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## **Legal Update for District School Administrators May 2014**

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The **Legal Update for District School Administrators** is a monthly update of selected significant court cases pertaining to school administration. 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:

- Abuse and Harassment
- Religion
- Student Discipline
- Torts

## Topics

### Abuse and Harassment:

#### **“Alleged Inaction of School District in Response to an Alleged Sexual Harassment of a Female Student Did Not Violate Title IX”**

Doe v. Round Valley Unified School Dist. (D. Ariz., 873 F. Supp. 2d 1124), June 7, 2012.

Alleged actions or inactions of a school district, in connection with the alleged sexual harassment of a freshman female high school student by a senior male student, if proven, did **not** violate Title IX. The alleged conduct took place off campus, the male’s alleged behavior did not deprive female student of access to educational opportunities or benefits provided by the school, and no school district employee had actual knowledge of the male student’s alleged sexual conduct with the female student until after it ended. **Note:** Late 2010 or early 2011, plaintiff met the alleged male offender (He was a 17-year-old senior, prominent student athlete, and the son of the high school principal.) and a relationship developed. On February 10, 2011, the male offender sexually assaulted the plaintiff while on a date. On February 14, 2011, the plaintiff went to lunch with the male offender and was sexually assaulted by him in a secluded park. Finally, on February 19, 2011, the offending male provided the plaintiff with alcoholic beverages and again sexually assaulted her.

## Religion:

### **“School Board Policy Banning Religious Worship Services in School during Non-School Hours Violated the Free Exercise Clause”**

Bronx Household of Faith v. Board of Educ. of City of New York (S.D.N.Y., 876 F. Supp. 2d 419), June 29, 2012.

The plaintiff (church and pastors) sued the defendant alleging that the defendant’s refusal to permit their church to use school facilities for Sunday worship services violated the Free Speech Clause of the First Amendment of the U. S. Constitution. A United States District Court in New York held that the defendant’s policy banning religious worship services in a school facility during non-school hours **violated** the Free Exercise Clause. The district’s policy discriminated against religion on its face and discriminated among religions, and the prohibitive cost of renting commercial space to accommodate an entire congregation for worship services would have forced the church to reduce or eliminate ministries to its members and local community.

## Student Discipline:

### **“Fact Questions as to Teacher’s Entitlement to Immunity Precluded Summary Judgment in Action Pertaining to Assault and Battery of a Second Grader”**

Griswold v. Collins (Ga. App., 734 S.E. 2d 425), November 16, 2012.

In action against a second grade teacher for assault and battery arising out of the discipline of a second grade female student in the teacher’s classroom *created questions as to whether the teacher’s disciplinary actions against the student were done with willfulness or actual malice*. Based thereon, **summary judgment was precluded** for the teacher based on official immunity or immunity of the teacher for disciplining the student. **Note:** The case focuses on three disciplinary situations pertaining to the teacher disciplining the plaintiff’s youngster: (1) In early November 2000, the student walked across the classroom and placed tissue in a trash can and the teacher summoned the youngster to her desk and struck the student on her bare leg with two rulers that left a red mark or bruise; (2) Later in November 2000, the student approached the defendant with some schoolwork and the teacher told the student that the answer to one of her problems was wrong; thereupon, she grabbed the child’s shirt collar and pulled it tight, choking her, and leaving a red mark; and (3) On December 4, 2000, the teacher made the student stand in a corner for a “time-out” after the she began dancing in class, and then grabbed the student by her shirt collar, pulled the girl forward, choking her, snapping her necklace, and leaving red marks on her neck.

**“Teacher taking Student’s Head and Twisting It Did Not Shock the Conscience”**

Ross v. Lamberson (W.D.Ky., 873 F. Supp. 2d 817), June 12, 2012.

Teacher taking a fifth grade female student’s head in the palms of her head and twisting it did **shock** the conscience, and therefore, did **not** violate the student’s Fourteenth Amendment substantive due process rights. The student was disruptive and talking to other students during a social studies exam and the teacher had already tried to control the student by moving her away from classmates. Even after the teacher had “laid on the hands” she had to move the student to the floor behind the teacher’s desk to complete the exam.

**“School District was Not Vicariously Liable for Employee’s Sexual Assault of a Student or for negligent Hiring and Supervision”**

Doe 1 v. Board of Educ. of Greenport Union School Dist. (N.Y.A.D. 2 Dept., 955 N.Y.S. 2d 600), November 14, 2012.

School district was **not** vicariously liable for the actions of a female teacher’s aid in allegedly engaging in a sexual relationship with a male student off school premises and outside of normal school hours. The school district had no custody or control of the student outside school hours and off school premises. The tortious actions of the teacher’s aid were personally motivated and were a complete departure from her duties and responsibilities as a school district employee.

## **Torts:**

### **“School was Not Liable for Negligent Supervision Regarding Injuries Student Sustained When He was Assaulted Off-Campus by Another Student”**

Stephenson v. City of New York (N.Y., 978 N.E. 2d 1251), October 18, 2012.

The school was **not** liable for negligent supervision regarding injuries a student sustained when he was assaulted off-campus and before school hours by another student. Even if school officials failed to notify the student’s mother of an earlier on-campus altercation between the two eighth graders, where the school addressed the on-campus altercation; the second altercation **was out of the orbit of the school’s authority** and the school had no statutory duty to inform the mother about generalized threats made at school.

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

1. Leadership: Lessons From the Coyote, [www.authorhouse.com](http://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](http://www.authorhouse.com)

**Note:** Johnny R. Purvis recently retired (10.5 years) as a professor in the Department of Leadership Studies at the University of Central Arkansas (UCA). Prior to retiring from UCA 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. In addition, he retired as a law enforcement officer having served in both Arkansas and Mississippi. He can be reached at the following **phone number:** 601-310-4559 (cell-phone)