handling Fees and Appeals

Schools that fail to comply with Michigan's Freedom of Information Act (FOIA) requirements and timelines could face costly civil fines, especially if a court finds that noncompliance was willful and intentional or school officials acted in bad faith. If school officials charge a fee for a FOIA request that a circuit court determines exceeds that authorized by FOIA, the school could be required to pay reasonable attorneys' fees, costs, and disbursements to the requester.

Schools may charge a fee for fulfilling a FOIA request if:

1. failing to charge a fee for the cost to search, examine, review, and delete and separate exempt from nonexempt information would result in *unreasonably high costs* to the school because of the nature of the request, and the *school identifies the nature of the unreasonably high costs*;
2. the school establishes, makes publicly available, and follows procedures and guidelines and a written public summary that align with the FOIA's statutory requirements, including a fee itemization form; and
3. the school posts and maintains its procedures and guidelines, written public summary, and fee itemization form on its website if the school maintains an internet presence.

Labor Costs

Schools may generally charge for the portion of labor costs directly associated with:

- searching for, locating, and examining public records;
- separating and deleting exempt information from nonexempt information; and
- copying, making digital copies, or transferring digital records.

Labor may only be charged at the hourly rate of the lowest paid employee capable of performing the work, regardless of who actually performs the work. Schools may also charge for fringe benefits at the actual rate, up to 50% of the labor charge. The percentage multiplier used to calculate fringe benefits must be included on the fee itemization form.

If no school employee is capable of separating and deleting exempt information from nonexempt information as determined by the school's FOIA coordinator on a case-by-case basis, the school may charge for third party contracted labor costs. That hourly rate must not exceed six times the then-current state minimum hourly wage ($13.73 per hour in 2026, with a six times rate of $82.38 per hour). Effective January 1, 2027, the state minimum wage will increase to $15.00 per hour, meaning schools may charge up to $90 per hour for third party contracted labor.

Labor costs must generally be calculated in 15-minute increments, with partial time increments rounded down. Schools may not charge for labor directly associated with redacting records if school officials know or should know that the public record was previously redacted, and the redacted version is still in the school's possession.

Cost of Providing Documents and Postage

A requestor may ask that records be provided in a non-paper format, including via non-paper physical media (e.g., a flash drive), or emailed. Schools may charge for the actual and most reasonably economical cost of non-paper physical media. Schools need not provide records in a specific type of electronic file format, though.

A fee for paper copies may not exceed ten cents per sheet, and schools must use the most economical means available for making copies, including providing double-sided copies if available. Schools may also charge for the actual cost of mailing records in a reasonably economical and justifiable manner. Schools may only charge for expedited shipping or insurance when authorized by the requestor.

Good Faith Deposit

A school may require a good faith deposit from the requestor before providing the records if the entire fee estimate exceeds $50. The deposit must be no more than 50% of the total estimated fee, which is calculated on a fee itemization form. When a deposit has been requested, a school is not required to compile records to fulfill the request until the deposit has been received.

Notice of a deposit requirement is considered received three days after it is sent, regardless of the means of transmission. If a requestor does not pay the good-faith deposit within 45 days after receipt, and does not appeal the deposit amount, the FOIA request is considered abandoned, and the school is no longer required to fulfill the request. The school's deposit notice must include the date that the deposit must be received, which is 48 days after the date the notice is sent.

When providing the response and fee estimate, a school must provide a best-efforts estimate of when the school will provide the records, which is not binding as an *estimate.* That estimate must be provided in good faith, and the school must strive to ensure that the estimate is reasonably accurate.

Fee Appeals

If a requestor believes that a school assessed a fee that exceeds the amount permitted under its publicly available procedures and guidelines and FOIA, and if the school's procedures and guidelines provide for an appeal to the school board, the requestor may submit such an appeal. Otherwise, the requestor may commence a civil action for a fee reduction in circuit court within 45 days after receiving notice of the required fee.

Conclusion

When responding to FOIA requests, schools should ensure they adopt FOIA procedures and guidelines (along with a summary), make those documents publicly available, specifically on a school's website, and follow the procedures.

Schools also need to ensure outdated procedures and guidelines do not remain posted after updates have been made. If obsolete or inaccurate procedures and guidelines currently available on the school's website permit a fee appeal to the school's board of education, but new procedures and guidelines (adopted by the board but not yet updated on the school's website) only permit a circuit court action, the school should consider permitting the requestor to pursue either appeal method.

For Thrun Policy Service subscribers, relevant policies include 3501 (Freedom of Information Act) and 3501-AG (Michigan Freedom of Information Act Procedures and Guidelines).

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Sixth Circuit's First Amendment Mic Drop

The federal Sixth Circuit Court of Appeals, whose decisions are binding in Michigan, recently ruled that a school board likely violated the First Amendment when it cut off a speaker during public comment because her remarks criticized the board and superintendent. *Boddy v Grech*, No. 25-3490 (CA 6, 2026). This decision underscores the importance of establishing and applying reasonable, viewpoint neutral public comment rules.

Background

Darby Boddy, a member of the public, attended an Ohio school district's board of education meeting to express her views regarding the school's alleged teaching of critical race theory. During public comment, Boddy "calmly and deliberately" read from prepared remarks, in which she characterized the superintendent's actions as "cowardice" and described the board as "failing."

Seconds into Boddy's comments, Board President Mary Grech interrupted Boddy and threatened to cut off her microphone. Boddy continued reading her prepared remarks while members of the audience began loudly booing and heckling her.

One minute and twenty seconds into Boddy's comments, Board President Grech moved to recess the meeting, and another board member seconded the motion. Board President Grech then approached the podium and removed the microphone. While board members exited the room, Boddy nonetheless continued to read her prepared comments.

After the board returned from recess, Boddy was not allowed to finish her allotted five minutes of public comment.

To justify interrupting Boddy's comments, the board relied on its policy authorizing the presiding officer to interrupt or terminate public comments that are repetitive, obscene, threatening, disruptive, or inconsistent with reasonable decorum.

Boddy sued the board, alleging First Amendment violations, and seeking a preliminary injunction to prevent the board from enforcing its policy against her speech at future meetings.

The Sixth Circuit decided that Boddy demonstrated a likelihood of success on her First Amendment claim and would be subject to irreparable harm in the absence of an injunction. The court granted a preliminary injunction.

The court emphasized that criticism of public officials and employees is at the core of First Amendment protection. Boddy's comments that the board was "failing" and that the superintendent's actions reflected "cowardice" were not fighting words, obscenity, threats, or any other category of unprotected speech.

The Sixth Circuit rejected Board President Grech's argument that her actions were necessary to maintain decorum, as a video recording showed Boddy spoke calmly and professionally. Further, by silencing Boddy in response to audience booing and heckling, the board impermissibly authorized a "heckler's veto" (i.e., silencing a peaceful speaker because listeners object to the speaker's viewpoint).

This case highlights the importance of a school establishing and enforcing reasonable, viewpoint neutral public comment rules in compliance with the First Amendment and the Michigan Open Meetings Act (OMA).

Public Comment Rules

Public comment at board meetings is a right under the OMA and First Amendment. The OMA requires that members of the public be permitted to "address a meeting of a public body under rules established and recorded by the public body."

The "rules established and recorded" by the public body must be designed to balance the board's interests in conducting meetings in an orderly manner against attendees' OMA rights and First Amendment free speech rights. The Michigan Attorney General has opined that the rules must be reasonable, flexible, and encourage public participation.

A public body may adopt a rule imposing a reasonable time limit on each individual speaker (e.g., commonly 3 minutes each). Accordingly, a board may limit the time any one person addresses the board. The board must, however, extend the public comment period as necessary to ensure that everyone wishing to speak has an opportunity to do so.

A board may adopt rules that prohibit personal attacks during public comment if the comments are unrelated to an employee's or board member's performance of public duties. For example, a board may prohibit a personal attack on an employee concerning the employee's religion. Attempting to otherwise prohibit personal attacks during public comment may violate the First Amendment. Boards should proceed very cautiously before restricting any speech during public comment.

We have recently seen an uptick in OMA-related legal challenges, some of which stem from public comment rules. Becoming familiar with your board's public comment rules may help avoid such challenges. Thrun Policy Service subscribers can find public comment rules in Policy 2504 (Public Participation at Board Meetings).

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Animals in Schools

Animals are generally not permitted in the school environment. But there are some situations in which a school may be legally required to allow an animal on school grounds or may permit the animal on school grounds on a case-by-case basis.

Service Animals

Under state and federal law, only dogs and, in limited circumstances, miniature horses qualify as service animals.

A service animal is a dog or mini horse that is individually trained to perform tasks for the benefit of and directly related to a person's qualifying disability. If a person brings a dog or miniature horse onto campus and the animal's trained work or task is not readily apparent (e.g., a blind person using a guide dog), legally, under Title II of the Americans with Disabilities Act (ADA), school officials can only ask the following questions to determine the type and training status of the animal:

1. Is the animal a service animal required because of a disability?
2. What work or task has the animal been individually trained to perform?

The second question is key. There is a difference between a dog that simply provides comfort to a person and a dog that has been individually trained to perform a specific job or task (e.g., guide dog, mobility support, alerting to low blood sugar, a seizure, or an oncoming panic attack). Once school officials have received answers to those two questions, they must generally allow a visitor or student with a disability who has a service animal access to school property, programs, and events.

For employees, Title I of the ADA does not require an employer to permit employees to bring service animals to work unless failing to do so would deny an employee with a disability the only effective reasonable accommodation.

When an employee requests to bring a service animal or an emotional support animal to work, the employee and administration must engage in the interactive process to discuss whether the employee needs a reasonable accommodation because of a disability and, if so, what effective accommodations exist. An employer has the right to choose among effective reasonable accommodations. But employers should use caution in denying a request for an animal that meets the definition of service animal under the ADA.

A service animal must always be in its handler's control, but the handler does not need to be the person whom the service animal assists. For example, if a student with a disability cannot control their service animal, another person, such as a school employee, may serve as the handler. Unless otherwise indicated in the student's IEP or Section 504 Plan, a school is not required to provide a handler for the service animal, nor is the school responsible for the animal's care or supervision. A school is required, however, to provide an area for the service animal's care.

School officials may exclude a service animal from school property or functions if the animal is out of control, not housebroken, or poses a direct threat to the health or safety of others. Allergies to pet dander and the fear of dogs are not valid reasons to exclude a service animal from school facilities. Instead, Title II would generally require the school to accommodate both the person with the service animal and the person with allergies.

Emotional Support Animals

Title II of the ADA does not regulate emotional support animals because they are not service animals. In contrast to service animals, a school generally has discretion whether to allow an emotional support animal on its property and can establish additional requirements for the animal while on the property.

For employees, a request for an emotional support animal to accompany them at work is a request for an accommodation under the ADA. As described above, school officials must go through the interactive process to determine if the person has a disability, whether accommodations are necessary, and what reasonable accommodations would be effective and would not pose an undue hardship to the school.

If a student with a disability seeks to bring an emotional support animal to school, the student's IEP or Section 504 Team must determine whether the animal is a reasonably calculated support or program modification needed to allow a student to make appropriate progress toward annual goals and receive FAPE.

Service Animals in Training

Michigan law provides additional protections for service animal "trainers" or "raisers." Michigan Penal Code Section 502c(3) states that a public accommodation – including a public school – must modify its policies, practices, and procedures to generally permit the use of a service animal in training by an animal raiser or trainer if the animal raiser is being accompanied by the service animal for the purpose of training or socializing the animal. An "animal raiser or trainer" is an individual who raises and socializes a service animal in training with the intent that the animal will become a service animal. A school is prohibited from asking an animal raiser or

trainer to remove a service animal in training from the premises because of allergies or fear of the animal.

A public school may, however, ask an animal raiser or trainer to remove a service animal in training, if: (1) the service animal in training is out of control and the animal raiser or trainer does not take effective action to control the animal or (2) the service animal in training is not housebroken.

Therapy Dogs

The use of school-sponsored therapy dogs in the educational setting is increasingly popular. These therapy dogs (sometimes called facility dogs) are individually trained and certified by a recognized therapy dog training organization and are usually owned by the school and assigned an employee handler. We recommend schools ensure there are agreements in place between the school and any therapy dog handlers addressing training, costs, ownership, liability, and other issues before the dog arrives.

Thrun Policy Service subscribers will find additional guidance about service animals, therapy dogs, and emotional support animals in Policies 3108 (Service Animals) and 3109 (Curricular Animals).

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THRUN LAW FIRM, P.C.

Schedule of Upcoming Speaking Engagements

Thrun Law Firm attorneys are scheduled to speak on the legal topics listed below.
For additional information, please contact the sponsoring organization.
www.thrunlaw.com/calendar/list

Date	Organization	Attorney(s)	Topic
September 25, 2026	AMA ESD	Michele R. Eaddy	Special Education Legal Update
September 29, 2026	Thrun Law Firm, P.C.	Michele R. Eaddy Jennifer K. Starlin	Section 504 Webinar
September 30, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Bootcamp Webinar Series – Comprehensive Webinar
October 7, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Bootcamp Webinar Series – On Notice! The IDEA's Notice Provision and How to Use It
October 8, 2026	MNA Fall Conference	Raymond M. Davis	Back to the Future: Could 2008 Repeat Itself in 2026?
October 8, 2026	MNA Fall Conference	Katherine Wolf Broaddus	Managing the Union Organization Efforts
October 8, 2026	MNA Fall Conference	Robert A. Dietzel	Legal Update
October 8, 2026	Genesee ISD	Michele R. Eaddy	Special Education Legal Update
October 9, 2026	MNA Fall Conference	MaryJo D. Banasik	Leave Bermuda Triangle: FMLA, ADA, and ESTA
October 16, 2026	MASB Annual Leadership Conference	Jessica E. McNamara	Effective Board Policies: Development, Adoption, and Implementation
October 21, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Bootcamp Webinar Series – IDEA and the AI Parent
November 4, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Bootcamp Webinar Series – Maneuvering Through the Maze of Special Education Discipline
November 18, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Labor Webinar Series – CBA Summary: Grievances & Collective Bargaining
December 10 & 11, 2026	Thrun Law Firm, P.C.	Thrun Attorneys	Policy Implementation Webinars

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Annual Summer Tax Resolution

_____ (the "District")

A _____ meeting of the board of education of the District (the "Board") was held in the _____, within the boundaries of the District, on the ____ day of _____, 2026, at ___o'clock in the __.m. (the "Meeting").

The Meeting was called to order by _____, President.

Present: Members
Absent: Members

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, this Board previously adopted a resolution to impose a summer tax levy to collect *Choose 50% or 100%* of annual school property taxes, including debt service, upon property located within the District and continuing from year-to-year until specifically revoked by the Board.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to the Revised School Code, MCL 380.1 et seq., the Board invokes for 2027 its previously-adopted ongoing resolution imposing a summer tax levy of *Choose 50% or 100%* of annual school property taxes, including debt service, upon property located within the District and continuing from year-to-year until specifically revoked by the Board and requests that each city and/or township in which the District is located collect those summer taxes.

2. The Superintendent or designee is authorized and directed to forward to the governing body of each city and/or township in which the District is located a copy of this Board's resolution imposing a summer property tax levy on an ongoing basis and a copy of this resolution requesting that each such city and/or township agree to collect the summer tax levy for 2027 in the amount specified in this resolution. Such forwarding of the resolutions and the request to collect the summer tax levy shall be performed so that they are received by the appropriate governing bodies on or before December 31, 2026.

3. Pursuant to and in accordance with Revised School Code Section 1613(1), the Superintendent or designee is authorized and directed to negotiate on behalf of the District with the governing body of each city and/or township in which the District is located for the reasonable expenses for collection of the District's summer tax levy that the city and/or township may bill under Revised School Code Sections 1611 or 1612. Any such proposed agreement shall be brought before this Board for its approval or disapproval.

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

Ayes: Members
Nays: Members

Resolution declared adopted.

_____
Secretary, Board of Education

The undersigned duly qualified and acting Secretary of the Board of Education of _____, hereby certifies that the foregoing constitutes a true and complete copy of a resolution adopted by the Board at the Meeting, the original of which is part of the Board's minutes. The undersigned further certifies that notice of the Meeting was given to the public pursuant to the provisions of the Open Meetings Act (Act 267, Public Acts of Michigan, 1976, as amended).

_____
Secretary, Board of Education

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