

April May 2013 (665, 666, & 667)

Safe, Orderly, and Productive School Legal News Note

April - May 2013

Johnny R. Purvis*

West's Education Law Reporter

November 24, 2011 – Vol. 272 No. 1 (Pages 1 – 685)

December 8, 2011 – Vol. 272 No. 2 (Pages 687 – 1088)

December 22, 2011 – Vol. 273 No. 1 (Pages 1 477)

Terry James, Chair, Department of Leadership Studies, University of Central Arkansas
S. Ryan Niemeyer, Editor, Co-Director, Mississippi Teacher Corps and Assistant Professor,
Leadership and Counselor Education, University of Mississippi
Shelly Albritton, Technology Coordinator, Department of Leadership Studies, University of
Central Arkansas

Wendy Rickman, Assistant Professor, Department of Leadership Studies, University of Central
Arkansas

Safe, Orderly, and Productive School Institute

Department of Leadership Studies

University of Central Arkansas

201 Donaghey Avenue

230 Mashburn

Conway, AR 72035

*Phone: 501-450-5258 (office)

*E-mail: jpurvis@uca.edu

The **Safe, Orderly, and Productive School Legal News Note** is a monthly update of selected significant court cases pertaining to school safety-security and student management issues. It is written by *Johnny R. Purvis for the **Safe, Orderly, and Productive School Institute** located in the Department of Leadership Studies at the University of Central Arkansas. If you have any questions or comments about these cases and their potential ramifications, please phone Purvis at **501-450-5258**. In addition, feel free to contact Purvis regarding educational legal concerns; school safety and security issues; crisis management; student discipline/management issues; and concerns pertaining to gangs, cults, and alternative beliefs.

Topics

“School District and Employees had No Duty to Report Suspected Child Abuse”

Diana G-D ex rel. Ann D. v. Bedford Cent. School Dist. (N.Y.Sup., 932 N.Y.S. 2d 316), October 21, 2011.

Mother of a child who had been sexually abused by the mother’s former boyfriend sued the school district, former elementary school principal, and former school psychologist, alleging that defendants were negligent in failing to report the suspected abuse as required by state law. There are *two triggers* for mandatory reporting child abuse: (1) when a designated mandated reporter has reasonable cause to believe that a child coming before such a mandated reporter is being abused and (2) when the abuse is reported by a parent, guardian, or a person in charge of a minor who has knowledge of the abuse. The Supreme Court of Westchester County, New York, held that the child (3rd grader) did **not** provide defendants with the facts which gave them “reasonable cause” to suspect that she was being sexually abused, as so required to trigger New York’s statute mandatory reporting requirements.

“Failure to Transfer Autistic Student Who Injured a Teacher Did Not Violate Teacher’s Due Process Rights”

Jackson v. Indiana Prairie School Dist. 204 (C.A.7 [Ill.], 653 F. 3d 647), August 11, 2011.

School District’s failure to transfer a nine-year-old autistic student from general education classrooms did **not** shock the conscience, and therefore, did **not** violate the substantive due process rights of a special education support teacher who was injured by the student. The student was prone to frequent and unpredictable violent outbursts, many of the outbursts were directed at the student himself and not toward other individuals. Reports did **not** indicate that the school faculty and staff feared harm from the student and prior the incident the student had been demonstrating a trend away from both physical and verbal outbursts. Note: The student had a long and extensive history of both physical and verbal aggressive behaviors against other students and teachers which included verbal outbursts, hitting, scratching, throwing objects, and so forth. In this particular case the student picked up a chair and attempted to hit the plaintiff. The teacher grabbed the legs of the chair in an attempt to protect herself, fell backward, and hit her head on the ledge of a chalkboard.

“”Mother Had No Fundamental Liberty Interest in Contacting Her Children at Their School”

Schmidt v. Des Moines Public Schools (C.A.8 [Iowa], 655 F. 3d 811), September 14, 2011.

Nonresident mother, who had joint legal custody of her three minor children, had **no** fundamental liberty interest in contacting her children at their schools; as required to support her claim that her substantive due process rights were violated. School officials restricted her access to her children during school hours on a visit to the children’s resident state in which their father had primary physical custody. The divorce decrees restricted the mother’s visitation with the children to a specific schedule and allowed her to exercise her visitation outside of that schedule *only* with her ex-husband’s permission.

“School District Not Liable for Failure to Supervise Students Who Attacked another Student”

Buchholz v. Patchogue-Medford School Dist. (N.Y.A.D. 2 Dept., 931 N.Y.S. 2d 113), October 18, 2011.

School district did not have actual or constructive knowledge of dangerous conduct by two students who attacked another student in a school corridor. School officials could not have reasonably foreseen the attack and therefore would not support the foreseeability of such an attack and *negating* the plaintiff’s negligent supervision claim. The student’s assailants had never previously been involved in any violent altercations and none of their disciplinary infractions previously committed by the students involved violent conduct.

Books of Possible Interest: Two recent books published by Purvis –

1. Leadership: Lessons From the Coyote, www.authorhouse.com
2. Safe and Successful Schools: A Compendium for the New Millennium-Essential Strategies for Preventing, Responding, and Managing Student Discipline, www.authorhouse.com

Note: Johnny R. Purvis is currently a professor in the Department of Leadership Studies at the University of Central Arkansas. He retired (30.5 years) as a professor, Director of the Education Service Center, Executive Director of the Southern Education Consortium, and Director of the Mississippi Safe School Center at the University of Southern Mississippi. Additionally, he serves as a law enforcement officer in both Arkansas and Mississippi. He can be reached at the following **phone numbers:** 501-450-5258 (office) and 601-310-4559 (cell)