



2014 EMPLOYMENT & SCHOOL LAW SEMINAR

A JOINT SEMINAR FOR SCHOOL BOARD MEMBERS AND ADMINISTRATORS BY THE WISCONSIN SCHOOL ATTORNEYS ASSOCIATION AND THE WISCONSIN ASSOCIATION OF SCHOOL BOARDS

OCTOBER 16-17, WISCONSIN DELLS • KALAHARI RESORT

Event Schedule in Complete Detail

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LOCATION & REGISTRATION DIRECTIONS

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Thursday, Oct. 16 (choose one session in each time period)

9:00-10:25 am

SESSION A: WHAT SHOULD YOU KNOW ABOUT THE FIRST AMENDMENT ESTABLISHMENT CLAUSE IN WISCONSIN'S PUBLIC SCHOOLS

Does *Town of Greece* change the way courts will analyze First Amendment challenges to religious practice or expression in the public school setting? Does *Elmbrook* establish a new legal standard applicable beyond the holding in that case? We will address these issues and more as we use our crystal balls to predict the future of jurisprudence arising under the Establishment Clause of the First Amendment relevant to Wisconsin school districts.

• *Lori Lubinsky, Axley Brynelson, LLP; and Frank C. Sutherland, Boardman & Clark LLP*

SESSION B: EMPLOYEE GRIEVANCE HEARINGS—WHAT THEY WERE; WHAT THEY ARE NOW; WHAT THEY MAY BE; WHAT THEY SHOULD BE

The speakers will cover prior methods of employee dispute resolution; why the statutory grievance procedure came about; their personal experiences in conducting independent hearings and participating in the same; and their views on how the employer, the grievant, the advocates and the Hearing Officer should proceed so that fairness and ethical obligations are taken into consideration.

• *David R. Friedman, Friedman Law Firm; and John E. Thiel, John E. Thiel Law Office LLC*

10:35 am-12:00 noon

SESSION A: FLSA EXEMPTIONS—AN OVERVIEW AND TRAPS FOR SCHOOL DISTRICTS

Wage and hour issues continue to be an increasing source of litigation for employers. School districts are not exempt from this trend. Among the more problematic and common areas for liability is the misclassification of an employee as "exempt" from the overtime provisions of the Fair Labor Standards Act. This presentation will discuss the requirements for an employee to be properly classified as "exempt" and provide guidance on how to avoid liability and common mistakes districts may make.

• *Doug Witte, Melli Law, S.C.; and Steve Weld, Weld, Riley, Prens & Ricci, SC*

SESSION B: WHEN WORLDS COLLIDE—COPS, TEACHERS AND KIDS

Educators frequently struggle with the proper role of the School Resource Officer (SRO) in their district. This session will explore the significant differences in the goals, objectives, and cultures of law enforcement entities and school districts that complicate the role of the SRO. The speakers will discuss effective ways to manage the interaction between the SRO and your teachers, students, and local law enforcement agencies with a view towards protecting the legal rights of your students and employees while helping local law enforcement keep both the school environment and the community as a whole, safe and secure.

• *Jim Korom, von Briesen & Roper, s.c.; and Dan Chanen, Milwaukee Public Schools*

12:00 noon-1:00 pm — LUNCH

1:00-2:20 pm

SESSION A: EMPLOYEE HANDBOOK UPDATE

Employee handbooks need constant updating to stay current with state and federal law changes. This session will

review recent legal developments affecting employee handbooks and suggest changes schools should make to keep their handbooks up to date.

• **Barry Forbes, Wisconsin Association of School Boards**

SESSION B: WARNING! SEVERAL SCHOOL BOARD POLICIES AFFECTING STUDENTS HAVE REACHED THEIR EXPIRATION DATES

This session will identify several student-related policy topics that require prompt attention due to changes in relevant laws and regulations. The presenters will discuss the legal changes that have prompted the need to update policies, identify the key local decisions that need to be made under each of the policy topics, and offer some additional practical suggestions to help guide school leaders in the policy development/revision process. Topics to be covered include open enrollment policies and procedures, the new Technical Excellence Scholarship program, the Course Options program, high school graduation requirements, and more.

• **Matthew Bell, Madison Metropolitan School District; and Daniel Mallin, Wisconsin Association of School Boards**

2:30-3:30 pm

SESSION A: WELCOME TO AMERICA! IMMIGRATION AND PUBLIC EDUCATION

U.S. immigration law is frequently in the news lately as Congress and the president play politics with the issue and as an influx of unaccompanied minors enter the United States across the southern border. For school districts, the application of federal immigration law has very practical affects. This program will discuss the various areas of U.S. immigration law that school districts should be aware of and how to deal with them, including the rights of undocumented students and parents; options for international student programs; understanding the employment of foreign nationals; and employment enforcement activity by Immigration and Customs Enforcement and Customs and Border Patrol.

• **Geoffrey Lacy, Davis & Kuelthau, s.c.**

SESSION B: THE AFFORDABLE CARE ACT—JUST THE FACTS—HOLD THE SPIN

Some of the statements and analysis you have heard about the Affordable Care Act from political advocates both for and against the law are wrong or misleading. This program will cut through the spin to address impacts for Wisconsin school districts and practical strategies for effective health employee benefit programs in this new environment.

• **Todd W. Martin, Todd W. Martin Law Office, LLC**

3:30 pm — ADJOURN

Friday, Oct. 17 (choose one session in each time period)

9:00-10:25 am

SESSION A: RULES OF ORDER FOR CONDUCTING SCHOOL BOARD MEETINGS

School board meetings are more effective when the board members' attention is focused on the substance of their decisions rather than on the procedures that are used to navigate the agenda and reach those decisions. Attend this session to further improve your understanding of typical meeting procedures and to obtain ideas for developing a core set of local rules of order that can serve as an efficient and mutually understood framework for conducting school board business.

• **Daniel Mallin, Wisconsin Association of School Boards**

SESSION B: IT'S NO APRIL FOOL'S JOKE, OCR REALLY EXISTS!

Sometimes it seems like the U.S. Department of Education's Office of Civil Rights (OCR) might be just an April Fool's joke, but it is very real and very serious! School districts are faced with innumerable obligations imposed by federal law and enforced by OCR with respect to disabled students. This session will: provide a refresher on Section 504 and the ADA; highlight OCR's recent "Dear Colleague Letters" and "FAQ" circulars; identify OCR's newest decisions and complaint resolutions; and, advise on how to avoid and handle OCR investigations.

• **Tess O'Brien-Heinzen, Boardman & Clark LLP; and Ronald S. Stadler, Mallery & Zimmerman, S.C.**

10:35 am-12:00 noon

SESSION A: ROCKS, BLOCKS AND STOCKS—THE P3 SOLUTION TO EDUCATION INFRASTRUCTURE

This session will explore the use of public-private partnerships in education. What is a public-private partnership? How do they work? What is the upside for schools and CESAs? What about the downside? We'll also review a few P3 projects to illustrate how P3s are being used nationally and regionally to develop education infrastructure.

• **Julie Lewis, Nowlan & Mouat, LLP**

SESSION B: THE RIGHTS AND OBLIGATIONS RELATED TO LGBT EMPLOYEES AND STUDENTS IN THE PUBLIC SCHOOLS

Public school districts have significant legal obligations with regard to the rights of lesbian, gay, bisexual and transgender students and employees. From bullying, harassment, and discrimination to the human growth and development curriculum to the benefits offered to domestic partners and/or same sex spouses to equal access to school district facilities, the laws continue to develop in this area. This presentation will focus on a public school district's legal obligations related to LGBT students and staff members.

• **Dylan Pauly, Madison Metropolitan School District; and Shana R. Lewis, Davis & Kuelthau, s.c.**

12:00 noon-1:00 pm — LUNCH

1:00-2:20 pm

SESSION A: LABOR LAW UPDATE—GOING FORWARD UNDER ACT 10 (AND OTHER LAWS)

The dust has settled and Act 10 is here to stay. Get a primer on what has changed and what hasn't for school districts in labor relations. This session will cover topics including: (what's left of) collective bargaining; employee handbooks; employees' Weingarten rights; the role of the union in discipline and grievances; and the (still existing) right to engage in concerted activity.

• **JoAnn M. Hart, Boardman & Clark LLP; and Gary M. Ruesch, Buelow Vetter Buikema Olson & Vliet, LLC**

SESSION B: PUPIL EXPULSIONS

This presentation covers state and federal laws relating to the pupil expulsions. The presentation will provide a road map for considering the expulsion of pupils and to help avoid common pitfalls when doing so. The presentation will focus on procedures for boards that conduct their own expulsion hearings.

• **Bob Butler, Wisconsin Association of School Boards**

2:30-3:30 pm

SESSION A: COMPENSATION MODELS— HOW TO ATTRACT AND RETAIN HIGH-QUALITY TEACHERS

As school districts implement new initiatives for school improvement, districts and teachers alike desire a method to recruit and retain the highest performing teachers. School districts have the opportunity to develop a compensation system that incentivizes classroom performance, rewards high-achieving teachers, and holds teachers accountable for classroom performance that falls below acceptable standards. How can your district attract, keep, and motivate high-quality teachers? What lessons can be learned from the compensation systems currently in use by school districts in Wisconsin or beyond? Is there a model system out there that will work for your district? This session will explore those issues and discuss areas of concern.

• **Daniel G. Vliet, Buelow Vetter Buikema Olson & Vliet, LLC; and Scott R. Mikesch, Kaukauna Area School District**

SESSION B: KEY CONSIDERATIONS OF ADMINISTRATOR CONTRACTS

This presentation will cover all aspects of administrator contracts, including a review of those provisions school boards should include and those provisions school boards should exclude from administrator contracts, renewal and nonrenewal of administrator contracts and a discussion of key court cases that can guide board action with regard to administrator contracts.

• **Ben Richter, Wisconsin Association of School Boards**

3:30 pm — ADJOURN

Photo courtesy of the Kettle Moraine School District.

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