

THE
Extra Mile
GOING THE EXTRA MILE SO YOU DON'T HAVE TO

Illinois Trial Court Rules School District Not Responsible for Juvenile Court Ordered Educational Placement--In the [June](#), 2007 issue of *The Extra Mile* we reported on the Illinois appellate court's decision in [Antioch Community High School District No. 117 v. Board of Education](#) in which the appellate court determined that a school district was not responsible for an educational placement of a student made by a juvenile court under the [Juvenile Court Act](#).

As reported in [last month's issue](#), in a ruling dated April 7, 2008, a Jackson County circuit court judge again held that a school district of residence is not financially responsible for a placement made by the juvenile court. In *Community High School District No. 155 v. Carlyle Community Unit School District No. 1*, No. 7 SC 1047, Carbondale School District sought reimbursement for costs they

incurred educating two students placed by a juvenile court in Carbondale's Gateway facility.

The district argued that Carlyle owed them in excess of \$8,000 for the education of two resident students of the Carlyle School District.

Based upon the *Antioch* decision, Carlyle declined the charges and the lawsuit ensued. The circuit court held that Carlyle was not responsible for the educational costs of the students placed in a Gateway facility by juvenile authorities as the school district was not involved in the placement process.

The decision was successfully defended by **Stephanie Jones** and **Bennett Rodick** of our firm.

Please contact Stephanie or Bennett with questions about the decision or its application to your school district.

Trial Judge Blocks Newspaper's Access Under FOIA to Internet Records of Former Superintendent--A state court judge in McHenry County has granted a "preliminary injunction" which bars a school district from releasing a former superintendent's internet browsing records pursuant to a newspaper's request under the [Freedom of Information Act](#) ("FOIA").

After the superintendent left the district in late January, a newspaper submitted a FOIA request to the school district for web browser logs and firewall logs pertaining to the former superintendent's computer use.

The school district initially denied the request citing FOIA's exemption for information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy. The newspaper appealed the denial internally arguing that the information was not exempt because FOIA specifically provides that "information that bears on the public duties of public employees and officials" is not an invasion of personal privacy, and here the websites were visited on a taxpayer-funded computer during working hours.

While the school district was still considering the newspaper's FOIA appeal, the former superintendent filed a lawsuit
Continued on Page 2

Reminders/Notes

- **Adopt and publish your Board's prevailing wage resolution. Contact Bob Kohn with questions.**
- **Join Stephanie Jones and Shayne Aldridge at the newly-scheduled HLERK/MEDS-PDN program on Response to Intervention ("RtI") to be held on May 6, 2008 in Collinsville. Visit www.hlerk.com/pages/news_conferences.cfm or www.meds-pdn.com to register.**
- **Pursuant to [new legislation](#), school districts must establish a "Green Cleaning Policy" by May 9, 2008. Please contact Heather Brickman or Lori Martin with questions.**
- **You may purchase our newly updated Student Handbook Checklist by sending in the attached order form**

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.

Offices:
Arlington Hts. 847-670-9000
Springfield 217-546-9200
Belleville 618-355-7850

FOIA cont. (*Rood v. Board of Education*) seeking to prevent the district from releasing the records and asking the court to declare the records exempt under FOIA.

After privately reviewing the internet browsing records, the court issued a preliminary injunction barring the district from releasing them on April 3, 2008, citing a public official's reasonable expectation of privacy in the workplace. The newspaper has not determined yet whether to appeal.

District's Early Childhood Program Offered FAPE to Autistic Student--In a significant victory for school districts in the on-going disputes over programming for students with autism, a hearing officer in *Jacob B. v. Woodstock Community Unit School District No. 200*, held that the district's early childhood autism program offered FAPE to the student, an autistic five-year old. The case was successfully defended by HLERK's **Jay Kraning**.

The student was first declared eligible for special education services when he was identified as autistic upon turning age three during the 2005-2006 school year. After attending the district's early childhood preschool program for approximately one month, the student's parents unilaterally placed him in a twelve-month private school for children with severe disabilities such as autism. The parents then filed for due process seeking District payment for the private placement.

Through mediation, the district resolved the situation for the remainder of the school year while developing their own autism-specific public school program. At the start of the next school year, the parents refused to consider returning to the public program and told the district that they were keeping the student in his private school.

Once again, the parents filed for due process, and, once again, the district resolved the matter through mediation while obtaining experts of their own from the private sector to serve as consultants for their new autism program.

We will follow the progress of this litigation in *The Extra Mile*.

Heather Brickman is conducting a "podcast" regarding the implications of this decision for a school district's obligations under FOIA. You can listen to the podcast by visiting <http://web.mac.com/rvoltz/Site/Podcast/Podcast.html>.

Please contact Heather Brickman or Rob Swain with questions concerning this decision or your obligations under FOIA.

Prior to the beginning of the 2007-2008 school year, the parents again filed for due process, this time seeking an order to vacate the two prior settlement agreements and to have the district pay all of their tuition and transportation expenses. The hearing officer declined to hear the issue of vacating the prior settlement agreements claiming he did not have the authority to do so. Rather, the hearing officer focused solely on the issue of payment of tuition and transportation at the private school for the current school year.

In ruling that the district's early childhood program offered the student a FAPE, the hearing officer stated that the program appeared to be "a model program" and "superior" to the private school program in many aspects, based upon evidence presented by the district staff as well as their private experts.

Specifically, the district's program offered a greater amount of speech and language minutes per week than what was being provided by the private school, as well as occupational therapy, physical therapy, social work services, and access to non-disabled peers, none of which were available at the private school placement.

Accordingly, the hearing officer denied all of the parent's requests for tuition, transportation, and independent evaluation reimbursements.

For further information on this decision or autism related special education issues, contact Jay Kraning or Nancy Krent.

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