



# Ennis Roberts Fischer SCHOOL LAW REVIEW



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## No Change of Placement: Educational Programs Are Not Substantially and Materially Different

**Aikens v. Dist. of Columbia, CIV.A. 12-553 RMC, 2013 WL 3119303 (D.D.C. June 21, 2013).**

A student's change in location from one school to another was not a change of placement when the educational programs of the two settings were not substantially and materially different. The U.S. District Court for the District of Columbia ruled that a student was not denied a Free Appropriate Public Education (FAPE) when the district moved the location of the student's services to another facility without input from her parent and without providing prior written notice to her parent. The Court indicated that the district had no obligation to involve the parent or IEP team in the decision because the move was not a change of placement and the student's IEP could be implemented in the new setting.

During the 2010-2011 school year, the seventeen-year-old student received special education services in a separate facility for students with emotional and behavioral needs. The educational program at this separate facility provided specialized instruction by general and special education teachers with support from social workers, behavioral technicians, and a school psychologist. The educational program also provided positive

behavioral intervention strategies and therapeutic intervention. The student lacked any interaction with nondisabled peers at this location. At the end of the 2010-2011 school year, the facility was closed and the student's educational program was moved to another location on the high school campus.

Although the program was located at the high school campus, the program was maintained in a space separated from the high school with security guards between the schools. Interaction with nondisabled peers only occurred when entering or leaving the building. The program at the new location continued to include specialized instruction provided by general and special education teachers as well as support from social workers, behavioral technicians, and a school psychologist. The program also continued to provide positive behavioral intervention strategies and therapeutic intervention. Different from the previous program, the new program provided academic services on a block schedule that equated to less classroom programming.

Because of the parent's disagreement with the change in location of services, she unilaterally placed the student in a private school setting for children with social/emotional needs instead

of allowing the student to begin classes for the 2011-2012 school year at the new location.

The primary issue before the Court was whether the change in location of services constituted a change of placement under IDEA. When a change of placement occurs, a district is required to involve the parent in the decision and provide the parent with prior written notice. If the district fails to provide these procedural safeguards, it may be liable for compensatory educational services due to the denial of FAPE.

When determining whether a change in location of services is a change of placement, the U.S. Department of Education and case law have indicated that the change in educational programming must be *substantially* and *materially* different. A change of placement occurs when there is a change in educational programming for the student, not solely because of a change in physical structure. In this case, the change in location did not substantially and materially change the educational services provided to the student. The minor differences between the programs did not impede the district from implementing the student's IEP. Even though the new program provided less class-

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## No Change of Placement: Educational Programs Are Not Substantially and Materially Different, Cont.

room programming, the district could still implement the IEP by providing additional specialized instruction before or after the normal school day. The parent was unable to show that the new program fundamentally changed or eliminated any of the basic elements of the student's IEP. Because the district did not deny FAPE by failing to include the parent, the district was not responsible for compensatory education for parent's unilateral private placement.

### How This Affects Your District:

When making a change in the location of special education services from one building to another, a district must be cognizant of the changes caused to the educational programming of the students affected. The change of "brick and mortar" is not the driving factor; It is the change in programming that determines whether a change of placement has occurred. A key question is whether the student's IEP can be implemented as written in the new set-

ting. Regardless of whether there is a change of placement, parents should be informed of structural changes in their child's programming. Addressing the concerns of parents may go a long way to avoid confusion and conflict due to changes in the location of the services provided.

## Affordable Care Act

Although the Affordable Care Act (ACA) is set to take effect January 1, 2014, employers have one more year before having to provide the required health care coverage to employees. On July 9th, the IRS issued a formal announcement that many of the employer requirements of the Affordable Care Act will be delayed until January 1, 2015.

When the pay-or-play mandate does go into effect beginning January 1, 2015, districts must meet the minimum required coverage or pay heavy penalties. In general, ACA requires that all large employers (those with at least 50 full-time employees) provide minimum essential coverage to at least 95% of employees.

Contracted employees will not be included in a district's calculations, but contracting agencies may include increased fees for the additional accounting and if the agency is required to increase its health care coverage. In addition, districts will be required to provide the contracting agency with an accounting of hours worked by contracting employees.

ACA also prohibits discrimination in favor of highly compensated individuals. This includes favoring eligibility of health care coverage and benefits offered. Employers that violate the discrimination component may be sub-

ject to a tax, but the IRS has stated that it will not enforce this rule until it issues further guidance on how employers can comply.

Even though some aspects of ACA have been delayed, others have not. Beginning with the 2012 tax year, employers must report the aggregate cost of employer-sponsored group health plan coverage on their employees' W-2 forms. This applies regardless of who actually pays for the coverage, but it only applies to employers that issue 250 or more W-2 forms. Certain types of coverage are exempted, including coverage under a Health Reimbursement Arrangement (HRA), coverage for long-term care, and coverage under a multi-employer plan.

By October 1, 2013, employers are required to notify employees of the availability of the health insurance marketplace (i.e. exchanges). Employers must provide employees (regardless of plan enrollment status or part-time/full-time employee status) with a written notice informing them of their coverage options. New employees must receive the notice within 14 day of hire. Sample forms have been provided from the Department of Labor:

-Model <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>

-COBRA Model <http://www.dol.gov/ebsa/modelectionnotice.doc>

### How This Affects Your District:

1. Districts must provide the required health care availability notice to employees by October 1, 2013.
2. Employers must report health plan coverage on W-2 forms for 2012.
3. Districts should use the Act's extended implementation date to determine whether variable hour employees, such as substitutes or certain part-time staff, meet the requirements for coverage under the Act.
4. Once the status of employees per the Act has been determined, districts should ensure that 95% of eligible employees are being provided minimum essential coverage for the plan year starting on or after January 1, 2015. Remember: ACA's 95% criteria allows a small amount of flexibility for possible error in calculating whether an employee meets full-time status.
5. Districts should also determine if there is any discrimination in favor of highly compensated individuals under the Act. If this is a concern, districts may need to plan for ways to address these concerns before the implementation of this component of the Act.

## Arbitrator's Award that Draws Essence from Collective Bargaining Agreement May Not Be Vacated

**Martins Ferry City School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emps., 2013-Ohio-2954.**

Martins Ferry City School District Board of Education ("Board") and Ohio Association of Public School Employees ("OAPSE") have been parties to a number of collective bargaining agreements (CBAs). In 2009, the Board entered a state of financial distress, where it was recommended that the Board make changes to its staffing and/or wages. As a result, a CBA was established, effective from January, 1, 2009 through December 31, 2011, that determined there was to be no wage increase for 2009, then wage reopeners at the beginning of the 2010 and 2011 school years, accompanied by a salary schedule. In addition, the CBA outlined a grievance procedure, denoting final and binding arbitration as the final step.

Due to the financial distress present, OAPSE did not exercise the wage reopener option for 2010. Subsequently, the Board determined that it would institute a 5% uniform salary reduction, and that all salary indexes would be frozen as well, each for a maximum of two years.

The dispute began when OAPSE refused to sign a Memorandum Agreement provided by the Board concerning the uniform salary reduction. Then, when the wage reduction took effect, OAPSE filed two grievances challenging the reduction as a violation of the current CBA. Upon proceeding through the steps pursuant to the CBA, the grievances were denied. The Board President held that "the wage reduction was part of a uniform plan affecting all employees of our school district and governed by Ohio Revised Code 3319.082." As a result, OAPSE appealed the matter to arbitration.

The arbitrator's opinion sustained the grievance and forbid the Board from implementing the 5% wage reduction on the bargaining unit. The arbitrator found that changes of this type must be collectively bargained for pursuant to the CBA wage reopener

provision. In addition, the arbitrator established that, when the CBA and the statutes relied on by the Board are in conflict, the CBA supersedes the statutes. Thus, the Board was required to pay the OAPSE members their loss of salary for the 2010-2011 contract year.

Unhappy with the decision, the Board sought an order from the trial court to vacate the arbitration award. The Board argued that, pursuant to ORC 2711.13, the arbitrator had exceeded her powers by issuing an award that (1) modifies the CBA by adding terms that were not found in the express language of the agreement, (2) was contrary to law, and (c) neither draws its essence from, nor has a rational nexus to, the CBA. The trial court agreed, and vacated the arbitration award. OAPSE appealed the trial court's decision.

A trial court has limited circumstances upon which it may vacate an arbitrator's award. ORC 2711.10(D) provides that "the court of common pleas shall make an order vacating the award upon the application of any party to the arbitration if [...] the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made." In addition, both trial and appellate courts may not reverse an arbitrator's award simply because it disagrees with the interpretation of a contract or a finding of fact. This would result in arbitration becoming only an added proceeding, expense, or "loop hole" to jump through prior to final judicial determination and defeat both the bargain made by the parties and the strong public policy favoring private settlements arising from CBA disputes. Therefore, once it is determined that an arbitrator's award draws its essence from the CBA and is not unlawful, the trial court's authority to review the decision is over.

In order to depart from the essence of the CBA, an award must conflict with express terms of the CBA and/or be without rational support or not be rationally derived from terms.

The appellate court reviewed whether the trial court erred in determining that the arbitrator exceeded her authority and similarly improperly substituted its interpretation of the CBA terms for the arbitrator's interpretation.

The arbitrator had previously determined that the CBA contained specific wage provisions accompanied by the reopener option in the CBA that provided for a process to modify the salary schedule, as well as a provision stating that the CBA was a "full and complete agreement between the Board and the Union." Therefore, the arbitrator determined that she was without authority to simply allow the Board the change the negotiated terms without using the expressly dictated reopener provision set forth to change wages. She found that when there is a clear process and wages set forth in the CBA, the Board was without the option of applying state law, especially when the salary schedule is not too general to preempt. "Because the parties specifically provided for a method to alter the wage schedule, the arbitrator concluded the CBA superseded the statutes at issue."

The arbitrator interpreted the terms of the CBA as specific enough to constitute the entire intent of the parties, and, therefore, did not add terms to the agreement. Because her interpretation was reasonable, the trial court erred and did not have the authority to reverse the arbitration award. Thus, since the arbitrator's award drew its essence from the CBA, and the CBA was deemed to encompass the complete intent of the parties to preempt statutory provisions relative to wages, the trial court was without the authority to substitute its own judgment for that of the arbitrators when it vacated the arbitration award.

### How This Affect Your District:

Ohio's Collective Bargaining Laws were enacted after statutory law allowing a uniform salary reduction. Once enacted, Ohio's Collective Bargaining



## Arbitrator's Award that Draws Essence from Collective Bargaining Agreement May Not Be Vacated, Cont.

Laws required employers to negotiate matters pertaining to wages or benefits with public employee unions. Further, the State Employment Relations Board has held that employers do not possess statutory authority to implement a unilateral uniform wage reduction because Chapter 4117 of the Revised

Code prevails over any and all other conflicting laws, including the statutes addressing uniform wage reduction which do not contain any preemption language over the uniform wage reduction statutes. Therefore, since enacted after the uniform-reduction-in-pay statutes and since the uniform-

reduction-in-pay statutes do not contain language indicating that they prevail over Ohio's Collective Bargaining Laws, boards must note that they may not conduct reductions in pay without negotiating with the public employee unions first.

### Unemployment Employer Penalty

On July 11, 2013 Governor John Kasich signed into law House Bill 37. While this bill creates the SharedWork Ohio Program, the bill also included language affecting unemployment compensation laws regarding employer action and improperly paid benefits. Previous law allowed for unemployment compensation benefits that have been improperly paid to a claimant to be charged to the mutualized account in the Unemployment Compensation fund instead of the employer's. If they were charged to the employer's account, the employer's account was allowed to be credited for any benefits that are recovered from the claimant.

ty provision for employers that fail to timely or adequately respond to unemployment compensation information requests from the Ohio Department of Job and Family Services, or if the employer previously established a pattern of doing such within the same calendar year. Now, an employer's account will no longer be credited in these circumstances for benefits that have been paid to a claimant and are subsequently found not to be due. If the mutualized account is not charged, the account of the employer whose failure to timely or adequately respond to a request for information caused the mistaken payment must be charged for the unwarranted benefits paid to the claimant.

#### How This Affects Your District:

The new legislation places an increased burden to timely and adequately respond to a request for information regarding a determination of benefits from the ODJFS. "Timely" is achieved when responding within ten working days after the request is sent, and "adequate" is accomplished when the district provides answers to all questions raised by the Director. This requirement should be noted, otherwise your district will subsequently be charged with the erroneous benefits that were paid to a claimant.

However, H.B. 37 enacted a penal-

### Ohio Budget Bill: What have they done now?

The Ohio Budget Bill, House Bill 59, was signed by the Governor on June 30<sup>th</sup>, 2013. The finance provisions are effective immediately – July 1<sup>st</sup>. Other provisions are effective in 90 days from the date of the governor's signature—September \_\_\_<sup>th</sup>. Additionally, several provisions will become effective at a later date as specified in the text of the bill. The budget bill included a number of provisions that will impact school district operations this school year and beyond.

#### Minimum School Year Requirements

Beginning in the 2014-2015 school year, the minimum school year requirement changes for city, exempted village, local and joint vocational school districts from "days" to "hours." At a minimum, districts must provide the following hours of instruction: 455 hours for half-day kindergarten; 910

hours for full-day kindergarten; 910 hours for grades 1-6; and 1,001 hours for grades 7-12. "Hours of operation" include time spent during scheduled classes, supervised activities, and approved education options, but exclude lunch and breakfast periods as well as extracurricular activities. Hours may also include one or more of the following: an equivalent of 2 days per year for parent-teacher conferences, an equivalent of 2 days per year for professional development of teachers, and morning and afternoon recess for grades K-6 not to exceed 15 minutes in duration per period. Restructuring of the minimum school year does not apply to any collective bargaining agreement executed prior to July 1, 2014, but any collective bargaining agreement or renewal executed after that date must comply with the changes.

The board must hold a public hearing no later than thirty (30) days

prior to adopting the school calendar to address at a minimum the following: the total number of hours in the school year, the length of the school day, and the beginning and end dates of instruction. The board must formally adopt a resolution before it can reduce the number of hours of operation in any school year from that which was offered the previous school year. The board cannot reduce the hours below statutory minimums.

Each city, exempted village and local school district must consider the compatibility of any changes to the hours or days (1) in which a high school is open for instruction with the needs of any JVSD currently serving any of its students and (2) in which any school under the district's jurisdiction is open for instruction with any community school in which the district is required to provide student transportation. The district must provide the

## Ohio Budget Bill: What have they done now?, Cont.

JVSD or Community School with advanced notice of the change and enter into an agreement with the school regarding the change. Similarly, before changing the hours or days of instruction for any school under the district's jurisdiction, the public school board must consult with any chartered non-public schools in which the district is required to provide transportation to students.

### JVSD Board Changes

Significant changes were made to JVSD board membership terms and eligibility. After the effective date of the bill, new members will serve a term of three years with no more than two consecutive terms. Terms are considered consecutive unless separated by three or more years. Current members of a JVSD board may serve until the expiration of their current terms, after which future members will be appointed pursuant to the new rules. The manner of appointment and total number of members appointed to a JVSD Board will be based on the terms of the most recent plan for the JVSD on file with ODE. Board member selection shall be based on diversity of the employers from the geographical region of the state in which the territory of the JVSD is located. Not less than three-fifths (3/5) of the members of the board shall reside in or be employed within the territory of the JVSD.

Members of the JVSD board must have experience as one of the following: a chief financial officer, a chief executive officer, a human resource manager, or another business, industry, or career counseling professional qualified to discuss the labor needs in respect to the regional economy. The appointing board must appoint individuals who represent employers in the region served by the JVSD who are qualified to consider the state's workforce needs with an understanding of the skills, training, and education needed for current and future employment opportunities in the state. The appointing board may give preference to individuals who have served as members on a joint vocational school business advisory committee who also meet the qualifications listed above.

Additionally under prior law, when an ESC governing Board served as the JVSD Board, the ESC superintendent served as executive officer of JVSD. In addition, the ESC governing board could also appoint the ESC superintendent to serve as treasurer of the JVSD. Those provisions have been struck from the law. Now, there is merely a requirement for the JVSD board to appoint a superintendent and a treasurer.

### Extracurricular Activities & Students Receiving Home Instruction

Public schools must provide the following extracurricular opportunities to students receiving home instruction. As used in this section, "home instruction" includes students who have been excused by the superintendent from attending school because they are being instructed at home by a person qualified to teach all subjects mandated by law and any additional requirements imposed by the superintendent. Additionally, the statutory changes also removed the duty of an ESC superintendent to excuse students for home instruction in local school districts. Now all city, exempted village and local school district superintendents have the authority to authorize home instruction.

A district of residence shall provide a student who receives home instruction the opportunity to participate in any extracurricular activity offered at the district school where the student would otherwise be assigned. If a student chooses to participate in a particular activity, he/she cannot participate in the same activity at another school or in another district. Any other district superintendent may permit a student who receives home instruction to participate in any extracurricular of the district, but only if the district of residence does not offer that extracurricular.

To participate, a student of home instruction must be of the appropriate age and grade level as determined by the Superintendent, for the school that offers the extracurricular; be able to meet the same nonacademic

and financial requirements as any other participants; and fulfill one of the following: (1) If the student received home instruction in the preceding grading period, the student must meet any academic requirements established by the state board of education for continuation of home instruction, or (2) If the student did not receive home instruction in the preceding grading period, the student's academic performance during the preceding grading period shall have met any academic standards for eligibility to participate in the program established by the school district. Eligibility for a student who leaves mid-year for home instruction will be based on an interim academic assessment issued by the district in which the student was enrolled that is based on the student's prior work. If a student who begins home instruction after the beginning of the school year was ineligible to participate at the time of departure from the district due to failure to meet academic standards or any other requirements, the student may not participate until the superintendent verifies that the student has met the requirements of the state board for continuation of home instruction. Regardless, the student may not participate in the same semester in which the student was determined ineligible. No school district may impose additional rules or fees on a student that are not applied to other students participating in the same extracurricular activity. Additionally, no district, interscholastic conference, or organization that oversees interscholastic conferences or events may impose conflicting eligibility requirements.

### Extracurricular Activities and Non-public School Students

Public schools must provide the following extracurricular opportunities to students enrolled in nonpublic schools. A district of residence must allow a student enrolled in nonpublic school the opportunity to participate in an extracurricular activity that is not available at the nonpublic school but is available at the public school to which student would have been assigned. Any other school district superinten-

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## Ohio Budget Bill: What have they done now?, Cont.

dent may afford any student enrolled in a nonpublic school who is not otherwise entitled to attend school in the district, the opportunity to participate in an extracurricular activity offered by a school of the district, but only if both of the following apply (1) the nonpublic school does not offer the activity and (2) the activity is not interscholastic athletics or interscholastic contests or competition in music, drama, or forensics.

To participate, a student enrolled in a nonpublic school must be of the appropriate age and grade level, as determined by the superintendent and must fulfill the same academic, nonacademic, and financial requirements as any other participant. No school may impose additional rules or charge additional fees for participation. No district, interscholastic conference, or organization that oversees interscholastic conferences or events may impose conflicting eligibility requirements.

### Funding & Accountability

The Budget Bill has placed a focus on accountability. Financial reports are now required at both the district and building level (not either/or), and districts must now report information on total revenue and expenditures, per pupil revenue, and expenditures for both classroom and nonclassroom purposes both in aggregate and by targeted subgroups.

Effective July 2014, a student must be considered “enrolled” and therefore included in EMIS for any portion of the school year the student is participating at a college under Chapter 3365 and for any period of time beginning on the date on which the school has both received the documentation of the student’s enrollment from a parent and the student has commenced participation in learning opportunities offered by the district. “Learning Opportunities” are defined as both classroom-based and nonclassroom-based learning opportunities overseen by licensed educational employees of the district that are in compliance with criteria and documentation requirements for student participa-

tion established by ODE. A student’s instruction time in nonclassroom-based learning opportunities shall be certified by an employee of the district.

For purposes of ADM reporting per Section 3317.03, a student is no longer considered enrolled when: (1) The district receives documentation from a parent terminating enrollment; (2) The district receives documentation from another public or nonpublic school indicating the student’s enrollment elsewhere; (3) The student fails to participate in learning opportunities and has not received an excused absence for 105 continuous hours (district must, however, pursue remedies for truant students); or (4) The student ceases to participate in learning opportunities provided by the school. No school district may enroll/withdraw a student from EMIS later than thirty days after the student’s actual enrollment or withdrawal from school.

There are now additional reporting requirements for the following subgroups: students with disabilities, economically disadvantaged students, limited English proficient students, and gifted students. If a district does not meet ODE’s requirement of satisfactory achievement and progress for a subgroup, the district must submit an improvement plan to ODE, and ODE is permitted to require that the plan include partnering with another entity for services to that subgroup. The State Board of Education must establish measures of satisfactory achievement and progress no later than December 31, 2014. ODE must use the measures established by the State Board to determine if a district or school has made satisfactory achievement and progress for certain subgroups by September 1, 2015, and annually thereafter. ODE is required to publish a list of schools, districts, and providers that have demonstrated an ability to serve each subgroup of students.

### Other Relevant Changes

#### OTES/OPES

The following changes were made regarding teacher evaluations. When calculating student academic

growth, attendance requirements for the exclusion of student data changed from **60** or more unexcused absences to **45** or more excused or unexcused absences. In addition, teachers and principals that would have received a “proficient” performance rating will now be recognized as “skilled.”

#### Business Managers

For districts that elect not to appoint a licensed business manager, the board may assign the statutory duties of a business manager to other employees or officers of the board, including the treasurer, and to give those employees any title that reflects the assignment of those duties. If a board assigns the duties of a business manager to the district treasurer, the district superintendent (not the treasurer) has the authority to recommend the appointment or discharge of non-educational employees. These statutory changes supersede case law to the contrary.

#### Levies

A provision of the budget bill eliminates the 10% and 2.5% property tax rollback on any new or replacement levies. Previously, the rollback allowed homeowners to pay less on school and other local government levies, with the state reimbursing schools and local governments for the subsequent loss. However, the state will no longer provide this reimbursement for new or replacement levies, causing homeowners to now pay 100% of the total real estate tax on any such levies that are approved beginning with the November, 2013 election. Existing and renewal levies placed on election ballots will continue to be subject to the property tax rollback.

In addition, the budget bill amends ORC 5705.217 and ORC 5705.21. ORC 5705.217 now allows boards to renew one or more existing levies, or to increase or decrease the rate of tax levied under the section, for the purpose of providing funds for either current expenses and general permanent improvements or solely for general permanent improvements.

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## Ohio Budget Bill: What have they done now?, Cont.

Next, ORC 5705.21(A) was amended to allow school districts to levy a property tax exclusively for school safety and security purposes. "School safety and security" is not defined in the statute, which in return means it could include windows, doors, etc.

### Student Transportation

Student transportation underwent funding changes. The pupil transportation formula was modified to use the state share index from the new formula instead of the state share percentage. ODE is required to prorate the calculated amount for each district to fit within the appropriation. It provides a transportation supplement for low-wealth and low density school districts equal to the difference between the district's unrestricted pupil transportation formula amount and the prorated amount. School districts must report transportation funding data through EMIS. Provisions provide funding for reimbursement of special education transportation costs. In addition, funding is provided for reimbursement to districts that pay parents in lieu of providing transportation. The board will not be required to transport elementary or high school students to/from nonpublic or community schools on Saturday or Sunday unless the board and nonpublic school sign an agreement to provide such services by July 1, 2014.

### Kindergarten Students

Districts are prohibited from retaining any kindergarten student

who was admitted to and successfully completed the 2012-2013 school year solely due to age of the student.

Changes were made to the administration dates for kindergarten diagnostic assessments. Prior to July 1, 2014, diagnostic assessments must be completed not earlier than 4 weeks prior to 1<sup>st</sup> day of school and no later than October 1<sup>st</sup>. Effective July 1, 2014, diagnostic assessments must be completed not earlier than the 1<sup>st</sup> day of school and no later than November 1<sup>st</sup>. Except that the language and reading skills assessment must be completed by the September 13<sup>th</sup> deadline.

### Professional Development

Districts must now incorporate human trafficking content into in-service training in addition to training in the prevention of child abuse, school safety and violence prevention, substance abuse, and promotion of positive youth development. Each nurse, teacher, counselor, school psychologist, or administrator must complete at least four hours of in-service training within the first two years of employment, and every five years thereafter. (This requirement has not changed.)

### How this Affects your District:

**Minimum School Year:** Due to changes from "days" to "hours" for minimum school year requirements, districts should begin planning for the 2014-2015 school year. Districts should keep in mind that students must meet the minimum hour requirements for the

year regardless of the number of hours that school is closed due to inclement weather and other emergencies.

**JVSD Board Changes:** Districts should prepare for upcoming JVSD board changes by reviewing the impact of statutory changes on district's JVSD board processes and appointment of board members. Remember to review your JVSD's plan on file with ODE.

**Extracurricular Activities and Students with Home Instruction/Nonpublic School Students:** Beginning with the 2013-2014 school year, districts should implement a process for determining whether students on home instruction meet the eligibility requirements for extracurricular activities. Questions that should be addressed include: Who will filter requests? What are the eligibility requirements for various categories of students and various types of extracurricular activities?

## Webinar Archives

Did you miss a past webinar or would you like to view a webinar again? If so, we are happy to provide that resource to you. To obtain a link to an archived presentation, send your request to Pam Leist at [pleist@erflegal.com](mailto:pleist@erflegal.com) or 513-421-2540. Archived topics include:

- Education Law Legal Update - Including SB 316
- Effective IEP Teams
- Cyberlaw
- FMLA, ADA and Other Types of Leave
- Tax Incentives
- Prior Written Notice
- Advanced Topics in School Finance
- Student Residency, Custody and Homeless Students
- Ohio Budget Bill/House Bill 153
- Student Discipline
- Media and Public Relations
- Gearing Up for Negotiations



## Education Law Speeches/Seminars

### **SAVE THE DATE! 2013-2014 Administrator's Academy Seminar Series**

*Seminars will take place at the Great Oaks Instructional Resource Center or via live webinar from 9:00 a.m. to 11:30 a.m. unless otherwise noted. Additional registration information will be provided in the near future!*

Cyberlaw – September 19<sup>th</sup>, 2013

TBD – December 5<sup>th</sup>, 2013

Special Education Legal Update – March 6<sup>th</sup>, 2014

OTES and OPES Trends and Hot Topics – June 12<sup>th</sup>, 2014

Education Law Legal Updates 2013-2014 – July 10<sup>th</sup>, 2014 (Webinar ONLY, from 8:00 a.m. to 12:00 p.m.)

### **Other Upcoming Presentations**

Jeremy Neff and Erin Wessendorf-Wortman  
August 1, 2013  
*Northwest Ohio ESC Administrators' Conference*

Erin Wessendorf-Wortman  
August 8, 2013  
*Ashtabula County ESC Treasurers' Presentation*

September 30, 2013  
Southern Ohio ESC Presentation

October 21, 2013  
Brown County ESC Employment Law & Legal Update

Erin Wessendorf-Wortman  
November, 11, 2013  
OSBA Capital Conference—Making Booster Groups Work For You

Bill Deters  
November, 11, 2013  
OSBA Capital Conference—504 & Diabetes

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## ERF Practice Teams

### Construction/Real Estate

*Construction Contracts, Easements, Land Purchases  
and Sales, Liens, Mediations, and Litigation*

**Team Members:**  
 Bronston McCord  
 Ryan LaFlamme  
 Gary Stedronsky

### Workers' Compensation

*Administrative Hearings, Court Appeals, Collaboration  
with TPA's, General Advice*

**Team Members:**  
 Ryan LaFlamme  
 Pam Leist  
 Erin Wessendorf-Wortman

### Special Education

*Due Process Claims, IEP's, Change of Placement,  
FAPE, IDEA, Section 504, and any other topic related  
to Special Education*

**Team Members:**  
 Bill Deters  
 Pam Leist  
 Jeremy Neff  
 Erin Wessendorf-Wortman  
 Michael Fischer

### School Finance

*Taxes, School Levies, Bonds, Board of Revision*

**Team Members:**  
 Bill Deters  
 Bronston McCord  
 Gary Stedronsky  
 Jeremy Neff