

School Law Newsletter – Index of Articles

Subject/Topic	Article Title	Newsletter Issue
§504	Court Rules That There is No Original Jurisdiction in Federal Court to Hear School District's Appeal From Adverse Section 504 Administrative Hearing Decision	Summer 2005
1 st Amendment	United States Supreme Court Preview	Winter 2007
1 st Amendment	Use of School Facilities by Boy Scouts Upheld	Winter 2005
1 st Amendment	Classroom City Revisited: A Continuing Lesson in First Amendment Rights	Winter 2008
1 st Amendment – Speech	Dress Code – No Fundamental Right to Wear Blue Jeans	Spring 2005
1 st Amendment – Speech	Free Speech of Public Employees Applies Only When Speaking As a Citizen	Summer 2006
1 st Amendment – Speech	When My Space Affects Your Space	Summer 2006
1 st Amendment – Speech	Classroom City: A Lesson in First Amendment Rights	Winter 2007
1 st Amendment – Speech	Superintendent Can Sue School Board for Violating His Free Speech	Winter 2007
1 st Amendment – Speech	Tinkering With Tinker? A Student Speech Update	Summer 2007
1 st Amendment – Speech	First Amendment Frustrations: Distributions and Substantial Disruptions	Spring 2007
1 st Amendment – Student Newspaper	Stop the Press – Pay the Price	Winter 2005
Athletics	United States Supreme Court Preview	Winter 2007
Athletics	More Supreme Court Decisions	Summer 2007
Attorneys and Attorney Fees	Parents Not Entitled to Attorney Fees Where Settlement Offer Waives Fees	Fall 2006

Attorneys and Attorney Fees	United States Supreme Court Preview	Winter 2007
Attorneys and Attorney Fees	Parents May Not Recover Expert Witness Fees Under the IDEA	Summer 2006
Attorneys and Attorney Fees	No Attorney Fees for Attorney Who Represented Himself in OMA Action	Summer 2007
Attorneys and Attorney Fees	Sixth Circuit Holds that Non-Lawyer Parents May Not Represent Their Child in an Action Brought Under the IDEA	Summer 2005
Attorneys and Attorney Fees	Parents Can Pursue FAPE Claims Without an Attorney	Summer 2007
Attorneys and Attorney Fees	Supreme Court Agrees to Hear Expert Fee Case	Winter 2006
Auxiliary Services	Michigan Court of Appeals Rules That Private School Students are Entitled to Independent Educational Evaluations	Spring 2005
Auxiliary Services Act	Michigan Supreme Court Vacates Auxiliary Services Act Decision	Spring 2006
Behavior Support	MDE Seeks Public Response to Seclusion	Winter 2005
Behavior Support	Courts Examine Requirements for Written Behavior Intervention Plan	Spring 2006
Behavior Support	State Board of Education Still Considering Seclusion and Restrain Standards	Spring 2006
Behavior Supports	Standards for Emergency Use of Seclusion and Restraint	Winter 2007
Child Protection Law	Sexual Contact Between Students Is Not "Child Abuse"	Fall 2004
Child Protection Law	Check Your Motives Before Calling Child Family Services	Winter 2008
Collective Bargaining	District's Web Page Initiative is a Prohibited Subject of Bargaining	Winter 2007
Collective Bargaining	No Right to Reappointment as Coach	Summer 2007

Compensatory Education	U.S. Court of Appeals Adopts Qualitative Standard for Determining Compensatory Education	Winter 2006
Compensatory Education	Sixth Circuit Adopts "Test" for IDEA Child Find Violation and Compensatory Education Awards	Spring 2007
Damages/Liability	School District Liable for Ignoring Peer Harassment	Fall 2005
Damages/Liability	Pardon Me: No Liability for Terminating Convict	Summer 2006
Damages/Liability	Tattle Tales: School District Not Liable for Defamation or Interference with Contract	Fall 2006
Damages/Liability	Poor Academic Performance and Discipline Referrals Do Not Provide Notice of Potential for Sexual Assault	Spring 2007
Discipline	OSEP Issues Guidance Documents	Spring 2007
Discipline	Counting the Days. . . The Rest of the School Year	Winter 2005
Discipline	Board of Education May Hold Expulsion Hearing Prior to Manifestation Determination Review Meeting	Fall 2005
Discipline	Student Discipline: What Process is "Due"?	Fall 2005
Discipline	IDEA 2004 Lessons Learned: Manifestation Determination Review Meetings	Spring 2006
Discipline	Changes in Discipline Provisions of the 2006 IDEA Final Regulations	Winter 2007
Discrimination	More Supreme Court Decisions	Summer 2007
Due Process	Private Settlement Agreement Enforceable Through Due Process Hearing, Not Federal Court	Summer 2007
Due Process Hearings	Hearing Officer's Jurisdiction over Contested IEP Extends to "Safety Concerns"	Spring 2005
Due Process Hearings	Supreme Court Decides Burden of Proof in IDEA Cases	Winter 2006

Due Process Hearings	Michigan's New Due Process Procedures in Effect	Summer 2006
Due Process Hearings	Federal Court Rules in Resolution Meeting Dispute	Fall 2006
Elections	Refresher Regarding Recent Election Consolidation Legislation	Fall 2004
Elections	May 6, 2008 Election	Winter 2008
Eligibility	United States District Court Finds Asperger's Syndrome Adversely Affected Student's Educational Performance	Winter 2006
Eligibility	Special Education Eligibility Required Adverse Educational Effect	Fall 2006
Eligibility	Adverse Educational Impact Still Causes Confusion	Spring 2007
Eligibility	Eligibility Determinations Still Require Need for Special Education	Summer 2007
Evaluation/ Reevaluation	Reevaluations Not Subject to "30 School Day" Time Limit	Spring 2006
Evaluations/ Reevaluations	Responsibility for Reevaluations	Fall 2005
Extended School Year Services	Regression-Recoupment Standard for ESY Services	Fall 2004
Extended School Year Services	MDE Submits Reports on ESY Services to State Board of Education	Summer 2007
FAPE – Change in Placement	Fifth Circuit Court of Appeals Rules that a Change in Location of a Program is Not a Change in Educational Placement	Winter 2005
FAPE – Generally	Don't Overlook Student Needs That May Affect Educational Performance	Spring 2005
FAPE – Generally	IHO, Citing Deal, Holds That the Educational Benefits Provided Pursuant to IDEA Are to Be Provided With the Goal of Self-Sufficiency	Summer 2005

FAPE – Generally	Courts Continue to Look to Academic Performance and Progress	Fall 2005
FAPE – Generally	Failure to Provide FAPE Results in Record Settlement	Fall 2005
FAPE – Generally	Lessons Learned: Goals, Objectives, and FAPE	Spring 2006
FAPE – Generally	IEP Implementation Failure Must Be “Material”	Spring 2007
FAPE – Generally	Federal Court Rules That Assessment of Progress by Curriculum-Based Instruments is Appropriate	Summer 2007
FAPE – Methodology	The Deal with “Deal”	Spring 2005
FAPE – Methodology	Federal Courts Uphold School District’s Autism Program; Deny ABA Reimbursement	Summer 2005
FAPE – Methodology	High Court Declines to Review Autism Methodology Dispute	Fall 2005
FAPE – Methodology	And the Deal Goes On, and On, and On. . .	Fall 2006
FAPE – Methodology	Sixth Circuit Adopts “Meaningful Benefit” Standard; Orders Reimbursement and Lovaas Program	Winter 2005
FAPE – Procedural Errors	Preparation or Predetermination? Caution is Warranted When Presenting Information at IEP Meetings	Summer 2005
FAPE – Procedural Errors	Preparation is Not Predetermination	Fall 2006
FAPE – Procedural Errors	Revisions Following IEP Meeting Do Not Violate IDEA	Spring 2007
FAPE – Procedural Errors	Predetermination of IEP Requires School District to Reimburse Private School Costs	Summer 2007
FERPA	General Education Failures Result in IDEA and FERPA Violations	Fall 2006
FERPA	Open Meetings Act Amendment Requires Compliance With FERPA	Fall 2004

FERPA	IDEA/FERPA Prohibit Verbal Disclosure of Student Information	Fall 2004
FERPA	Schools Not Required to Provide Automatic Access to Records Under FERPA	Spring 2005
FERPA	California Ruling Allows Districts to Provide Copies of Test Protocols to Parents of Students with Disabilities	Summer 2005
FERPA	Comments to Reporters Violates FERPA	Fall 2005
FERPA	Courts Differ as to Access to Student Records by Protection and Advocacy Groups	Fall 2005
FERPA	FERPA Fees	Fall 2005
FERPA	Disclosure of Educational Records to Medicaid Billers and Other Third Parties May Violate FERPA	Winter 2006
FERPA	FPCO Reiterates FERPA Disclosure Requirements	Winter 2007
FERPA	FERPA Exceptions in Action	Winter 2008
FOIA	FOIA Does Not Require District to Obtain Documents	Fall 2004
FOIA	FOIA Permits Flat Fee for Subscription to Minutes	Winter 2005
FOIA	FOIA – Frank Communication Exemption Upheld	Spring 2005
FOIA	FOIA Does Not Require Access to Computer Hard Drives	Spring 2005
FOIA	FYI on FOIA	Fall 2005
FOIA	Use Timely and Specific Details in Responding to FOIA Requests: Software Excluded	Winter 2006
FOIA	FOIA Fees	Spring 2006
FOIA	FOIA Follies	Summer 2006
FOIA	FOIA Follies	Fall 2006

FOIA	FOIA: Give Me Some Privacy	Spring 2007
FOIA	FOIA Follies: Frankly, Timing Matters	Summer 2007
FOIA	Tenure Case Takes Back Seat to Criminal Prosecution, but Records Must Be Produced Under FOIA	Winter 2006
Grading	More Guidance from US DOE	Spring 2007
Grading	Weighted Grades	Fall 2004
Graduation	No Fundamental Right to Walk at Graduation	Spring 2005
Graduation Requirements	High School Graduation Requirements and Students with Disabilities	Winter 2007
IDEA – General	President Signs the IDEA	Winter 2005
IDEA – General	U.S. Department of Education Seeks Comments	Winter 2005
IDEA – General	Courts Begin Interpreting Requirements of IDEA 2004	Winter 2006
IDEA – General	IDEA 2004 Final Regulations Are in Effect Now!	Fall 2006
IDEA – Statue of Limitations	Court Addresses Statute of Limitations	Fall 2005
IEP/IEPT	Pay Attention To IEP Participants and Content	Fall 2004
IEP/IEPT	Avoiding IEP Team Blunders	Summer 2007
IEP/IEPT	OSEP Issues Guidance Documents	Spring 2007
Immunity	Don't Be Foolish. Governmental Immunity is Not Ironclad. You Can Be Sued.	Winter 2006
Immunity	Survey Says: Qualified Immunity for Disciplining Principle	Spring 2006
ISD	ISD Consolidation of Services Report Due Soon	Winter 2008
Labor & Employment	Overtime Pay and the Amended FLSA Regulations	Fall 2004
Labor & Employment	Okay to Chip Away at Health Care Benefits Under Retirement Program	Summer 2005

Labor & Employment	Substitute Teacher Statute Inapplicable	Summer 2005
Labor & Employment	Failure to Meet Paperwork Requirements Results in Termination of Tenured Teacher	Fall 2005
Labor & Employment	Non-Teacher Coach Not Member of Bargaining Unit	Winter 2006
Labor & Employment	Labor Trumps Tenure	Spring 2006
Labor & Employment	Retirement Incentive Buyouts Subject to FICA	Summer 2006
Labor & Employment	Don't Disclose Disciplinary Action Without Notice to Employee	Winter 2007
Labor & Employment	The FLSA and the Use of Non-Exempt Employees as Coaches	Winter 2007
Labor & Employment	Unfair Labor Practice for Retaliation	Spring 2007
Labor & Employment	Court of Appeals Restricts State Tenure Commission's Standard of Review	Summer 2007
Labor & Employment	Tenure Case Takes Back Seat to Criminal Prosecution, but Records Must Be Produced Under FOIA	Winter 2006
Labor & Employment	Avoidance of Unemployment Compensation Upon "Reasonable Assurance" of Continued Employment	Winter 2008
LD/RTI	OSEP Issues Guidance Documents	Spring 2007
Least Restrictive Environment	Private Pre-School Is LRE for Student With Autism	Fall 2004
Least Restrictive Environment	Federal Judge Finds Half-Time General Education Placement to be LRE	Summer 2006
MDE	MDE Documents of Interest	Fall 2006
MDE	MDE to Release Rules and Documents	Winter 2007
Medicaid	More Guidance from US DOE	Spring 2007
Medicaid	Final Medicaid Rule Eliminates Transportation and School Administrative Cost Reimbursement	Winter 2008

NCLB	Reminder Regarding Parental Involvement Plans	Winter 2005
NCLB	School Districts Sue Over NCLB	Winter 2005
NCLB	School Districts May Pursue Action Prohibiting Expenditure of Local Funds on Unfunded NCLB Activities	Winter 2008
NCLB Assessment	US Department of Education Issues Regulations	Spring 2007
Open Meetings Act	Open Meetings Act Amendment Requires Compliance With FERPA	Fall 2004
Open Meetings Act	No Attorney Fees for Attorney Who Represented Himself in OMA Action	Summer 2007
Open Meetings Act	OMA Requires the Presence of an Attorney for Closed Session	Winter 2006
Open Meetings Act	Keep Minutes of Closed Sessions	Summer 2006
Part C	Part C Regulations	Summer 2007
Part C	IFSP Services Do Not Fall Under Part B "Stay Put" Provision	Spring 2007
Part C	Supreme Court News	Winter 2008
Private School Reimbursement	No Previous Special Ed. . . No Tuition Reimbursement	Winter 2005
Schools of Choice	Decision Favors Schools of Choice Agreements Between ISDs	Fall 2005
Schools of Choice	Sixth Circuit Upholds Michigan's Schools of Choice Requirements	Fall 2006
Search & Seizure	Sixth Circuit Issues New Fourth Amendment Decision Regarding Student Strip Searches	Spring 2005
Social Security Privacy Act	Michigan Social Security Number Privacy Act	Fall 2005
Stay Put	IFSP Services Do Not Fall Under Part B "Stay Put" Provision	Spring 2007
Student Safety Initiative	Non-Exempt School Employees as School Volunteers	Spring 2005

Student Safety Initiative	Student Safety Initiative Legislation	Fall 2005
Student Safety Initiative	Battle over the Student Safety Initiative – Round One	Winter 2006
Student Safety Initiative	Criminal History Checks	Summer 2007
Teacher Requirements	Guidance Issued on Highly Qualified Teacher Requirements	Winter 2008