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California Association of Independent Schools

“Annual Legal Update: Navigating the Risks and Responsibilities within Independent Schools”

January 26, 2008

Presented by:

Michael Blacher, Melanie Poturica and Donna Williamson

**Annual Legal Update:
Navigating the Risks and
Responsibilities within
Independent Schools**

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**Student Handbooks, Enrollment
Contracts, and Waivers**

- Court Upholds Enrollment Agreement Provision Requiring Payment of Full Tuition After Parent Withdraws Student.
– *Barrie School v. Patch, No. 12* (2007)
401 Md. 497, 933 A.2d 382.

**Student Handbooks, Enrollment
Contracts, and Waivers**

- Principal Has Authority to Prolong Student Probation.
– *Doe v. Abington Friends School* (2007)
WL 1489498.

Student Handbooks, Enrollment Contracts, and Waivers

- Agreement Purporting to Release City from Liability for Future Gross Negligence Violates Public Policy and is Unenforceable.
– *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747, 161 P.3d 1095.

Student Discipline and Harassment

- Student is Not Entitled to Speak to Parents or Attorney Before Being Questioned by School Administrator and May Not Hold School Responsible for His Crime Based on Claim of “Negligent Supervision.”
– *Driscoll v. Board of Trustees of Milton Academy* (2007) 70 Mass.App.Ct. 285, 873 N.E.2d 1177.

Student Discipline and Harassment

- School’s Quick and Reasonable Response to Reported Sexual Harassment Averts Liability.
– *Fitzgerald v. Barnstable School Committee* (2007) 504 F.3d 165.

Student Discipline and Harassment

- Residence Director of Boarding School Prevented from Bringing Suit for Hostile Work Environment Because Headmaster Took Prompt Corrective Action.
– *Solt v. Annie Wright School* (2007) WL 1248447. (unpublished decision.)

Wage and Hour

- Parent-Volunteer May be Owed Wages as Employee.
– *Paulshock v. Nnovation Learning Group, Inc.* (2007) WL 2412909.

Wage and Hour

- Auto Mechanics Instructor Not Entitled to Overtime Under Federal Law.
– *Franklin v. Breton International, Inc.* (2006) WL 3591949.

Wage and Hour

- Department of Labor Provides Guidance on When School's Staff's Assistance with Coaching and Sports or Other Extracurricular Activities Constitutes Volunteering Rather Than Compensable Time.
– *Department of Labor Wage and Hour Division Opinion Letter, FLSA2006-22NA (10/20/06).*

Educational Malpractice

- School Not Liable for "Educational Malpractice."
– *Jamieson v. Vatterott Educational Center, Inc. (2007) 473 F.Supp.2d 1153.*

Americans with Disabilities Act

- Judge Creates Three-Part Test to Determine Whether Private School is a "Religious Organization" and Therefore Exempt from Suit by Student for Violation of the ADA.
– *Doe v. Abington Friends School (2007) WL 1489498.*

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Americans with Disabilities Act

- Court Rejects School's Claim that "Strong Quaker Affiliation" Rendered it a "Religious Organization" which Barred Student from Bringing Suit under the ADA.
– *Doe v. Abington Friends School* (2007) 480 F.3d 252.

Employment Contract

- Admissions Director May Sue for Breach of Contract Based on School's Alleged Failure to Support Diversity.
– *Lawrence v. St. Augustine High School* (2007) 955 So.2d 184.

Discrimination

- School Must Demonstrate that Age Was Not a Factor in Decision to Terminate Two Teachers Due to Budgetary Shortfalls.
– *Guzzo v. Queen of Angels School* (2007) WL 712122.

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Discrimination

- School that Did Not Renew Teacher's One-Year Contract May be Sued by White Special Education Teacher Over the Age of 40 for Race Discrimination and Age Discrimination.
– *Knotts v. School City of East Chicago* (2006) WL 3775980.

Internet

- Student's Posting on MySpace.com that Mocked a Public School Principal is Protected as Free Speech.
– *A.B. v. State of Indiana* (2007) 863 N.E.2d 1212, reversed and remanded with instruction.

Internet

- Court Upholds Expulsion of Students Who E-Mailed Lewd Photos of Themselves to Other Students.
– *S.B. v. Saint James School* (2006) 959 So.2d 72.
