

# EducationLAW

a s s o c i a t i o n

November 15-17, 2007  
San Diego, California  
2007 Conference Chair,  
Jennifer Sughrue

2007  53rd Annual Conference



“Education and Society:  
Accountability, Safety,  
& Climate”

Education Law Association  
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# 2007 Conference Schedule

## Wednesday, November 14th

- 2:00 P.M. - 5:00 P.M. Board of Director Meeting (Board Room East)
- 2:00 P.M. - 6:00 P.M. Registration (Foyer)
- 6:00 P.M. - 7:00 P.M. Early Arrival Reception (Beach North)

## Thursday, November 15th

- Morning Breakfast on own
- 8:00 A.M. - 5:00 P.M. Registration
- 8:30 A.M. - 11:00 AM Preconference Session I (Board Room East)
- Preconference Session II (Board Room West)
- 11:00 A.M. - 12:00 P.M. Lunch on own
- 12:00 P.M. - 12:45 P.M. SLR Committee Meeting (Board Room East)
- 12:45 P.M. - 1:30 P.M. 2008 Conference Program Meeting (Board Room East)
- 1:30 P.M. - 4:00 P.M. Preconference Session III (Board Room East)
- Preconference Session IV (Board Room West)
- 4:45 P.M. - 6:15 P.M. 1st General Session: Keynote Address (Kon Tiki Ballroom)
- 6:30 P.M. - 7:30 P.M. Welcome Reception (Aviary Ballroom)
- (no additional cost for paid registrants)

## Friday, November 16th

- 7:00 A.M. - 3:00 P.M. Registration (Foyer)
- 7:30 A.M. - 8:40 A.M. Business/Awards Breakfast (Kon Tiki Ballroom)
- (no additional cost for paid registrants)
- 8:50 A.M. - 10:00 A.M. Topic Session A
- 10:10 A.M. - 11:20 A.M. Topic Session B
- 11:30 A.M. - 12:40 P.M. Topic Session C
- 12:50 P.M. - 1:40 P.M. Role-Alike Luncheon (Board Room East & West, & Toucan)
- (no additional cost for paid registrants)
- 1:50 P.M. - 2:50 P.M. 2nd General Session: Diversity, Pluralism, and Student Assignment Plans (Kon Tiki Ballroom)
- 3:00 P.M. - 4:00 P.M. New Attendee Discussion (Board Room East & West)

## Saturday, November 17th

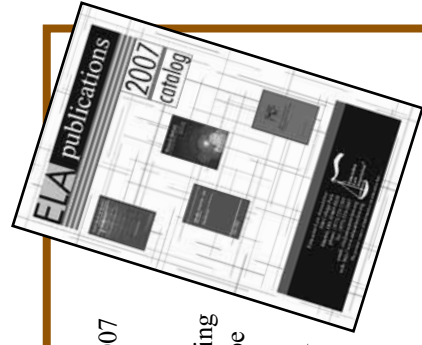
- Morning Light Continental Breakfast Provided (Foyer)
- 7:00 A.M. - 2:00 P.M. Registration (Foyer)
- 7:45 A.M. - 9:00 A.M. 3rd General Session: Supreme Ct. Update (Kon Tiki Ballroom)
- 9:10 A.M. - 10:00 A.M. Topic Session D
- 10:10 A.M. - 11:20 A.M. Topic Session E
- 11:30 A.M. - 12:20 P.M. Topic Session F
- 12:30 P.M. - 1:20 P.M. Topic Session G
- 1:30 P.M. - 3:30 P.M. Board of Director Meeting

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## ELA Publications

Look inside your registration packet for a 2007 publications catalog.



Various ELA books and monographs, including *The Yearbook of Education Law 2007*, will be on display during the conference at the ELA registration desk. Stop by during registration hours to place your order. Receive free shipping on your purchase when you pay for your order at the conference.

## ■ Educational Policy/Administration

- C5 Legislative Responses to Bullying
- C5 Cyberbullying/Cyberstalking
- E3 No Child Left Behind and Education for Homeless Children and Youth: A Look at the McKinney-Vento Homeless Education Assistance Act
- E3 FERPA Update 2007
- E3 Undocumented and Legal Immigrants Language Rights: English Language Learners in the School Setting
- F3 Can They Make My Child Cross-Dress? The *Meyer-Pierce* Right in the 21st Century

## ■ Equal Protection/Civil Rights/Due Process

- A1 And the Winner Is... Not Public Education Parents Involved In *Community Schools v. Seattle School District No. 1*, Justice Breyer's Theory of Active Liberty, Practical Considerations of Democracy, and The Supreme Court's Impact on Racial Diversity
- B1 School Officials and the Rights of GLBT Students
- B1 A Safe Haven for All Students Except...
- C1 Nonrenewal and the "Other": Civil Rights and Equal Protection Implications for Nontenured Teachers and Faculty
- C1 Employee Documentation: A Workable System
- D1 Capturing Racial Equal Educational Opportunity in School Finance Litigation
- E1 Why Equal Access Matters: A Discussion with Help from Thucydides, U2, and Stephen Breyer
- E1 An Analysis of *Parents Involved in Community Schools v. Seattle School District No. 1 et al.*: Implications for Racial Assignment Policies in Schools
- E1 Affirmative Action Revisited
- F1 Racial Balancing in K-12 Student Assignment Plans: How to Proceed Whether Constitutional or Unconstitutional
- G1 Retaliation Lawsuits in Public Schools: What Impact Will the *Jackson v. Birmingham* have on School Personnel?
- G1 Establishing Boundaries to Avoid Sexual Harassment in Schools

## ■ Ethics

- C2 Integrating Ethics into the Study of School Law
- C2 The Good, the Bad & the Ugly: An Empirical Study of One State's System for Holding Public School Educators Accountable for the Ethics of Their Behavior
- C2 Blackstone's Canvas of Influence Redux: Did He Contribute to the Construction of Ethics in American Education Law?

## ■ First Amendment

- A2 Nondiscrimination Provisions and Religious Organizations' Free Expression Rights
- A2 Meeting Religious Diversity in the Classroom
- A3 Educational Mission as a Determinant of Student Speech
- A3 "Bong Hits 4 Jesus": A Student's Constitutional Rights to Free Speech: May a School Sanction a Student for Off-campus Speech during School Authorized Activities that Promotes a Social Belief Contrary to that of the School?
- B2 Thou Shalt Not Teach: Religious Challenges to Curriculum and Instruction
- B2 Comparative Religious Issues in South Africa and the United States
- B3 School Vouchers: Yesterday? Today? Tomorrow?
- B3 Cultural Competence: The Influence of Legal Issues on National Leadership Standards
- C3 The Pledge of Allegiance: Is This Our Right?
- C3 Implications of the U.S. Supreme Court's Decision in *Garrett v. Ceballos* for Public Education Employees
- D2 Religion and Education Law Materials
- D3 The Long and the Short of the Public School's Disciplinary Arm: Will *Morse v. Frederick* Make a Difference?
- E2 Students' Use of Online Social Networks: Freedom of Speech Versus Discipline
- G2 First Amendment Update for Public School Students

## ■ Fourth Amendment

- D4 State Statutes and Fourth Amendment Jurisprudence Regarding School Resources Officers
- F2 Search and Seizure in Public Schools: 2007 Update of Fourth Amendment Cases
- G3 Student Misuse of Electronic Devices: Fourth Amendment Issues and Expectations of Privacy

## ■ Higher Education Law/Policy/Issues

- A4 Legal Issues in the Community College
- A4 Student v. University – Seldom Successful and Often Unbecoming: The Accountability of Higher Education Institutions in External Tribunals
- B4 Loyalty and Academic Freedom
- C4 The Constitutional Rights of Politically Incorrect Groups: *Christian Legal Society v. Walker* As An Illustration
- D5 The Law of Defamation in the Context of Higher Education
- G4 Higher Education Law Curriculum: Two Modest Proposals

## ■ School Finance

- D6 Texas' Constitutional Crisis: School Finance in *Neeley v. West Orange-Cove Consol. I.S.D.*
- E4 Deciding Who Decides Questions at the Intersection of School Finance Reform Litigation and Standards-based Accountability Policies
- E4 *Flores*, Proposition 203, and English Language Learners in Arizona

### ■ School Reform

- D7 Education Law Association: New Approaches

### ■ Special Education

- A6 To File or Not to File: When Can and Should a School District Request a Special Education Due Process Hearing?  
 A6 Allegations of Retaliation for Special Education Advocacy  
 B6 Meeting the Demands of NCLB and IDEA in Schools  
 C6 School Choice and Vouchers: Issues of Law and Policy  
 E7 Response to Intervention: Reality After One Year  
 E7 A Study of Selected Virginia Principals' Knowledge of Special Education Law
- E7 The Implications of Scientifically Based Research (SBR) and Peer-Reviewed Research (PRR) for Special Education Litigation
- G6 The Rights of Special Needs Students – A South African Education Perspective
- G6 Making General Education Special: The Federal Education Revolution

### ■ Specialized Topics

- A7 An Evaluation of the Legal Literacy of Educators and the Implications for Teacher Preparation Programs
- B7 Implications of Administrator Preparation Reform for School Law Courses
- B7 Putting Some Game Into Your School Law Class
- C7 Assessing the Nature of School Law in Public Administrative Practice: A Nationwide Study
- C7 Legal Update and Overview for K-12 Administrators
- F5 Constitutional, Statutory, and Privacy Claims in Universities and Schools

### ■ Technology

- A8 Students, Employees and Acceptable Use Policies
- A8 Schools Invading "My Space"
- C8 School Regulation of Student Internet Speech
- C8 School Administrators and Online Student Speech
- E5 Teaching Education Law Online in an Era of Accountability
- F4 Student Off-Campus Misconduct Involving Technology and the Internet: An Update

### ■ Tort Law

- B8 Hurl Your Calumnies Boldly: Something is Sure to Stick: Are Athletic Coaches Public Figures in Defamation Actions?
- B8 How to Avoid the "Snake-Pit" of the Emerging Tort-State-Created Danger
- F6 School Shootings and Student Wrongful Death Actions: Who Pays?



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# General Sessions

## First General Session: Keynote Address

Thursday, November 15, 2007  
4:45 P.M. - 6:15 P.M.

Location: **Kon Tiki Ballroom**



### Amy June Rowley (Keynote Speaker)

Assistant Professor, American Sign Language  
Department of Modern Languages and Literatures  
California State University—East Bay  
Hayward, CA

### Panel of Experts



Dixie Snow Huefner



Julie Mead



Philip T.K. Daniel

### Facilitator

# General Sessions

## Second General Session: Diversity, Pluralism, and Student Assignment Plans

Friday, November 16, 2007  
1:50 P.M. - 2:50 P.M.

Location: **Kon Tiki Ballroom**



### Philip T.K. Daniel

William and Marie Flesher Professor  
of Educational Administration  
Adjunct Professor of Law  
The Ohio State University  
Columbus, OH



### William E. Thro

State Solicitor General  
Commonwealth of Virginia  
Richmond, VA

## One-Stop Information Source

### California School Law

FRANK KEMERER, PETER SANSOM, and JENNIFER KEMERER

"California School Law provides 'one-stop shopping' for individuals examining the laws that relate to the operation of schools. In my 38 years as an educator, including 30 in administration, I have never seen a book that covers such detailed, easy-to-read accountings of laws impacting the daily operation of schools. This book will provide an immediate and excellent resource and should be in the offices of all administrators."

—Larry Maw,  
former Superintendent, San Marcos Unified School District

"Finally, this is the comprehensive, thoughtful, and lucid treatment of California educational law and policy we've been waiting for. The authors not only explain the complex world of California school law with a lawyer's precision, but they make this sometimes arcane topic both lively and also compelling with rich examples and from a national perspective."

—William S. Koski,  
Eric and Nancy Wright Professor of Clinical Education,  
Stanford Law School

To order and to get more information, including content updates, please visit the book's website at [www.californiaschoollaw.org](http://www.californiaschoollaw.org).

800.621.2736 [www.sup.org](http://www.sup.org)

**Stanford**  
University Press

## Third General Session: Supreme Court Update

Saturday, November 17, 2007  
7:45 A.M. - 9:00 A.M.

Location: **Kon Tiki Ballroom**



### Thomas Hutton

Senior Staff Attorney  
National School Boards Association  
Alexandria, VA

## Early Arrival Reception

Wednesday, November 14th, 6:00 P.M. - 7:00 P.M.

Location: **Beach North**

For those who arrive early, join us for light hors d'oeuvres and casual conversation.

## Preconference Seminars

morning sessions ☒ 8:30 A.M. - 11:00 A.M.

### I. The Interplay of Law and Ethics for Accountability, Safety, and Climate

☒ location: Board Room East

This preconference session explores the interplay of law and ethics in schools and universities. With attention paid to the roles played by attorneys, educators, and administrators in both K-12 and higher education, the presenters and attendees will discuss issues such as speech, religion, privacy, technology, intellectual property, NCLB, the regulation of ethical conduct, and the associated policies and current legal developments that arise from these issues.

*Jacqueline Stefkovich*, Professor of School Law; Head of the Department of Education Policy Studies, The Pennsylvania State University, University Park, PA

*Patrick Pauken*, Associate Professor, Educational Administration and Leadership Studies, Bowling Green State University, Bowling Green, OH

### II. Sexual Orientation, Public Schools, and the Law—New Developments

☒ location: Board Room West

This preconference session deals with five areas pertaining to sexual orientation and the law: 1) The right of gay and lesbian students to be free from harassment at school; 2) The rights of anti-gay students to express their views in the school environment; 3) Litigation over implementation of gay-friendly curricular themes; 4) The right of gay student groups to school recognition under the Equal Access Act; 5) Rights of gay and lesbian teachers to be free from discrimination in the workplace.

*Richard Fossey*, Professor, Department of Teacher Education and Administration, University of North Texas, Denton, TX

# CLE Credit

Attorneys can earn both general and ethics Continuing Legal Education (CLE) credits by attending the 2007 Annual Conference.

## Preconference Seminars

afternoon sessions ☒ 1:30 P.M. - 4:00 P.M.

### III. Everything You Always Wanted To Know About Special Education Law But Were Afraid To Ask

☒ location: Board Room East

This preconference session provides an extensive overview of current hot topics in special education law. The presenters will discuss the Individuals with Disabilities Education Act and its regulations in the context of recent litigation. The session is specifically designed to be interactive and, as such, the presenters will address the concerns and questions of participants and provide practical advice on implementing the law. Among the topics discussed are identification and evaluation, free appropriate public education, entitlement of private school students, related services, discipline, attorneys' fees, tuition reimbursement, and compensatory educational services. The presenters will also discuss the recent Supreme Court cases dealing with the IDEA and disability rights, the intersection of IDEA and NCLB issues and the continuing evolution of Section 504 issues.

*Christopher Borreca*, Partner, Bracewell & Giuliani, LLP, Houston, TX  
*Allan Osborne*, Principal, Snug Harbor School, Quincy Public Schools, Quincy, MA

*Sowmya Kumar*, Education Specialist, Accountability and Compliance Services Department, Region 4 Education Service Center, Houston, TX

### IV. *Morse v. Frederick*: Did the Supreme Court Weaken or Strengthen Student Freedom of Expression?

☒ location: Board Room West

This preconference session reviews the changing legal and constitutional standards concerning speech or expressive conduct. Specific controversies will include provocative T-shirts, offensive emails and websites, demonstrations and protests, distribution of underground newspapers, and proselytizing religious messages. Discussions will be based on court cases and current school controversies. It also examines the impact of the Supreme Court's recent decision in *Morse*.

*William E. Thro*, State Solicitor General for the Commonwealth of Virginia, Richmond, VA

*David Schimmel*, Visiting Professor, Harvard University; Professor, Educational Leadership, University of Massachusetts, Amhurst, MA

## First General Session

Thursday, November 15th, 4:45 P.M. - 6:15 P.M.

### Keynote Address

Thursday, November 15, 2007  
4:45 P.M. - 6:15 P.M.

Location: **Kon Tiki Ballroom**

On the 25th anniversary of the landmark *Rowley* case, Amy June Rowley will share her experiences as a plaintiff in this major IDEA lawsuit. A panel of experts will also help to facilitate discussion: Dixie Snow Huefner and Julie Mead. This presentation will address equal educational opportunity, the vitality of the *Rowley* decision in current case law, and the impact of the No Child Left Behind Act on IDEA and the children whom IDEA serves.



#### Amy June Rowley (Keynote Speaker)

Assistant Professor, American Sign Language Department of Modern Languages and Literatures California State University—East Bay Hayward, CA

Amy June Rowley is an Assistant Professor at California State University—East Bay just across the bay from San Francisco. She coordinates the American Sign Language Program. She graduated from McDaniel College (formerly called Western Maryland College) with a Master's degree in Deaf Education and American Sign Language Specialty. She is currently writing her dissertation for her Ph.D. Studies in Urban Education with a major in Second Language Acquisition. She currently resides in the East Bay area, with her husband and three children. As a parent, she is going through some of the same issues with special education that her parents went through more than 25 years ago. Her two oldest daughters who are deaf, Neva, 6, and Reza, 4, attend California School for the Deaf in Fremont, California, and she has a baby 15 months old who is hearing.

#### Facilitator:

#### Philip T.K. Daniel

William and Marie Flesher Professor of Educational Administration; Adjunct Professor of Law, The Ohio State University, Columbus, OH

## First General Session Panel of Experts:



#### Dixie Snow Huefner

Dixie Snow Huefner is an Emeritus Professor of Special Education at the University of Utah. She retired June 30, 2007. She has an undergraduate degree in political science from Wellesley College, and graduate degrees in special education and law from the University of Utah. Her training and perspective provided an unusual advantage in teaching and writing about special education law. Her articles have appeared in leading education and law journals. She is the author of *Getting Comfortable with Special Education Law* (2000, 2nd ed. 2006) and a co-author of *Education Law and the Public Schools: A Compendium* (2nd ed.). Huefner has been a frequent presenter at national and regional conferences and training institutes, and she served on the ELA Board of Directors from 1994-1996. She recently finished a term as Chair of the Utah Parent Center, Utah's federally funded Parent Training & Information Center.



#### Julie Mead

Julie Fisher Mead is an Associate Professor in the Department of Educational Leadership and Policy Analysis at the University of Wisconsin at Madison. Mead researches and writes about topics related to the legal aspects of education. Her research centers on legal issues related to special education and legal issues raised by various forms of school choice. She is co-author with Preston Green of *Charter Schools and the Law: Establishing New Legal Relationships*, published by Christopher-Gordon Publishers and co-author with Julie Underwood of *Legal Aspects of Special Education and Pupil Services* published by Allyn & Bacon. In addition to these books, she has published numerous articles in both education and law journals. She is a member and regularly presents at the annual meetings of the American Educational Research Association, the Education Law Association (serving on the ELA Board from 2000-2002), and the University Council on Educational Administration. Julie Mead is also a former special education teacher and administrator.

## Welcome Reception

Thursday, November 15th, 6:30 P.M. - 7:30 P.M.

Location: Aviary Ballroom

*No cost for registrants. Tickets available for guests.* Immediately following the Keynote Address, the Welcome Reception is the place to have a beverage, a few light hors d'oeuvres, and mingle with your colleagues.

## Business/Awards Breakfast

Friday, November 16th, 7:30 A.M. - 8:40 A.M.

 location: Kon Tiki Ballroom

*No cost for registrants. Tickets available for guests.*  
Join us for breakfast, updates on ELA Business, Board Member elections, and award presentations.

## Concurrent Topic Sessions A

Friday, November 16th, 8:50 A.M. - 10:00 A.M.

### 1 A1: Equal Protection/Civil Rights/Due Process

 location: Board Room East

**And the Winner Is... Not Public Education Parents Involved In Community Schools v. Seattle School District No. 1, Justice Breyer's Theory of Active Liberty, Practical Considerations of Democracy, and The Supreme Court's Impact on Racial Diversity**

This presentation discusses the recent Supreme Court decision, *Parents Involved In Community Schools v. Seattle School District No. 1*, and its implications for diversity of urban public schools. Specifically, this presentation examines how this decision in light of *Gruetter* and *Gratz* precedents should place value on a city's desire to value diversity in its public schools and how the Seattle tie-breaker scheme provides one of the last opportunities to realize the promise of *Brown v. Board of Education*.

*Andrea Kayne Kaufman*, Assistant Professor, Educational Leadership, DePaul University, Chicago, IL

Presenter: *Jon E. Anderson*, Godfrey & Kahn S C, Madison, WI

### 2 A2: First Amendment—Religion

 location: Rousseau Center

**Nondiscrimination Provisions and Religious Organizations' Free Expression Rights**

This presentation discusses the difficult task of balancing the Supreme court's guidelines in *Lamb's Chapel*, *Milford*, *Tinker*, *Fraser*, and *Hazelwood* in public schools.

*Ralph Mawdsley*, Sir Allan Sewell Visiting Professor of Education and Law, Griffith University, Australia; Professor of Educational Administration, Cleveland State University, Cleveland, OH

*David Schimmel*, Visiting Professor, Harvard University; Professor, Educational Leadership, University of Massachusetts, Amhurst, MA

*Edwin Darden*, Managing Partner, Appleseed, Washington, D.C.

### Meeting Religious Diversity in the Classroom

This presentation features practical information to meet the First Amendment needs of a religiously diverse school population. Over 25 different faiths are included.

*Evelyn B. Kelly*, Adjunct Professor, Saint Leo University, Ocala Center, Ocala, FL  
Presenter: *Elizabeth Lugg*, Illinois State University, Normal, IL

### 3 A3: First Amendment—Speech

 location: Cockatoo

**Educational Mission as a Determinant of Student Speech**

This presentation explores the extent to which courts rely on the educational mission of a school to limit student expression.

*Rick Geisel*, Assistant Professor, Educational Leadership, Grand Valley State University, Grand Rapids, MI

*Brenda Kallio*, Professor, Public School Law, University of North Dakota, Grand Forks, ND

**"Bong Hits 4 Jesus" A Student's Constitutional Rights to Free Speech: May a School Sanction a Student for Off-campus Speech during School Authorized Activities that Promotes a Social Belief Contrary to that of the School?**

This presentation reviews the court decision in *Frederick v. Morse* and analyzes constitutionality of student free speech versus school authority to control the message and principal's qualified immunity.

*Nathan M. Roberts*, Director of Graduate Studies in Education, University of Louisiana, Lafayette, LA

Presenter: *Marilyn Bartlett*, University of South Florida, St. Petersburg, FL

### 4 A4: Higher Education Law/Policy/Issues

 location: Rousseau West

**Legal Issues in the Community College**

This presentation reviews ten legal issues confronting community college leaders. The presenters will close with practical advice and recommendations for attorneys and educators confronting those issues.

*Robert C. Cloud*, Professor, Baylor University, Waco, TX

*Timothy K. Garfield*, Partner, Stephenson, Worley, Garratt, Swartz, Garfield, & Prairie, San Diego, CA

**Student v. University – Seldom Successful and Often Unbecoming: The Accountability of Higher Education Institutions in External Tribunals**

This presentation examines the external avenues of review available to aggrieved university students and the lessons to be learned from initiatives in the United Kingdom.

*Paty Kamvounias*, Lecturer, Business Law, Faculty of Economics and Business, University of Sydney, Australia

*Sally Varnham*, Senior Lecturer, Faculty of Law, University of Technology, Sydney, Australia

Presenter: *Leslie Stellman*, Hodes, Pessin, & Katz P.A., Towson MD

### 🕒 A5: School Safety/School Discipline 📍 location: Board Room West

#### Zero Tolerance in Public Education: Anecdotal Case Studies

This interactive session focuses on a series of anecdotal case studies involving the implementation of zero tolerance policies in the public schools.

*Gary Brooks*, Professor, Educational Leadership, University of Texas, El Paso, TX

#### Developmental Due Process: Cultivating Constitutional Recognition of the Need to Reconcile School Disciplinary Practices with Child Development Principles

Urging the alignment of school disciplinary policies with developmental psychology principles, Professor Brown offers a strategy to make school discipline more fair and more effective.

*Josie F. Brown*, Assistant Professor, University of South Carolina School of Law, Columbia, SC

Presenter: *Ginger Hogeland*, Cullman County Schools, Cullman, AL

### 🕒 A6: Special Education 📍 location: Toucan

#### To File or Not to File: When Can and Should a School District Request a Special Education Due Process Hearing

This presentation examines case law and focuses upon the legal and practical considerations school districts face when filing due process hearing complaints.

*Susan C. Bon*, Professor, College of Education and Human Development, George Mason University, Fairfax, VA

*Merri Schneider-Vogel*, Partner, Attorney at Law, Bracewell & Giuliani LLP, Houston, TX

#### Allegations of Retaliation for Special Education Advocacy

This presentation explores the case law in which courts have found that parents have a cause of action for school officials' acts of retaliation against them for advocating for the rights of their children.

*Susan G. Clark*, Counsel, Pepple & Waggoner, Cleveland, OH; Professor, Department of Educational Foundations and Leadership, University of Akron, OH  
Presenter: *Joan Siegel*, Burlington Schools, Burlington, VT

### 🕒 A7: Specialized Topics 📍 location: Rousseau East

#### An Evaluation of the Legal Literacy of Educators and the Implications for Teacher Preparation Programs

This presentation highlights the research findings of the legal literacy of educators, educators' legal fears, and the implications for teacher preparation programs.

*Philip H. Wagner*, Assistant Superintendent, Beachwood City School District, Beachwood, OH

Presenter: *William Lanza*, Prince William County Public Schools, Manassas, VA

### 🕒 A8: Technology 📍 location: Macaw

#### Students, Employees and Acceptable Use Policies

Come to this presentation, and find out why having a computer-use policy is necessary and what your district should include in that policy. Presenters will also discuss how to deal with misconduct and abuse, how to protect yourselves against liability, and how to regulate your policy.

*Michael Blacher*, Associate, Liebert, Cassidy, & Whitmore, Los Angeles, CA

#### Schools Invading “My Space”

This presentation recommends school district/campus policies, and viable strategies, for campus and district administrators to reference in order to ensure responsible Internet and technology use in schools.

*Felix Simieou*, Assistant Professor, University of Houston–Clear Lake, Houston, TX

Presenter: *Eric Delaporte*, Thrun Law Firm, P.C., East Lansing, MI

## Concurrent Topic Sessions B

Friday, November 16th, 10:10 A.M. - 11:20 A.M.

### 🕒 B1: Equal Protection/Civil Rights/Due Process 📍 location: Cockatoo

#### School Officials and the Rights of GLBT Students

School administrators have a moral and legal responsibility to ensure that students with different sexual preferences are not discriminated against or harassed.

*J. Patrick Mahon*, Retired Educational Administrator; Adjunct Professor of School Law, Georgia State University & University of Georgia

#### A Safe Haven for All Students Except...

Gay and Lesbian students comprise 5% of our student population. This presentation provides a scenario, legal implications, and recommendations for providing a “safe-haven” for these students.

*Mark Mitchell*, Assistant Professor, Educational Leadership, Winthrop University, Rock Hill, SC

Presenter: *Alan McFall*, McFall, Layman, & Jordan, P.C., Bangor, PA

### 🕒 B2: First Amendment–Religion 📍 location: Board Room West

#### Thou Shall Not Teach: Religious Challenges to Curriculum and Instruction

This presentation explores the interaction between the First Amendment and the curriculum and instruction programs of public schools including Bible classes, intelligent design, sex education, and “innovative” teaching programs.

*Christopher Gilbert*, Partner, Bracewell & Giuliani LLP, Houston, TX

### Comparative Religious Issues in South Africa and the United States

South Africa's national policy favoring a diversity approach to religion in public schools affords some useful perspectives for addressing religion in U.S. public schools.

*Elda de Waal*, Senior lecturer, School for Educational Sciences, North-West University, Vaal Triangle Faculty, Vanderbijlpark, South Africa

Presenter: *Ralph Mawdsley*, Cleveland State University, Cleveland, OH

### 📍 B3: First Amendment—Speech

📍 location: Macaw

#### School Vouchers: Yesterday? Today? Tomorrow?

This presentation focuses on the issue of school vouchers as an intriguing and controversial area of school law with effect by and on parental rights, state versus federal standing, and the separation of church and state.

*Steve Permut*, Professor of Education, University of South Florida, Tampa, FL  
*David H. Goldenberg*, Dean; Professor of Education Law, University of Hartford, CT

*Daniel Fisher*, Doctoral Student, University of South Florida, Tampa, FL

### 📍 B4: Higher Education Law/Policy/Issues

📍 location: Rousseau East

#### Loyalty and Academic Freedom

During a period of heightened concern over national security, this paper presentation addresses the socio-legal framework of the competing interests of jurisdictional loyalty and academic freedom.

*Jeffrey C. Sun*, Assistant Professor, Educational Leadership; Affiliate Professor of Law, University of North Dakota, Grand Forks, ND

Presenter: *Amy Glass*, The John Hopkins University, Baltimore, MD

*Christa Boske*, Assistant Professor, University of Houston—Clear Lake, Houston, TX

Presenter: *Karen Lambert*, Department of Defense Education Activity, Chantilly, VA

### It Can Happen in Kansas, Too, Toto

An analysis of the case of five students who allegedly conspired on MySpace to commit Columbine-type shootings at Riverton High School.

*Michael Yates*, Professor, Political Science, Missouri Southern State University, Joplin, MO

*JoAnna Derfelt*, Attorney at Law, Derfelt Law Office, Baxter Springs, KS

Presenter: *Kim James*, Bracewell & Giuliani LLP, Houston, TX

### 📍 B6: Special Education

📍 location: Toucan

#### Meeting the Demands of NCLB and IDEA in Schools

Under the No Child Left Behind Act, students with disabilities play a key role in the assessment and accountability systems nationally. In order to effectively serve these students, schools must determine how best to meet their needs while complying with both laws.

*Sowmya Kumar*, Education Specialist, Accountability and Compliance Services Department, Region 4 Education Service Center, Houston, TX

Presenter: *Lois Berlin*, Falls Church City Public Schools, Falls Church, VA

### 📍 B7: Specialized Topics

📍 location: Board Room East

#### Implications of Administrator Preparation Reform for School Law Courses

This presentation addresses impacts of reform strategies on school law courses and related questions about state oversight of university curriculum and instructional practices.

*Suzanne Painter*, Associate Professor, Graduate Studies, College of Teacher Education and Leadership, Arizona State University, Phoenix, AZ

#### Putting Some Game Into Your School Law Class

Would your students be able to translate the common Latin terms used in law? See the game and play it. See and play other school law games.

*Robert J. Safransky*, Adjunct Professor, Nova Southeastern University—Tampa Site, Tampa, FL

Presenter: *Brad Colwell*, Southern Illinois University, Carbondale, IL

### 📍 B8: Tort Law

📍 location: Rousseau Center

#### Hurl Your Calumnies Boldly; Something is Sure to Stick: Are Athletic Coaches Public Figures in Defamation Actions?

This presentation provides an overview of emerging case law addressing the legal standards applicable to defamation claims brought by public school athletic coaches.

*David S. Doty*, Assistant Commissioner, Utah System of Higher Education, Salt Lake City, UT

*David J. Sperry*, Scholar-in-Residence, Utah System of Higher Education, Salt Lake City, UT

### 📍 B5: School Safety/Student Discipline

📍 location: Rousseau West

A critical assessment of the safeguards and legal framework currently protecting students from sexual violence in South African schools.

*Rika Joubert*, Director, Interuniversity Centre for Education Law and Policy; Senior Lecturer, University of Pretoria, South Africa

Presenter: *Amy Glass*, The John Hopkins University, Baltimore, MD

### 📍 B5: School Safety/Student Discipline

📍 location: Rousseau West

#### Sexual Harassment and Sexual Violence Against Students: The South African Experience

A critical assessment of the safeguards and legal framework currently protecting students from sexual violence in South African schools.

*Steve Permut*, Professor of Education, University of South Florida, Tampa, FL  
*David H. Goldenberg*, Dean; Professor of Education Law, University of Hartford, CT

*Daniel Fisher*, Doctoral Student, University of South Florida, Tampa, FL

### 📍 B4: Higher Education Law/Policy/Issues

📍 location: Rousseau East

#### Loyalty and Academic Freedom

During a period of heightened concern over national security, this paper presentation addresses the socio-legal framework of the competing interests of jurisdictional loyalty and academic freedom.

*Jeffrey C. Sun*, Assistant Professor, Educational Leadership; Affiliate Professor of Law, University of North Dakota, Grand Forks, ND

Presenter: *Amy Glass*, The John Hopkins University, Baltimore, MD

*Christa Boske*, Assistant Professor, University of Houston—Clear Lake, Houston, TX

Presenter: *Karen Lambert*, Department of Defense Education Activity, Chantilly, VA

**How to Avoid the “Snake-Pit” of the Emerging Tort–State-Created Danger**  
This presentation provides insight to assist school districts in avoiding a fall into the “snake-pit” of the emerging tort, state-created danger.

*Rebecca Schlosser*, Assistant Professor, Sul Ross State University, Alpine, TX  
*Mark Littleton*, Professor, Educational Administration, Tarleton University, Stephenville, TX

Presenter: *Scott Ferrin*, Brigham Young University, Provo, UT

## Concurrent Topic Sessions C

Friday, November 16th, 11:30 A.M. - 12:40 P.M.

### 1 C1: Equal Protection/Civil Rights/Due Process

 location: Board Room East

**Nonrenewal and the “Other”:** Civil Rights and Equal Protection Implications for Nontenured Teachers and Faculty

Discretion regarding non-renewal forces non-tenured faculty to seek “accepting” communities or hide any “other-ness.” In practice, non-renewal doctrine facilitates equal protection and civil rights violations.

*Michelle R. Gough*, Legal Affairs Consultant for the Indiana Secretary of State, Indianapolis, IN

### Employee Documentation: A Workable System

This presentation provides a fair documentation system to improve employee performance that is easy to implement, and provides samples for attendees to adapt to specific situations.

*Kelly Frels*, Partner, Bracewell & Giuliani LLP, Houston, TX  
*Janet Horton*, Partner, Bracewell & Giuliani LLP, Houston, TX  
Presenter: *Robert Hendrickson*, Penn State University, University Park, PA

### 2 C2: Ethics

 location: Board Room West

**Integrating Ethics into the Study of School Law**

This presentation offers several models and ideas on how to integrate the seemingly unrelated topics of law and ethics.

*David L. Stader*, Assistant Professor, University of Texas, Arlington, TX

**The Good, the Bad & the Ugly: An Empirical Study of One State’s System for Holding Public School Educators Accountable for the Ethics of Their Behavior**

This presentation offers a databased description of one state’s experience with a statutorily based ethics code for public educators and the accountability structure designed to enforce it.

*Susan J. Scollay*, Associate Professor, Educational Leadership Studies and Educational Policy Studies, University of Kentucky, Lexington, KY  
*Rosa L. Weaver*, Assistant Professor, Educational Leadership, Northern Kentucky University, Highland Heights, KY

**Blackstone’s Canvas of Influence Redux: Did He Contribute to the Construction of Ethics in American Education Law?**

The impact of Blackstone’s monumental common law treatise is reviewed through the eyes of a school administrator. History, law, and ethics merge in this presentation.

*Russell Joki*, Professor, Educational Leadership, University of Idaho, Boise, ID  
Presenter: *David S. Doty*, Utah System of Higher Education, Salt Lake City, UT

### 3 C3: First Amendment–Speech

 location: Rousseau East

**The Pledge of Allegiance: Is This Our Right?**

This presentation details the history and current standing of our Pledge of Allegiance, which has the potential of dividing our nation and surely will ‘rise again.’

*Deborah E. Stine*, Associate Professor, Department of Educational Leadership and Curriculum, College of Education, California State University, San Bernardino, CA

**Implications of the U.S. Supreme Court’s Decision in *Garceetti v. Ceballos* for Public Education Employees**

This presentation examines the potential impact of the U.S. Supreme Court’s decision in *Garceetti v. Ceballos* on the academic freedom of teachers and professors.

*Neal Hutchens*, Assistant Professor of Law, Barry University School of Law, Orlando, FL

Presenter: *P. Tyson Bennett*, Reese & Carney LLP, Annapolis, MD

### 4 C4: Higher Education Law/Policy/Issues

 location: Cockatoo

**The Constitutional Rights of Politically Incorrect Groups: *Christian Legal Society v. Walker* As An Illustration**

This presentation examines the Seventh Circuit’s decision in *Christian Legal Society v. Walker* as an illustration of the rights of politically incorrect student organizations.

*William E. Thro*, State Solicitor General for the Commonwealth of Virginia, Richmond, VA

Presenter: *Robert Wagner*, Retired Executive Director of ELA, Lincoln, NE

### 5 C5: K-12 Policy and Administration

 location: Macaw

**Legislative Responses to Bullying**

This presentation provides an up-to-date summary of anti-bullying statutes enacted across the nation to make schools safer in a post-Columbine environment.

*Fred Hartmeister*, Professor, Education and Law; Chair, Educational Psychology and Leadership, College of Education, Texas Tech University, Lubbock, TX

### Cyberbullying/Cyberstalking

This presentation addresses the effects of cyberbullying on students. The presenters will explore Florida policies/trends, case law, and implications for improving school environments.

*Marilyn J. Bartlett*, Associate Professor, Educational Leadership and Policy Studies, University of South Florida, St. Petersburg, FL

*Darlene Bruner*, Associate Professor, Educational Leadership and Policy Studies, University of South Florida, Tampa, FL

Presenter: *William Shula*, St. Francis De Sales School, Cincinnati, OH

### 6 C6: Special Education

Location: Toucan

#### School Choice and Vouchers: Issues of Law and Policy

In this presentation, three scholars present papers expressing different views about the value of voucher programs as a strategy for school reform.

*Richard Fossey*, Professor, Department of Teacher Education and Administration, University of North Texas, Denton, TX

*Frank Kemerer*, Professor in Residence, School of Law and School of Leadership and Education Sciences, University of San Diego, CA

*Julie Mead*, Professor, Department of Educational Administration, University of Wisconsin, Madison, WI

Presenter: *W. Les Black*, Carrollton-Farmers Branch ISD, Carrollton, TX

### 7 C7: Specialized Topics

Location: Rousseau Center

#### Assessing the Nature of School Law in Public Administrative Practice:

##### A Nationwide Study

What percent of a school leader's time nationwide is spent on school law? A nationwide study examines the nature and role of school law in public school administration.

*Vivian Hopp Gordon*, Assistant Professor, Graduate School of Education, Educational Leadership Department, Loyola University Chicago, IL; Special Education Hearing Officer for the State of Illinois

##### Legal Update and Overview for K-12 Administrators

This interactive presentation discusses "hot" legal topics from the past year. The presenters, a public school principal, a professor of school law, and an attorney, each offer a unique perspective. Attendees are encouraged to raise questions and actively participate in the discussion.

*Allan Osborne*, Principal, Snug Harbor School, Quincy Public Schools, Quincy, MA

*Brad Colwell*, Professor and Chairman, Department of Educational Administration and Higher Education, Southern Illinois University, Carbondale, IL

*Brian D. Schwartz*, General Counsel, Illinois Principals Association, Springfield, IL

### 8 C8: Technology

Location: Rousseau West

#### School Regulation of Student Internet Speech

This presentation presents recent developments in the area of public school regulation of student speech/publication in the electronic media, with emphasis on hypertext and hypermedia.

*Thomas J. Graca*, Assistant Professor, Educational Leadership and Policy, University of Texas, Arlington, TX

#### School Administrators and Online Student Speech

This presentation addresses understanding how to effectively address the challenges presented by student blogs from a practical and legal perspective.

*Jon Anderson*, Attorney, Godfrey & Kahn S.C., Madison, WI

Presenter: *Richard L. Mann*, State Counsel OASSA, Columbus, OH

## Role-Alike Luncheon

Friday, November 16th, 12:50 P.M. - 1:40 P.M.

Location: (Board Room East & West, & Toucan)

No cost for registrants. Tickets available for guests.

Select your bagged lunch, and join your constituency group for relevant discussion on current topics.

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# PROFESSIONAL INTERPRETING ENTERPRISE

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- Partnerships – collaboration in order to advance the field of sign language interpreting; support the rights of Deaf, deaf/blind, hard of hearing, and hearing persons; and promote educational opportunities for the community.
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## Second General Session

Friday, November 16th, 1:50 P.M. - 2:50 P.M.

### Diversity, Pluralism, and Student Assignment Plans

Friday, November 16, 2007

1:50 P.M. - 2:50 P.M.

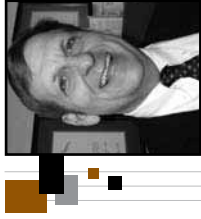
 **location: Kon Tiki Ballroom**

This general session features a discussion of the United States Supreme Court decision in *Parents Involved in Community Schools v. Seattle Public School District No. 1 and Meredith v. Jefferson County Public Schools* with focus on the plurality opinion of Justice John Roberts, the dissenting opinion of Justice Steven Breyer, and the concurring opinion of Justice Anthony Kennedy. The speakers, Philip T.K. Daniel and William E. Thro, will deliberate upon the reasoning of the case and the potential impact on education institutions.



**Philip T.K. Daniel**

William and Marie Flesher Professor  
of Educational Administration  
Adjunct Professor of Law  
The Ohio State University  
Columbus, OH



**William E. Thro**

State Solicitor General  
Commonwealth of Virginia  
Richmond, VA

## Second General Session Presenters:

### Philip T.K. Daniel

Philip T.K. Daniel is the William Ray and Marie Adamson Flesher Professor of Educational Administration and adjunct professor of Law at The Ohio State University. His research focuses on legal research techniques, school law, higher education law, and special education law. At Ohio State he received the university's highest honor for faculty, the Alumni Award for Distinguished Teaching, in 1993 and was subsequently inducted into the university's Academy of Distinguished Teaching. He was president of the Education Law Association in 2004, a member of the ELA Board of Directors from 1999-2005, and the 2006 ELA McGhehey Award winner. Daniel is the author of numerous refereed articles, law review articles, book chapters, monographs, and reports and is co-author of the books, *Law and Public Education*, *Education Law and the Public Schools: A Compendium*, and the upcoming, *Law, Policy and Higher Education*. He is a member on the Editorial Advisory Committee of West's *Education Law Reporter* and is on the editorial boards of the Brigham Young University *Journal of Law and Education*, the *Journal of Education and Urban Society*, and the *Journal of the South African Society for Education*. He earned his doctorate in education from the University of Illinois, Urbana, and his J.D. from Northern Illinois University, with further study at the Catholic University School of Law. Dr. Daniel did post doctoral work in higher education administration as an American Council on Education (A.C.E.) fellow at Washington University in St. Louis.

### William E. Thro

As the State Solicitor General of Virginia, William E. Thro is responsible for the Virginia State Government's U.S. Supreme Court litigation (except capital cases) as well as lower court appeals involving a constitutional challenge to a statute or involving a politically sensitive issue. He received a National Association of Attorneys General Best Brief Award for the 2003 Supreme Court Term. As a practitioner of education law, he served as General Counsel for Christopher Newport University, Interim General Counsel for Old Dominion University, and as litigation counsel for Colorado State University and the Colorado Department of Education. As a scholar of education law, he has authored or co-authored numerous book chapters, monographs, law review articles, and magazine columns discussing school finance litigation, sovereign immunity, federalism, racial preferences, and Title IX. He serves as Chair of the Editorial Board of the *Journal of College & University Law*; on the Editorial Advisory Committee of the *Education Law Reporter*, on the Editorial Board of the *Encyclopedia of Education Law*, and as a contributing author to the *Yearbook of Education Law*. In recognition of his contributions to higher education law, he was made a Fellow of the National Association of College and University Attorneys in 2007. Mr. Thro, who was a Harry S. Truman Scholar and a Rotary Foundation Ambassadorial Scholar, received his B.A. *Summa Cum Laude* from Hanover College and his M.A. *with Honors* from the University of Melbourne, Australia. His J.D. is from the University of Virginia School of Law.

## New Attendee Discussion

Friday, November 16th, 3:00 P.M. - 4:00 P.M.

 **location: Board Room East & West**

Come meet the ELA Board and staff. Share your thoughts and ideas.

## EDUCATION AND LAW JOURNAL



The Brigham Young University *Education and Law Journal* congratulates the Education Law Association on its years of service to the educational community and invites submissions on issues of importance, especially dealing with equity and fairness in public education.

Please visit our website at <http://www.law2.byu.edu/jel/> for more information.

### Concurrent Topic Sessions D

Saturday, November 17th, 9:10 A.M. - 10:00 A.M.

#### ① D1: Equal Protection/Civil Rights/Due Process

location: Rousseau East

##### Capturing Racial Equal Educational Opportunity in School Finance Litigation

This presentation analyzes the legal and policy implications of Proposal 2, a constitutional amendment that bans racial preferences in university admissions, on K-12 education.

*Preston Green*, Associate Professor, Educational Policy Studies Department, Penn State University, University Park, PA

*Bruce Baker*, Associate Professor, Educational Leadership and Policy Studies, University of Kansas, Lawrence, KS

Presenter: *Terry Rowles*, Arizona School Board Association, Phoenix, AZ

#### ② D2: First Amendment—Religion

location: Rousseau West

##### Religion and Education Law Materials

How are high school science teachers approaching evolution, creationism, and intelligent design? This presentation discusses the answers by 1,000 college students in a recent survey.

*Kristi L. Bowman*, Assistant Professor, Michigan State University College of Law, East Lansing, MI

Presenter: *Lois Berlin*, Falls Church City Public Schools, Falls Church, VA

#### ③ D3: First Amendment—Speech

location: Cockatoo

##### The Long and the Short of the Public School's Disciplinary Arm: Will *Morse v. Frederick* Make a Difference?

This presentation reviews court decisions purported to guide K-12 public schools in the limits of disciplining students for off-campus speech. Cases examined will range from *Beussink to Frederick v. Morse*.

*Kathleen Conn*, Department of Graduate Education, Neumann College, Aston, PA

Presenter: *Joan Fertlazzò*, Prince William County Public Schools, Manassas, VA

#### ④ D4: Fourth Amendment

location: Toucan

##### State Statutes and Fourth Amendment Jurisprudence Regarding School Resources Officers

This presentation covers the state statutes and case law that govern the functions of school resource officers in public schools. Among the issues covered are their roles in search and seizure, in questioning students, and to what extent they can have access to student records.

*Jennifer Sughrue*, Associate Professor, Educational Leadership, Florida Atlantic University, Boca Raton, FL

*David Alexander*, Chair, Professor, Educational Leadership and Policy Studies, Virginia Tech, Blacksburg, VA

*Mark Lineburg*, Principal, Radford High School, Radford, VA

*Venitta McCall*, Chair, Professor, Department of Education, University of Mary Washington, Fredericksburg, VA

Presenter: *Pamela Brown*, Prince William County Public Schools, Manassas, VA

#### ⑤ D5: Higher Education Law/Policy/Issues

location: Macaw

##### The Law of Defamation in the Context of Higher Education

This presentation explores defamation claims against universities, faculty, and staff, analyzing in detail the controversy surrounding the book *Freakonomics*, and extrapolates suggestions for insulation from liability.

*Kerry Brian Melear*, Assistant Professor, University of Mississippi, Oxford, MS

*Joseph C. Beckham*, Allan Tucker Professor, Educational Leadership and Policy Studies, Florida State University, Tallahassee, FL

Presenter: *Anne Segal*, New Mexico State University, Las Cruces, NM

#### ⑥ D6: School Finance

location: Board Room East

##### Texas' Constitutional Crisis: School Finance in *Neeley v. West Orange-Cove Consol. I.S.D.*

This presentation provides an overview of this recent landmark ruling in Texas school finance litigation with a focus on issues of taxation, educational adequacy, and constitutional challenges.

*Luke M. Cornelius*, Assistant Professor, Department of Educational Leadership and Professional Studies, University of West Georgia, Carrollton, GA

*Alvin J. Schilling*, Attorney and Consultant to Florida law firms, Gainesville, FL  
 Presenter: *R. Craig Wood*, University of Florida, Gainesville, FL

**D7: School Reform**

location: Board Room West

**Education Law Association: New Approaches**

This presentation teaches how to increase diversity and success of students along the educational pipeline, P20, preschool to the profession. Bring your experience to contribute as well to this interactive presentation.

*Sarah E. Redfield*, Visiting Professor of Law, University of the Pacific, McGeorge School of Law, Sacramento, CA

*Brett G. Scharffs*, Professor of Law, J. Reuben Clark Law School at Brigham Young University, Provo, UT

**No Child Left Behind Act Legal Challenges Update**

This presentation provides an update on the legal challenges to the No Child Left Behind Act and the implications of these decisions in the field of education.

*Regina R. Umpstead*, Ph.D. Candidate, Educational Policy, Michigan State University, East Lansing, MI

Presider: *Kathy Crume*, Academy School District No. 20, Colorado Springs, CO

**Concurrent Topic Sessions E**

Saturday, November 17th, 10:10 A.M. – 11:20 A.M.

**E1: Equal Protection/Civil Rights/Due Process**

location: Toucan

**Why Equal Access Matters: A Discussion with Help from Thuydides, U2, and Stephen Breyer**

Thoughts from ancient and modern intellectuals and pop culture will provoke discussion about our democracy's dependence upon equal access to great teaching.

*Rich Haglund*, General Counsel, Tennessee State Board of Education, Nashville, TN

**An Analysis of *Parents Involved in Community Schools v. Seattle School District No. 1 et al.*: Implications for Racial Assignment Policies in Schools**

This presentation examines the consequences of the Supreme Court decision in *Meredith v. Jefferson County Board of Education* and *Community Schools v. Seattle School District No. 1*.

*Stephen J. Caldas*, Professor, Foundations, Leadership, & Policy Studies, Hofstra University, Hempstead, NY

*Valerie S. Caldas*, Student, John Hopkins University

**Affirmative Action Revisited**

The presentation examines affirmative action in view of *Parents Involved in Community Schools v. Seattle School District No. 1 (2007)*, race based school assignment plans.

*James Van Patten*, Adjunct, Department of Teacher Education, Florida Atlantic University, Boca Raton, FL; Emeritus, Educational Leadership, University of Arkansas, Fayetteville, AR

Presider: *Andrew Broy*, State of Georgia Charter Schools, Atlanta, GA

**E2: First Amendment–Speech**

location: Board Room West

**Students' Use of Online Social Networks: Freedom of Speech Versus Discipline**

This presentation explores the tensions between the obligation of schools to maintain order on their premises and protect their students and the First Amendment rights of students in connection with their on-campus and off-campus use of online social networks such as MySpace and Facebook.

*Wendy Beeststone*, Attorney, Hangley, Aronchick, Segal, & Pudlin, Philadelphia, PA

Presider: *Kathleen Conn*, Neumann College, Aston, PA

**E3: K-12 Policy and Administration**

location: Cockatoo

**No Child Left Behind and Education for Homeless Children and Youth: A Look at the McKinney-Vento Homeless Education Assistance Act**

Hurricane Katrina showed no community is immune to homelessness. This presentation provides an overview of McKinney-Vento Homeless Education Assistance Improvements Act mandating educational rights for homeless children under NCLB.

*Lynn Brown*, Coordinator of Enrollment and Attendance Compliance, Department of Reporting and Regulatory Accountability, Montgomery County Public Schools, Germantown, MD

**FERPA Update 2007**

This presentation provides an update on the student records law, with a focus on new court decisions on issues such as student pregnancy, student drug use, and employee discipline.

*Lynn M. Daggett*, Professor of Law, Gonzaga Law School, Spokane, WA

**Undocumented and Legal Immigrants Language Rights: English Language Learners in the School Setting**

In this presentation, participants will learn about the rights of immigrants and their children in the school setting and what rights ELL students have to be educated in the schools. This is a topic of increasing importance to all who are involved in education.

*Carole A. de Casal*, Associate Dean; Director of Teacher Education Programs, University of Colorado, Colorado Springs, CO

*Patricia Mulligan*, Professor, California Polytechnic State University, San Luis Obispo, CA

Presider: *Kathy Crume*, Academy School District No. 20, Colorado Springs, CO

**🕒 E4: School Finance****📍 Location: Rousseau East****Deciding Who Decides Questions at the Intersection of School Finance Reform Litigation and Standards-based Accountability Policies**

This presentation analyzes how courts in two school finance cases addressed standards-based accountability policies and how these courts re-allocated decision-making authority among different governmental branches.

*Benjamin M. Superfine*, Assistant Professor, Policy Studies, College of Education, University of Illinois, Chicago, IL

**Flores, Proposition 203, and English Language Learners in Arizona**

This presentation addresses legal and fiscal issues involving English Language Learners (ELLs) in Arizona including *Flores v. Arizona* (1992) and Proposition 202 (2000) barring bi-lingual education programs.

*Stephen B. Lawton*, Professor, College of Teacher Education and Leadership, Arizona State University, AZ

Presenter: *Spencer Weiler*, University of Northern Colorado, Greeley, CO

**🕒 E5: Technology****📍 Location: Rousseau West****Teaching Education Law Online in an Era of Accountability**

This presentation addresses educational administration accreditation standards along with online teaching strategies that produce outcome measures in education law courses that address them.

*Ken Lane*, Coordinator of Doctoral Programs, Southeastern Louisiana University, Hammond, LA

*Kermit Buckner*, Professor, Educational Leadership, East Carolina University, Greenville, NC

Presenter: *L. Dean Webb*, Arizona State University Tempe, AZ

**🕒 E6: School Safety/Student Discipline****📍 Location: Board Room East****The Social Inclusion Approach: An Alternative to Peer Mediation Programs to Combat Bullying in Our Schools**

Any solution to school bullying must involve parents, schools, and the students themselves. This presentation examines the current legislative responses to school bullying and introduces the “Social Inclusion” approach to dealing with teasing and bullying in our schools.

*Leah Christensen*, Assistant Professor of Law, University of St. Thomas School of Law, Minneapolis, MN

**Holding Schools Accountable When Children Bully Children**

This presentation proposes ways to eliminate the current disconnect between what we know about bullying and what we require schools to do about it.

*Daniel B. Weddle*, Clinical Professor; Director of Academic Support, University of Missouri-Kansas City School of Law, Kansas City, KS

Presenter: *Todd Sorensen*, Williams, Kastner, & Gibbs, PLLC, Seattle, WA

**🕒 E7: Special Education****📍 Location: Macaw****Response to Intervention: Reality After One Year**

This presentation provides an overview of RTI and how it connects NCLB and IDEA followed by identification of current and potential legal issues.

*Kelly Arnberger*, Principal, Beloit Junior/Senior High School, Beloit, KS

**A Study of Selected Virginia Principals’ Knowledge of Special Education Law**

Principals scored 57% or less in three areas of special education law: Free and Appropriate Public Education; Individualized Education Plans (IEP) and Related Services.

*Donna Power*, Principal, Lee-Jackson Elementary School, Mathews, VA

**The Implications of Scientifically Based Research (SBR) and Peer-Reviewed Research (PRR) for Special Education Litigation**

This presentation provides a systematic analysis of “scientifically based research” and “peer-reviewed research” in the Individuals with Disabilities Education Act culminating in a discussion of the implications for special education litigation.

*Perry A. Zivkel*, Professor of Education and Law, Lehigh University, Bethlehem, PA

*Tessie Rose*, Assistant Professor of Special Education, University of Nevada, Las Vegas, NV

Presenter: *Christopher Borreca*, Bracewell & Giuliani, LLP, Houston, TX

**Concurrent Topic Sessions F**

Saturday, November 17th, 11:30 A.M. - 12:20 P.M.

**🕒 F1: Equal Protection/Civil Rights/Due Process****📍 Location: Toucan****Racial Balancing in K-12 Student Assignment Plans: How to Proceed Whether Constitutional or Unconstitutional**

This presentation examines school assignment plans based on racial balancing in light of Supreme Court decisions involving affirmative action and desegregation and suggests ways to continue diversity goals at the K-12 level whether such plans are found to be constitutional or unconstitutional.

*Philip T.K. Daniel*, William and Marie Flesher Professor of Educational Administration; Adjunct Professor of Law, The Ohio State University, Columbus, OH

*Patrick D. Pauken*, Associate Professor, Educational Administration and Leadership Studies, Bowling Green State University, Bowling Green, OH

Presenter: *Edwin C. Darden*, Applesseed, Washington, DC

**2 F2: Fourth Amendment** location: Macaw**Search and Seizure in Public Schools: 2007 Update of Fourth Amendment Cases**

This presentation provides an update of recent search and seizure cases in schools as determined under the Fourth Amendment to the United States Constitution. The presentation focuses primarily on students' and school personnel's rights in public (K-12) schools.

*Lawrence Rossow*, Professor of Education; Adjunct Professor of Law, University of Oklahoma, Norman, OK

*Jacqueline A. Stefkovich*, Professor of School Law; Head of the Department of Education Policy Studies, The Pennsylvania State University, University Park, PA

Presenter: *Paul Novak*, Saginaw Valley State University, Saginaw, MI

**3 F3: K-12 Policy and Administration** location: Board Room West**Can They Make My Child Cross-Dress? The Meyer-Pierce Right in the 21st Century**

This presentation reviews recent judicial opinions deciding between state interests in educating children and parental rights to raise their children according to their own consciences.

*B. Glen Epley*, Professor & Chair, Department of Teacher Education, Stetson University, DeLand, Florida

Presenter: *Marilyn Korostoff*, California State University, Long Beach, CA

**4 F4: Technology** location: Rousseau West**Student Off-Campus Misconduct Involving Technology and the Internet: An Update**

This presentation provides an update on recent cases, legislation, legal issues, and principles on student off-campus misconduct involving the use of technology and the Internet.

*Michael S. Tan*, Associate Professor of Education, William Woods University, Fulton, MO

Presenter: *J. Patrick Mahon*, Retired Educational Administrator, Georgia State University & University of Georgia

**5 F5: Specialized Topics** location: Board Room East**Constitutional, Statutory, and Privacy Claims in Universities and Schools**

This presentation explores constitutional, statutory, and common law privacy claims involving schools, universities, employees, and students.

*Dave Dagley*, Attorney; Professor, University of Alabama, Tuscaloosa, AL

*Edwin Nichols*, Assistant Superintendent, Decatur City Schools, Decatur, AL

*Lawrence Lee Oldaker*, Professor Emeritus, University of Alaska, Juneau, AK

Presenter: *Gregory Hughey*, Prescott College, Tucson, AZ

**6 F6: Tort Law** location: Cockatoo**School Shootings and Student Wrongful Death Actions: Who Pays?**

This presentation examines litigation brought by families who lost children in school shootings and suggests some lessons that schools and their attorneys might learn about accountability and private litigation as a means of promoting reform.

*Chuck Vergon*, Attorney & Professor, Educational Leadership, Youngstown State University, Youngstown, OH

Presenter: *L. Dean Webb*, Arizona State University Tempe, AZ

**Concurrent Topic Sessions G**

Saturday, November 17th, 12:30 P.M. - 1:20 P.M.

**1 G1: Equal Protection/Civil Rights/Due Process** location: Macaw**Retaliation Lawsuits in Public Schools: What Impact Will the Jackson v. Birmingham have on School Personnel?**

This presentation explores what impact the *Jackson v. Birmingham* decision has had on retaliation cases in public schools and in other civil rights cases.

*Suzanne Eches*, Assistant Professor, Educational Leadership and Policy Studies, Indiana University, Bloomington, IN

*David Thompson*, Professor, Educational Leadership and Policy Studies, University of Texas, San Antonio, TX

**Establishing Boundaries to Avoid Sexual Harassment in Schools**

This presentation presents issues of sexual harassment in schools by school staff toward students, students toward students, and students toward school staff. A review of important recent cases is presented along with recommendations for establishing and communicating boundaries regarding relationships in schools in order to protect students and staff and to reduce the likelihood of litigation.

*Edward F. Dragan*, Founder/Principal Consultant, Education Management Consulting LLC, Lambertville, NJ

Presenter: *Julie Mead*, University of Wisconsin, Madison, WI

**2 G2: First Amendment—Speech** location: Toucan**First Amendment Update for Public School Students**

This presentation, in an interactive format, presents scenarios which relate to recent student free speech cases involving literature distribution, speech on and off campus, Confederate flags, web-blogs and cyberbullying.

*Lynn Rossi Scott*, Director, Brackett & Ellis, Fort Worth, TX

Presenter: *Allan Osborne*, Snug Harbor School, Quincy Public Schools, Quincy, MA

**3 G3: Fourth Amendment Student Misuse of Electronic Devices: Fourth Amendment Issues and Expectations of Privacy**

School searches of students' personal electronic devices may violate Fourth Amendment protections and expectations of privacy. This presentation discusses policy implications and guidelines for practice.

*Kay Hartwell Hunnicutt*, Associate Professor, Arizona State University, Phoenix, AZ  
*A. Denise Birdwell*, Assistant Superintendent, Dysart Unified School District, El Mirage, AZ

Presenter: *Darrell Garber*, Tennessee Tech University, Cookeville, TN

**4 G4: Higher Education Law/Policy/Issues**

**Higher Education Law Curriculum: Two Modest Proposals**

This presentation explores the use of humor for enhancing student engagement in higher education law coursework and a curriculum modification that equips educational leaders with tools for making wise use of legal resources.

*Gerald C. Kops*, Professor, Educational Leadership Department; Program Coordinator, Higher Education Leadership Program, University of Nevada Las Vegas, NV

Presenter: *Vivica Smith Pierre*, University of Lafayette, Lafayette, LA

**5 G5: School Safety/Student Discipline**

**Open or Closed Campus: The Duty of Public Schools in Protecting Students from Unreasonable Risk**  
 Should a public school campus be open or closed during lunch periods? This presentation examines issues surrounding this question through an incident that occurred in a large urban school district.

*Carrie Ausbrooks*, Associate Professor, Educational Leadership and Policy Studies, University of Texas, Arlington, TX

**School Discipline and Juvenile Law**

This presentation encompasses current case and federal law for students with and without disabilities in the area of discipline, including best practices for promoting a safe learning environment. Information sharing between the juvenile court and educators can be difficult because of confidentiality concerns, and this presentation will discuss ways to share information without violating a student's rights.

*Jennifer Riedthaler*, Assistant Prosecuting Attorney, Lorain County Prosecutor's Office, Elyria, OH  
*Valerie Riedthaler*, Director of Special Education for the Norton City School District, Norton, Ohio

Presenter: *Patrick D. Pauken*, Bowling Green State University, Bowling Green, OH

**6 G6: Special Education**

**The Rights of Special Needs Students – A South African Education Perspective**  
 This presentation uses data from a research project to critically reflect on the rights of learners with special education needs from legal and financial perspectives.

*Jean W. van Rooyen*, Executive Manager, Inter-university Centre for Education Law, Education Leadership and Education Policy; Lecturer, Department of Education Management and Policy Studies, University of Pretoria, South Africa

**Making General Education Special: The Federal Education Revolution**  
 Weaving discussions of IDEA 2004, NCLB, and the new federal regulations, this presentation discusses how these legal and educational trends impact the implementation of both general and special education.

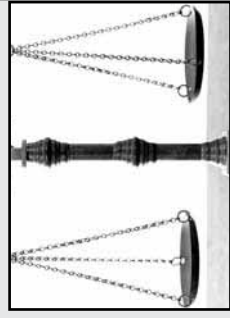
*Howard Fulfrost*, Partner, Fagen Friedman & Fulfrost LLP, Los Angeles, CA  
 Presenter: *Moon K. Chang*, Alabama State University, Montgomery, AL

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2	School Governance	7	Sports
3	Students	8	Higher Education
4	Bargaining	9	Students in Higher Education
5	Students with Disabilities	10	Federal and State Legislation



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## Special Meetings

### *Board of Directors*

- Wednesday, November 14th  
2:00 P.M. - 5:00 P.M.  
✘ location: Board Room East
- Saturday, November 17th  
1:30 P.M. - 3:30 P.M.  
✘ location: Board Room East

### *School Law Reporter Committee*

- Thursday, November 15th  
12:00 P.M. - 12:45 P.M.  
✘ location: Board Room East

### *2008 Conference Program Meeting*

- Thursday, November 15th  
12:45 P.M. - 1:30 P.M.  
✘ location: Board Room East

## ELA Past Presidents

*Titles reflect the positions held at the time of the past presidents' terms.*

1955-56	<i>Madaline Kinter Remmlin</i> , Assistant Director, Research Division, National Education Association (Deceased)	1973	<i>Roger M. Shaw</i> , Professor of Education, Kent State University (Deceased)	1987	<i>D. Parker Young</i> , Professor of Higher Education, Institute of Higher Education, University of Georgia-Athens	1997	<i>Richard Dickinson</i> , General Counsel, Ohio School Boards Association, Columbus, Ohio
1957	<i>Eugene S. Lawler</i> , Professor of Education, Florida State University (Deceased)	1974	<i>Robert E. Phay</i> , Kenan Professor of Public Law and Director of Principals' Executive Program, University of North Carolina-Chapel Hill	1988	<i>William C. Bednar, Jr.</i> , Attorney at Law, Eskew, Muir & Bednar, Austin, Texas	1998	<i>Jeffrey J. Horner</i> , Attorney at Law, Bracewell & Patterson, LLP, Houston, Texas
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## M.A. McGhehey Award

The Education Law Association presents the M.A. McGhehey Award each year in recognition of outstanding service in the field of education law and to the Education Law Association. The award is presented at the Annual Conference.

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The Joseph C. Beckham Dissertation of the Year Award recognizes exemplary dissertations by doctoral students in the field of education law. To be eligible, the dissertation must be defended or a degree must be awarded between August 1, 2007 – July 31 of the award year.

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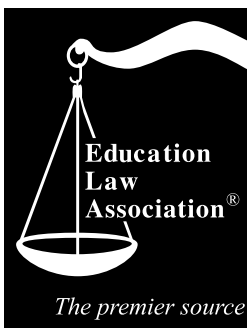
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- Jefferson Law Book Company for generously co-sponsoring the Thursday evening Welcome Reception in memory of George Jay Joseph.
- Bracewell & Giuliani for their continued support of ELA and for co-sponsoring the Business/Awards Breakfast.



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