

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

Illinois Appellate Court Reinstates Sexual Abuse Lawsuit Against School District--On April 29, 2011, the Fourth District Court of Appeals issued its decision in the closely watched case of *Jane Doe, et al., v. White, et al.*, overturning a trial court opinion dismissing a case against McLean County Unit District No. 5 and various individually named employees of the school district.

The *Jane Doe* case was initially filed by several minor students of the Urbana school district who claim that McLean County School District is liable for injuries they suffered when a former McLean county teacher, Jon White, came to Urbana to teach

and sexually abused several of his Urbana students.

The plaintiffs in *Jane Doe* allege that McLean County School District and its employees knew that White had abused students in McLean County, but failed to notify the Department of Children and Family Services or Urbana of the abuse, instead entering into a severance agreement with White and writing him a letter of recommendation.

The trial court had dismissed the case against the school district, finding that no duty existed between the district and the Plaintiffs, mostly

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Education Reform Bill Awaits Governor's Signature/IASA Administrator Academy Approved Seminars Scheduled--On June 13th Governor Quinn signed into law P.A. 97-0008 which will change the landscape of school district employment and labor practices for every school district and cooperative in Illinois.

HLERK is privileged to join *your* professional organization, the Illinois Association of School Administrators (IASA), in presenting three *administrator academy-approved* programs to discuss with you the changes in law. Please register as soon as possible as space is limited in each location.

Save the date now for the following locations:

- **Mt. Vernon/Holiday Inn--August 1st**
- **Oak Brook/Hamburger University at McDonald's Campus--August 4th**
- **Peoria/Weaver Ridge Country Club--August 11th**

Visit www.iasaedu.org for information and registration.

Highlights of the law include:

- Prohibiting the use of seniority in filling new or vacant teaching positions except when all other factors are equal.

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Offices
Arlington Hts. 847-670-9000
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Consumer Price Index

Percent change for the month of **April 2011**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.4	0.6
12 Mth	2.7	3.5
St. Louis-6 Mth	1.3	1.4
12 Mth	2.5	2.7
U.S. Mthly	0.6	0.8
12 Mth	3.2	3.6

May CPI figures will be released June 14, 2011. For the most recent CPI, visit our website at: 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

- Adopt a resolution to transfer or designate interest earnings on funds before June 30 to prevent conversion to principal under ISBE rules.
- Join **Nancy Krent** at the ISBE Special Education Directors' Conference in Peoria on Friday, July 22nd where she will, at ISBE's invitation, deliver the special education legal update. Visit www.isbe.net for registration.
- HLERK congratulates the Illinois Alliance of Administrators of Special Education on their receipt of the outstanding unit award from the national Council of Administrators of Special Education. HLERK is privileged to serve as legal counsel to IAASE.

Sex Abuse Cont. because the school district never had a “special relationship” with or control of plaintiffs.

The appellate court reversed the trial court. The appellate court found that, based on the allegations in the complaint, individual employees knew that White had sexually abused students in McLean County and, because it was reasonably foreseeable that White would sexually abuse students in the future, those employees had a duty to prevent such abuse.

Based on the allegations that McLean County did not report White’s misconduct to DCFS and instead wrote a letter of recommendation for White, the court opined that the duty was breached. In the end, the court remanded the case to the trial court to proceed with the matter to trial.

The District is seeking to appeal this decision to the Illinois Supreme Court. The Court’s decision in this case stands as a warning to school districts to tread lightly when entering into settlement agreements with employees who have committed abusive or potentially criminal misconduct, particularly when those settlement agreements include the requirement that the school district issue a letter of recommendation.

In addition, this case serves as a glaring reminder of a school district’s duty to inform DCFS of potential abusive behavior. All school employees and Board members are mandatory reporters and must report allegations of abuse.

For more information on Jane Doe v. White, please contact Stephanie Jones or Bennett Rodick.

Ed Reform Cont.

- Allowing the earlier grant of tenure after the implementation of PERA evaluations to certain excellent probationary teachers including teachers who were previously granted tenure in another school district.
- Requiring reductions in force to be made based upon teacher evaluation and not by seniority.
- Requiring a second evaluator during remediation who is selected from a list jointly developed by the school board and union.
- Making it easier and less costly to dismiss tenured teachers for both cause and performance.
- Requiring the board and union to disclose to the public their final offers after mediation and before a strike.

- Requiring training of school board members in topics such as education and labor law, financial oversight and accountability and fiduciary responsibility of a board member.

Join IASA's Associate Director and General Counsel, **Sara Boucek** and HLERK's personnel/labor law attorneys led by **Mike Loizzi and Stan Eisenhammer** and get the "inside word" on the history of the legislation and its practical impact for *you* and *your* school district.

Remember, *these unique programs are space limited and will be filled on a first come, first reserved basis.* Reserve your place today! **Contact Stan Eisenhammer with questions regarding the legislation or James Levi with questions regarding these upcoming programs.**

Illinois Supreme Court Holds School District Remains Subject to Tax Caps After Consolidation--As the Illinois legislature considers various school consolidation and merger options, the Illinois Supreme Court has now weighed in the “tax cap” implications of school consolidation.

In *The Board of Education of Auburn Community Unit School District No. 10 v. The Department of Revenue* (2011 WL 1886592 (Ill. 2011)), the Illinois Supreme Court reversed the appellate court and held that the Auburn Community Unit School District No. 10 remains

subject to the state’s Property Tax Extension Limitation Law (“PTELL”) (35 ILCS 200/18-185 *et seq.*) despite its annexation of territory in a non-tax capped county. PTELL, also referred to as the tax cap law, limits the annual growth of property tax revenue to five-percent or the rate of inflation, whichever is lower.

This ruling will have profound implications for annexation and consolidation of school districts across county lines. **Contact Bob Kohn or James Levi with your school annexation or consolidation inquiries.**

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