

Preface

Case law is the medium that clarifies and provides educators with the analysis and guidance relating to the rights and obligations of teachers, parents, and students. It establishes the duty for school authorities to keep students safe, to provide an atmosphere conducive to learning, and to know their obligations and student rights when adopting policies, procedures, handbooks, rules, and regulations. Education and related case law have grown from the one-room schoolhouse to single and joint school districts with individual and consolidated primary and secondary schools to a school campus of clustered school buildings.

The weapon of choice for mass shootings, including Uvalde School in Texas, Sandy Hook in Connecticut, and Marjorie Stoneman Douglas High School in Florida, is the AR-15 rifle. This weapon can be fitted with extended magazines and is lightweight, semi-automatic, versatile, and powerful. Some shooters are using ghost guns assembled from kits. Allegations of systemic and leadership failures including recognizing warning signs shown by students who need counseling or psychiatric evaluation, straying from adopted safety plans and procedures, and the availability of guns and high-powered weapons by youth need to be diligently and consistently re-evaluated. It is imperative for parents to know what purchases are made by their children, to keep adult-owned weapons in the house secure from unauthorized use within the family or from theft, to know what their children are researching and viewing on the Internet, and to know what Internet communications are received and sent by their children. Students should be encouraged to report violent comments and photos they receive through the Internet and social media, especially if fellow students are involved. Schools are encouraged to have an anonymous hotline for this reporting purpose. Internet sexting and computer crimes remain not only a safety concern for youth, but can lead to charges in the juvenile justice system.

Confronting an active shooter is more important than deferring to protocol. Deterrents (fences, emergency management alert reporting, policies) may slow an intruder, but exterior entrance doors to schools, an adequate and accessible number of master keys, maintenance of all interior locking doors to classrooms, locked storage facilities within a school building, and maintenance of a school's intercom system are essential to the safety and security of students and staff.

The school setting is by no means exempt from the physical and psychological effects of youth violence. When violence occurs in a place where children have a right to be free from danger and to be safe, such as home or school, the effects can be deep and life-lasting. While emphasizing prevention of school violence, school districts are installing emergency response alarms and security cameras should an active shooter situation arise. The alarm systems, when engaged,

automatically contact local police.

Bullying, sexual abuse, harassment, and hazing are some of the most negative and damaging behaviors occurring in the school setting and are a significant source of victimization of youth in both the community and school environments. Stopping these aggressive behaviors is essential to maintaining a safe school environment. The adoption of school rules, regulations, and policies and their uniform and fair enforcement are critical. Potential aggressors need to have a clear understanding that prohibited behavior will not be tolerated, and sanctions will result. Student Codes of Conduct need to be adopted, revised, and enforced.

The Internet has proven to be a significant means of intensifying humiliation and emotional damage inflicted on victims. The anonymity and breadth of impact resulting from utilizing the Internet is expanding the number of victims of this harmful behavior. Web sites influence vulnerable students, and cell phone texting and social media remain a source of bullying, harassment, and threats which can and do lead to criminal charges.

Positive disciplinary techniques, conflict resolution, peer mediation, and referrals of students who exhibit signs of mental health issues to mental health professionals are intervention techniques which can successfully address violent behavior. Intervention and conflict resolution with at-risk youth must include teaching alternatives to anger in dealing with their feelings. Students must learn to address disputes and conflicts in a peaceful manner. The school atmosphere must continue to reinforce respect for differences and foster respect for each individual.

A disturbing popular trend includes hoax cases requesting emergency response services attempting to get a dispatch of large numbers of armed police to a particular street address is known as swatting. The dangers of this so-called prank are numerous, including discharging of firearms by responders and removing law enforcement and other first responders from real emergencies. The term "swatting" is derived from SWAT, which is an abbreviation for Special Weapons And Tactics.

COVID-19 issues are still being litigated in state and federal courts, and SARS-CoV-2 remains a public health concern. Multi-system inflammatory syndrome in children (MIS-C) is a rare condition associated with SARS-CoV-2, the virus that causes COVID-19. This medical condition usually occurs two to six weeks after a child is infected with SARS-CoV-2. This infection, which may be mild or have no symptoms, can be difficult to recognize. MIS-C causes various internal and external body parts to become inflamed including the heart, lungs, kidneys, brain, skin, eyes, or gastrointestinal tract. It can be serious and even deadly, but most children who are diagnosed with MIS-C get better with medical care. The Centers for Disease Control and Prevention recommend keeping current with COVID-19 vaccines and other prevention actions.

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Other educational-related issues which continue to be litigated in state and federal courts include release of student records and school board meeting minutes and votes, school staff misconduct, termination, allegations of Title VII violations, and claims filed by employees alleging retaliation, drug use in school safety zones, sports and locker room hazing, and students bringing firearms onto school property while school is in session.

There has been a steady flow of litigation involving identifying and placement of special education students and cases involving transgender students regarding sports, use of school restrooms, and preferred pronouns by transgender students. Anonymous pleadings with complaints filed by John Does and Jane Does protect the identity of minor students.

The U.S. Department of Education will enforce the 2020 Title IX Rule protections on the basis of biological sex in schools and on campuses. The United States District Court for the Eastern District of Kentucky ruled that the 2024 re-write of Title IX was unlawful and, therefore, unenforceable in schools, colleges, and universities nationwide. The Department of Education will return to enforcing Title IX protections in schools and on campuses on the basis of biological sex.

The Department of Education is required to notify annually each state education agency (SEA) and each local educational agency (LEA) of its obligations as a recipient of Department funds under the Family Education Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA). Resources, letters, and annual notices can be viewed at <https://studentprivacy.ed.gov>.

The United States Department of Education provides resources to schools, students, and families for preventing and reducing youth and young adult substance misuse and to create supportive learning environments. A list of webinars on multiple topics are available online and can be viewed directly in their homes. The Centers for Disease Control and Prevention (CDC), the Drug Enforcement Agency (DEA), and the National Institute on Drug Abuse (NIDA) also provide on-line training modules, recorded webinars, and FAQs as resources and tools for assistance to educators, families, and students.

Chroming is a substance abuse challenge posted on social media which involves inhaling toxic substances to create a temporary “high” similar to the effects from alcohol. The term is derived from inhaling the fumes of common chemicals or items including kerosene, gasoline, model glue, chrome paint for vehicle wheels, hairspray, lighter fluid, permanent markers, spray paint, and paint thinner. These chemicals are solvents and act as depressants which affect the central nervous system. There is a risk of permanent brain damage with heavy and frequent use.

The Supreme Court of the United States by a 6-3 vote curbed nationwide injunctions that block federal policies imposed by judges

so court orders addressing injunctive relief apply only to the states, groups, and individuals who filed suit. The decision in *Trump v. CASA, Inc.*, 606 US, 2025; 2025 WL 1773631 concerned automatic birthright citizenship for anyone born in the United States. This case did not address the legal merits but does affect the issuance of nationwide injunctions. Now, courts will have to determine how broad injunctive relief can be. Class action certification is still available to plaintiffs.

The United States Supreme Court granted certiorari in cases from the Fourth and Ninth Circuits to consider challenges under Title IX and the Equal Protection Clause to state laws banning transgender girls and women from participating in girls' and women's sports. The petitions for certiorari in both cases were filed July 11, 2024. The court's order granting certiorari did not consolidate the cases.

In the case from the Fourth Circuit, *West Virginia v. B.P.J.* (No. 24-43), a divided panel of the Court of Appeals held that West Virginia's "Save Women's Sports Act," which provided that "[a]thletic teams or sports designated for females, women, or girls shall not be open to students of the male sex," defined as individuals "whose biological sex determined at birth is male" (W. Va. Code Ann. § 18-2-25d(b)(3), (c)(2)) could not lawfully be applied to prevent a 13-year-old transgender girl who takes puberty blocking medication and has publicly identified as a girl since the third grade from participating in her school's cross country and track teams. The petition for certiorari filed by West Virginia posed two questions: whether Title IX prevents a state from consistently designating girls' and boys' sports teams based on biological sex determined at birth and whether the Equal Protection Clause prevents a state from offering separate boys' and girls' sports teams based on biological sex determined at birth.

In *Little v. Hecox* (No. 24-38), the Ninth Circuit held that Idaho's Fairness in Women's Sports Act (Idaho Code Ann. §§ 33-6202, 6203) violated the Equal Protection Clause because it "subjected only students who wish to participate in female athletic competitions to an intrusive sex verification process and categorically bans transgender girls and women at all levels from competing" on public school female sports teams "at every age, from primary school through college, and at every level of competition, from intramural to elite teams." Moreover, the State of Idaho presented no evidence that the Act was "substantially related to its asserted interests in sex equality and opportunity for women athletes."

Continuing and New Issues of Concern for School Staff and Administrators

When assessing an environment where education can take place and children can feel safe, the following questions are critical, need to be answered, and appropriate remedial action taken:

- How safe are our children?
- How safe is your local school?

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- Does your school have a safety plan?
- Is the safety plan at your school reviewed and updated annually?
- Do local safety forces have school building plans and building blueprints on file for use in emergencies?
- Does the school have limited access by visitors during the school day?
- Is there a partnership between the school and law enforcement?
- Is there a partnership between parents and the school?
- Are children supervised at all times during the school day and during school-sponsored events?
- Has protective software been installed on school computers?
- Are effective discipline programs in use?
- Is bullying behavior being addressed?
- Are intervention and conflict resolution methods in use?
- Are disciplinary codes administered fairly and consistently?
- Are disciplinary codes enforced?
- Is staff in-serviced annually on safety issues including the school safety plan, gang recognition, and the mandated reporting of child abuse?
- Public participation at school board meetings
- Religious charter schools
- Title IX and injunctive relief
- Title IX and transgender students
- Child abuse and child protection
- First Amendment - parental rights, school choice, parental opt-out of curriculum and books, social media, and public officials' e-mails
- Vaccinations – measles outbreaks
- Non-Consensual Intimate Imagery (NCII)
- Take It Down Law
- School shootings and/or discharging weapons on school campus
- Legal challenges to the U.S. Department of Education Office of Civil Rights rules, policies, and letters
- Gender identity – bullying and peer harassment
- Negligent hiring, supervising, and retention of school staff

Be prepared. Identify indicators of safety breaches. React promptly, appropriately, and effectively. Stay safe. Stay healthy.

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