

THE Extra Mile

GOING THE EXTRA MILE SO YOU DON'T HAVE TO

Office for Civil Rights Rules on the Inclusion of Special Education Information on Student Report Cards and Transcripts -- In an opinion of major significance, the U.S. Department of Education's Office for Civil Rights (OCR) recently issued an opinion regarding under what circumstances school districts may reveal on a report card or transcript that a student is receiving special education services.

Given that the purpose of report cards is to report on student progress for a student and his or her parents, OCR found it *is permissible* under IDEA and Section 504 for a school district to indicate that a child is receiving special education and/or related services, but only to the extent that such information is used to inform the student and parents about their child's progress or level of achievement.

However, a school district may not

merely designate on a report card that a student is receiving special education services without other evaluative standards such as grades based on alternative standards, where appropriate.

In addition, OCR determined that because the purpose of a transcript is to inform colleges or prospective employers of a student's credentials and achievements (not progress), transcripts *may not* disclose that a student has received special education and/or related services because to do so would single out those students with disabilities. However, OCR did rule that a school district may show that a student took classes with a modified or alternate education curriculum on a transcript, as long as they do not disclose that a student has a disability. 47 IDELR 45 (July 26, 2006).

For a copy of the OCR ruling or with questions concerning its application, please contact Debra Kaplan.

School Board Elections Coming Up/Canvass Requirements Conflict Issues-- Effective January 1, 2006, [P.A. 94-647](#) amended Section 22-17 of the *Election Code* to provide for the abolishment of local canvassing boards and the assumption of such canvassing responsibilities by the local election authority (i.e. county clerk or election commission).

Rather than deleting all references to local canvassing boards in the statutes, however, the law provides generally that references to local or county canvassing boards in the *Election Code* "or any other law" shall now instead be deemed to be references to the election authority.

The State Board of Education's legal department, however, has taken the position that school boards and Regional Superintendents *should* continue to perform their canvassing responsibilities as set forth in Section 9-18 of the *School Code*, and the State Board of Elections is currently deferring to the State Board of Education on this interpretation. Although many county clerks will canvass all election results, some will expect school boards to canvass their own election results. Further, some bond counsel may require a canvass by the county clerk in order to sign off on a bond issue approved by referendum.

School boards should consult with their general counsel and/or bond counsel with respect to canvassing responsibilities for the April 17 election.

For more information, please contact Heather Brickman.

Consumer Price Index

Percent change for the month of **January, 2007**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.8	0.7
12 Mth	1.0	0.5
St. Louis-6 Mth	0.8	0.9
12 Mth	1.5	1.7
U.S. Mthly	0.3	0.2
12 Mth	2.1	1.8

February CPI figures will be released March 18, 2007. Visit the most recent CPI at our website, www.hlerk.com

The Extra Mile is intended solely to provide information to the school community. It is neither legal advice nor a substitute for legal counsel. The Extra Mile is intended as advertising but not as a solicitation of an attorney/client relationship.

Reminders/Notes

- It's time to update your student handbooks. Send in the attached order form to purchase the HLERK model student handbook checklist or contact **Heather Brickman** to request a comprehensive review of your student handbooks.
- File Statements of Economic Interest as required by law.
- Send a record of your Board of Education's minutes to the district's treasurer.
- Get ready to join us at the NSBA National Convention in San Francisco and the IAASE Spring Conference in Collinsville! (See Article, Page 2.)

Offices:

Arlington Hts. 847-670-9000

Springfield 217-546-9200

Belleville 618-355-7850

School Districts May Not Inquire into Fees When Evaluating Architect Proposals -- Effective February 2, 2007, the [Local Government Professional Services Selection Act](#) has been amended to provide that school districts *may not* seek cost estimates or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation when evaluating proposals from architects, engineers or surveyors.

The Act sets forth a process for a school district to follow when it seeks to hire an architect, engineer or surveyor. The Act requires that a school district must first solicit and then evaluate proposals from interested firms. During the

evaluation stage of the selection process a school district cannot inquire into the costs or fees of the architect, engineer or surveyor.

Under the Act, at the conclusion of the evaluation stage, a school district must select no less than three firms and rank them in order of qualifications. The school district shall then attempt to negotiate a contract with the highest ranked firm. It is only during this contract negotiating stage that the school district may inquire into the firm's fees and costs.

For additional information, please contact Bob Kohn or James Levi.

Higher Standard of Care for Hazardous Recreational Activities -- The Illinois Supreme Court recently held on rehearing, that a jury should decide whether a local public entity and a physical education instructor committed "willful and wanton conduct" in connection with a mini-trampoline accident that left a 13-year-old child a quadriplegic.

In [Murray v. Chicago Youth Center](#), (February 16, 2007), the Court considered whether Section 3-109 of the *Tort Immunity Act* ("Act"), which provides schools and other public bodies limited immunity for injuries stemming from "hazardous recreational activities," shielded the defendants from claims that insufficient spotting, improper supervision, and inadequate mats had been provided for an after-school tumbling class.

In reversing an appellate court's decision in favor of the Park District, the Court first upheld the appellate court's

determination that trampolining is a hazardous recreational activity as defined by the statute. Section 3-109 provides local public entities with immunity from injuries resulting from hazardous recreational activity, unless the entity's conduct is willful and wanton or the entity fails to guard or warn. The Court noted that the legislature intended to hold local governmental entities to a higher standard of care for hazardous recreational activities.

The Court ultimately reversed the appellate court's finding that the defendants were not guilty of willful and wanton conduct in connection with the injury, ruling that a jury should make that determination. The Supreme Court's decision may increase a school district's risk of legal liability in connection with potentially hazardous recreational activities.

Please contact Michelle Todd with questions or to request a complimentary copy of this decision.

I Left My Heart... Spring is around the corner and, with it, the annual National School Board Association Convention, this year, in beautiful San Francisco. HLERK will have several attorneys attending and speaking at the Convention.

Please join **Nancy Krent** and **Bennett Rodick** on Saturday, April 14th from 3:15 to 4:30 p.m. for their program at the general convention on what school board members need to know about special education law.

School attorneys will hear **Shayne Aldridge** who will present *Striking the Delicate Balance Between Student Free Speech Rights and School Safety Concerns: A Panel Discussion* at the National Council of School Attorneys program held in conjunction with the NSBA Convention on April

12th from 5:00 to 6:30 p.m.

In addition, please join **Bennett Rodick**, **Stan Eisenhammer** and **Stephanie Jones** at the Illinois Alliance of Administrators of Special Education's Spring Conference on April 25-26 in Collinsville. **Bennett** will deliver a keynote address to the Conference, host an attorneys' panel and participate in a panel on surviving due process proceedings while **Stan** and **Stephanie** will conduct an important session on what special education administrators need to know about employment contracts.

We look forward to seeing you in San Francisco and Collinsville.

CONTACT US:
info@hlerk.com

3030 Salt Creek Lane · Suite 202 · Arlington Heights, Illinois 60005
3048 Spring Mill Drive · Springfield, Illinois 62704
23 Public Square, Suite 260 · Belleville, Illinois 62220