

Education Law Association

- Est. 1954 - *The premier source of information on education law*



Louisville

2009 ELA 55th Annual Conference

The Brown Hotel | Louisville, KY
October 21-24, 2009

Conference Chairs:

John W. Borkowski, Lois Berlin,
& Patrick Pauken

“Education Law in a Time of Change: Federal, State, and Local Policy”

The Education Law Association (ELA)

Serving three divergent constituency groups from across the country:
attorneys, professors, and school administrators

Established in 1954, with one common goal:

To stay informed and up-to-date on laws that are shaping our educational future

This four-day event provides a forum to discuss current education law issues with experts from around the world. The format is designed to stimulate dialogue among educational and legal scholars and practitioners to inform and advance educational policy and practice through knowledge of the law.



300 College Park | Dayton, OH 45469-0528 | p: (937) 229-3589 | f: (937) 229-3845
ela@educationlaw.org | www.educationlaw.org

2009 Conference Schedule

Wednesday, October 21st

8:00 A.M.	- 5:00 P.M.	Registration
9:00 A.M.	- 11:45 A.M.	General Preconference Sessions I - II (p. 6)
9:00 A.M.	- 4:00 P.M.	Indiana & Illinois Preconference Sessions (p. 7-8)
1:00 P.M.	- 4:00 P.M.	Board of Directors Meeting
1:15 P.M.	- 4:00 P.M.	General Preconference Sessions III - IV (p. 6)
5:00 P.M.	- 6:15 P.M.	Early Arrival Reception (p. 9)
6:30 P.M.	- 9:00 P.M.	Kentucky Symposium: <i>Rose</i> at 20* (p. 9)

Thursday, October 22nd

7:30 A.M.	- 5:00 P.M.	Registration
7:30 A.M.	- 8:00 A.M.	New Attendees' Pre-Breakfast (p. 10)
8:00 A.M.	- 9:15 A.M.	Conference Kick-Off Welcome Breakfast* (p. 10)
9:20 A.M.	- 10:30 A.M.	Topic Session A (select from 1 of 5 sessions) (p. 10-12)
10:40 A.M.	- 11:50 A.M.	Topic Session B (select from 1 of 5 sessions) (p. 12-15)
12:00 P.M.	- 1:00 P.M.	Lunch on own
1:00 P.M.	- 2:10 P.M.	Topic Session C (select from 1 of 5 sessions) (p. 15-17)
2:20 P.M.	- 3:30 P.M.	Topic Session D (select from 1 of 5 sessions) (p. 18-20)
4:00 P.M.	- 5:30 P.M.	1st General Session (p. 21)
5:45 P.M.	- 6:45 P.M.	ELA Welcome Reception* (p. 21)

Friday, October 23rd

7:30 A.M.	- 4:30 P.M.	Registration
8:00 A.M.	- 9:10 A.M.	Topic Session E (select from 1 of 5 sessions) (p. 22-23)
9:20 A.M.	- 10:30 A.M.	Topic Session F (select from 1 of 5 sessions) (p. 24-25)
10:40 A.M.	- 11:50 A.M.	Topic Session G (select from 1 of 5 sessions) (p. 26-28)
12:00 P.M.	- 1:00 P.M.	Role-Alike Luncheon* (p. 28)
1:10 P.M.	- 2:20 P.M.	Topic Session H (select from 1 of 5 sessions) (p. 28-30)
2:30 P.M.	- 4:00 P.M.	2nd General Session (p. 31)
4:15 P.M.	- 4:45 P.M.	New Attendee Review/Reception (p. 31)

Saturday, October 24th

7:30 A.M.	- 1:30 P.M.	Registration
7:30 A.M.	- 8:15 A.M.	Committee Meetings (p. 39)
8:30 A.M.	- 9:45 A.M.	3rd General Session: Sup. Ct. Update (p. 32)
9:55 A.M.	- 11:05 A.M.	Topic Session I (select from 1 of 5 sessions) (p. 33-34)
11:15 A.M.	- 12:25 P.M.	Topic Session J (select from 1 of 5 sessions) (p. 34-36)
12:25 P.M.	- 1:20 P.M.	Lunch on own
1:20 P.M.	- 2:30 P.M.	Topic Session K (select from 1 of 4 sessions) (p. 36-37)
2:40 P.M.	- 3:50 P.M.	Topic Session L (select from 1 of 4 sessions) (p. 38)
2:00 P.M.	- 2:30 P.M.	Executive & New Board Members Meeting
2:40 P.M.	- 4:00 P.M.	Full Member Board of Directors Meeting

**All attendees welcome. No additional cost.*

Table of Contents

2009 ELA Annual Conference Schedule	2
2010 and 2011 ELA Annual Conferences	4
General Sessions	5
General Preconference Seminars	6
Illinois Preconference Seminar	7
Indiana Preconference Seminar	8
Early Arrival Reception	9
University of Kentucky Symposium	9
Conference Kick-Off Welcome Breakfast	10
Board Elections	10
Concurrent Topic Sessions A, B, C, D	10-20
First General Session	21
Welcome Reception	21
Concurrent Topic Sessions E, F, G, H	22-30
Role-Alike Luncheon	28
Second General Session	31
New Attendee Review/Reception	31
Third General Session	32
Concurrent Topic Sessions I, J, K, L	33-38
Committee Meetings	39
2009 Committee Chairs	39
2009 ELA Officers	40
ELA Past Presidents	41-42
ELA Executive Directors	42
ELA Awards	43
SLR Reporters	44
Index: Topics	45
2008 Exhibitors, Sponsors, & Advertisers	46
Index: Presenters	47

Meet the New ELA Executive Director



Cate K. Smith, J.D.

Cate earned her bachelor's degree in Sport Management, with a concentration in Information, Marketing, and Promotions, from Bowling Green State University in 1991. She received her juris doctorate from Cleveland-Marshall College of Law in 1995. She has been married to Kristian Smith, a certified executive chef and culinary instructor, for almost 15 years. They love to travel and are just as happy in a tent on a mountain as at a resort on the beach, and they also enjoy classic car cruise-ins.



2010 ELA 56th Annual Conference

2010



The Fairmont Hotel | Vancouver, Canada | November 10-13



At the very heart of Vancouver is The Fairmont Hotel Vancouver. Like the city that surrounds it, it is rich in history, resplendent in natural beauty, vibrant and cosmopolitan. Within its walls you will find the luxurious Absolute Spa, an exclusive Fairmont Gold floor, a state-of-the-art health club, award-winning restaurants and an array of designer shops in downtown Vancouver.

— Future ELA Conferences —

2011 ELA 57th Annual Conference

2011



Westin River North | Chicago, Illinois | November 9-12



The Westin Chicago River North is a retreat offering a full spectrum of services that provide everything from tranquility to rejuvenation. This remarkable hotel redefines efficient service with a gracious attitude that ensures a truly unforgettable experience.

First General Session

Millennials and the Americans with Disabilities Act in Higher Education

Thursday, October 22, 2009
4:00 P.M. - 5:30 P.M.

► **location:** Crystal Ballroom
See page 21



Laura Rothstein, J.D.
Professor of Law
& Distinguished University
Scholar;
Louis D. Brandeis
School of Law;
University of Louisville;
Louisville, Kentucky

Second General Session

Reforming Education with the American Recovery and Reinvestment Act

Friday, October 23, 2009
2:30 P.M. - 4:00 P.M.

► **location:** Crystal Ballroom
See page 31



Charles P. Rose, J.D.
General Counsel ;
U.S. Department of Educa-
tion;
Washington, D.C.

Third General Session

Supreme Court Update

Saturday, October 24, 2009
8:30 A.M. - 9:45 A.M.

► **location:** Crystal Ballroom
See page 32



Christopher P. Borreca, J.D.
ELA Immediate Past President;
Founding Partner
Thompson & Horton, LLP
Houston, Texas



Perry Zirkel, J.D., Ph.D.
Professor
Lehigh University
Bethlehem, Pennsylvania

General ELA Preconference Seminars

Morning Sessions: Wednesday, October 21, 2009 | 9:00 A.M. - 11:45 A.M.

I. Update on Cyberbullying Case Law and Legislation

► **location:** Citation A

Cyberbullying, cyberharassment, and cyberthreats are negatively affecting K-12 educational environments. This session will update participants on the recent court decisions and ongoing statutory efforts to curb these problems, and to explore legal theories that schools may employ to deal with the issues.

Kathleen Conn, Ph.D., J.D., L.L.M.: Education Department, Neumann College, Aston, PA

Fred Hartmeister, Ed.D., J.D.: Dean of the Graduate School, Texas Tech University, Lubbock, TX

II. Special Education

► **location:** Citation B

Hear from two veteran special education experts as they discuss special education law in a time of change.

Susan C. Bon, Ph.D., J.D.: Associate Professor, Educational Leadership, George Mason University, Fairfax, VA

Susan G. Clark, Ph.D., J.D.: Professor of Educational Administration, University of Akron, Akron, OH

Afternoon Sessions: Wednesday, October 21, 2009 | 1:15 P.M. - 4:00 P.M.

III. Teaching the Law of Education

► **location:** Citation A

This session will comprise a group discussion of the techniques, approaches, attitudes, and materials conducive to productively teaching and grading the Law of Education.

Fernand N. Dufile, J.D.: Professor of Law, The Law School, University of Notre Dame, Notre Dame, IN

IV. Legal and Educational Ethics in a Time of Change

► **location:** Citation B

This session will engage lawyers, educators, and school leaders in a discussion of the current ethics topics and issues facing professionals in education law. Through case studies and interactive discussion, the presenters will update attendees on recent judicial and statutory developments in several areas of education law, including speech, religion, privacy, technology, intellectual property, NCLB, the regulation of ethical conduct, and associated institutional policies.

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

Patricia First, J.D., Ed.D.: Eugene T. Moore Distinguished Professor of Educational Leadership, Clemson University, Clemson, SC

Lynn Rossi Scott, J.D.: Director, Law Firm of Brackett & Ellis PC, Fort Worth, TX

Illinois Preconference Seminar

Wednesday, October 21, 2009 | 9:00 A.M. - 4:00 P.M.

► location: Broadway A

Time	Topic	Presenter
9:00 A.M. - 10:45 A.M.	<p>2009 Illinois Legislative Update</p> <p>Summaries of the education legislation passed by the Illinois State Legislature in 2009, an analysis of the legislation currently on the horizon, and an overview of how stimulus and stabilization funds under the “American Recovery and Reinvestment Act of 2009” (“ARRA”) are being distributed in Illinois</p>	<ul style="list-style-type: none"> ▪ Erika Lindley: Executive Director, ED-RED Education Research Development ▪ Jacqueline Wernz: Franczek, Radelet P.C.
11:00 A.M. - 12:00 P.M.	<p>The Changes in the Rights of the Student</p> <p>Freedom of Speech, the ability to search, and how these and other Federal cases and changes affect your position or practice in Illinois.</p>	<ul style="list-style-type: none"> ▪ Darcy L. Kriha: Franczek Radelet, P.C. ▪ Patricia J. Whitten: Franczek Radelet, P.C.
1:00 P.M. - 1:55 P.M.	<p>What to do When OCR Comes Knocking: OCR’s New Procedures and Opportunities for Resolution</p> <ul style="list-style-type: none"> ▪ OCR’s new compliance manual, procedures and priorities ▪ The evaluation process, resolution opportunities, and best practices for handling OCR complaints 	<ul style="list-style-type: none"> ▪ Adele Rapport: Office of Civil Rights, Department of Education
2:00 P.M. - 3:45 P.M.	<p>Illinois Special Education Update</p> <p>Evaluation and observations, workload plans, parental consent, and other legislative changes and cases affecting special education in Illinois</p>	<ul style="list-style-type: none"> ▪ Darcy L. Kriha: Franczek Radelet, P.C. ▪ Patricia J. Whitten: Franczek Radelet, P.C.

CLE Credit

Attorneys can earn both general and ethics Continuing Legal Education (CLE) credits by attending the 2009 Annual Conference.

Indiana Preconference Seminar

Wednesday, October 21, 2009 | 9:00 A.M. - 4:00 P.M.

► location: J. Graham Brown Suite

Time	Topic	Presenter
9:00 A.M. - 10:15 A.M.	<p>What to do When OCR Comes Knocking: OCR's New Procedures and Opportunities for Resolution</p> <ul style="list-style-type: none"> ▪ OCR's new compliance manual, procedures and priorities ▪ The evaluation process, resolution opportunities, and best practices for handling OCR complaints 	<ul style="list-style-type: none"> ▪ Adele Rapport: Office of Civil Rights ▪ Allison Fetter-Harrott: Baker & Daniels ▪ Amy Stekete: Baker & Daniels
10:30 A.M. - 12:00 P.M.	<p>Persistently Underperforming Schools: Is There a Path to Sustainable Improvement?</p> <ul style="list-style-type: none"> ▪ School Support Teams in Indiana: A Case Study of School Improvement Efforts Led by B&D Consulting ▪ How federal and state laws support and stifle school improvement efforts. 	<ul style="list-style-type: none"> ▪ M. René Islas: B&D Consulting ▪ Theresa Hinkle: B&D Consulting Instructional Leadership Partner
1:00 P.M. - 1:55 P.M.	<p>Education Policy Issues in the State of Indiana</p> <ul style="list-style-type: none"> ▪ Recent legislation ▪ School funding update ▪ Status of <i>Bonner</i> lawsuit and School Finance Litigation in Indiana 	<ul style="list-style-type: none"> ▪ Libby Cierzniak: Baker & Daniels
2:00 P.M. - 2:50 P.M.	<p>A Student Discipline Update</p> <ul style="list-style-type: none"> ▪ Student Searches – drug testing developments, use of law enforcement in student searches ▪ Lessons from <i>Safford</i> and relevant Indiana case law ▪ Recent legislative updates on handling student discipline issues 	<ul style="list-style-type: none"> ▪ Suzanne Eckes: Indiana University ▪ Allison Fetter-Harrott: Baker & Daniels ▪ Amy Stekete: Baker & Daniels
3:05 P.M. - 4:00 P.M.	<p>Legal Developments in Special Education</p>	<ul style="list-style-type: none"> ▪ Mary Jo Dare: B&D Consulting ▪ Edward A. Sullivan, III: Baker & Daniels

Early Arrival Reception

Wednesday, October 21, 2009 | 5:00 P.M. - 6:15 P.M.

► location: Winner's Circle

For those who arrive early, join us for light hors d'oeuvres and casual conversation. *No additional cost for paid registrants.*

University of Kentucky Symposium

Rose at 20: The Past and Future of School Finance Litigation

UK
UNIVERSITY OF
KENTUCKY[®]
COLLEGE OF EDUCATION,
COLLEGE OF LAW,
&
KENTUCKY LAW JOURNAL

Wednesday, October 21, 2009 | 6:30 P.M. - 9:00 P.M.

► location: Secretariat A & B

To mark the 20th anniversary of the *Rose* decision, the University of Kentucky, through its Colleges of Education and Law, are hosting an evening to remember this important case, to reflect on its impact on schools both in Kentucky and in other states, and to contemplate *Rose*-inspired school finance suits in the future. The Kentucky Law Journal has assembled a symposium of nationally recognized school finance scholars to anchor the evening's activities, but also on the program are reflections by both political and educational leaders on the impact of *Rose* and the future of KERA and other school reform measures. Also, the Colleges of Education and Law are pleased to introduce their new Deans at the event.

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.

Conference Kick-Off Welcome Breakfast

Thursday, October 22, 2009 | 8:00 A.M. - 9:15 A.M.

► location: Crystal Ballroom

Kick off the 2009 conference with a delicious breakfast, updates on ELA business, award presentations, and more! New Attendees are encouraged to come early (7:30 A.M.) for a special Pre-Breakfast. *No additional cost for paid registrants—guest tickets are available at the registration desk.*

Board Elections

Thursday, October 22, 2009 | 9:20 A.M. - 12:00 P.M.

► location: ELA Registration Desk

Please mark your voter ballot after the Conference Kick-Off Breakfast. Additional nominations may be made from the floor.

Concurrent Topic Sessions A

Thursday, October 22, 2009 | 9:20 A.M. – 10:30 A.M.

AI: Equal Protection/Civil Rights/Due Process

► location: Secretariat B

The Dream Act for Post-Secondary Illegal Immigrant Students: Is It A Dream Or A Nightmare for the Universities?

The Dream Act, which has been proposed in the Senate again, will allow illegal immigrant students who complete school in the US to attend colleges and universities. At the present time, in most states, this class of students is not allowed to attend post-secondary institutions and are usually reported to the INS for action. The underlying proposition is that these students have spent most of their lives in the US, albeit illegally, and will continue to live in the US, therefore, it is better to have them as part of the educated citizenry than not. The many debates surrounding this proposal, the economic impacts (both negative and positive), the states who allow illegals to attend college at present, and the legislative actions of each of the 50 states will be discussed in this session. Participants will have an opportunity to understand the proposed law, the status of their state, the economic impact, and other relevant issues surrounding the Dream Act.

Carole A. de Casal, Ed.D.: Department Chair and Professor, Tennessee State University, Nashville, TN

Patricia A. Mulligan, Ph.D.: Multiple Subjects Coordinator and Professor, California Polytechnic State University, San Luis Obispo, CA

President: Kerry Brian Melear, Ph.D.: Associate Professor of Higher Education, University of Mississippi, Oxford, MS

A2: School Finance

► location: Broadway B

The Constitutional Text Matters: Reflections on Recent School Finance Cases

This presentation will examine the most recent school finance cases and explore whether there are new trends or continuing trends. It will also attempt to make judgments and predictions about the future of school finance litigation.

William E. Thro, J.D., M.A.: University Counsel & Assistant Professor, Christopher Newport University, Newport News, VA

R. Craig Wood: Professor, University of Florida, Gainesville, FL

President: Scott R. Bauries, J.D.: Assistant Professor, University of Kentucky, Lexington, KY

A3: Special Education

► location: Broadway C

Response to Intervention (RTI): Understanding IDEA Requirements and Application in the Schools

This presentation and paper examines the IDEA regulations regarding Response to Intervention. The presentation and paper also analyze the application of RTI in schools based on current research models. Given this new requirement under IDEA school districts need to comprehensively understand both the regulations and how to create RTI models in their schools. The presentation will allow for engagement of the audience to weigh in their opinions and recommendations for the implementing RTI.

Christine Villani, Ed.D., M.A.: Associate Professor, Southern Connecticut State University, New Haven, CT

Cynthia Mooney, Ph.D.: Educational Consultant, Cleveland, OH

President: Theresa A. Ochoa: Indiana University, Bloomington, IN

A4: Technology

► location: Secretariat A

Technological Advances, Student Expression, and the Authority of School Officials

This presentation includes two parts. The first reviews how school districts have been permitted to regulate student speech. This analysis includes four U.S. Supreme Court decisions that have addressed student speech (Tinker, Bethel, Hazelwood, and Morse) as well as recent efforts to apply the principles found therein to concerns involving computers and access to the Internet. Part two is a quantitative study that seeks to better understand how school districts and school officials have adapted to this legal environment.

Philip T.K. Daniel, J.D., Ed.D.: Professor, The Ohio State University, Columbus, OH

Patrick D. Pauken, J.D., Ph.D.: Associate Professor, Bowling Green State University, Bowling Green, OH

Cybercheating: An Educator's Perspective

This presentation will examine the increasing use of technology by students for academic cheating and “Sexting” (sending of graphic images and pornographic material by cell phone to friends). After a discussion of current student behavior and potential school discipline and criminal felony prosecution, the presentation will focus on possible school policy responses, recommendations for student handbook provisions and recommended communication to parents. Attendee discussion will be encouraged.

Richard L. Mann, J.D.: State Legal Counsel for the Ohio Association of Secondary School Administrators, Columbus, OH

President: T.C. Mattocks, Ed.D.: Associate Professor, Bridgewater State College, Bridgewater, MA

A5: Higher Education Law, Policy, Issues

▶ location: Broadway A

FERPA: Amendments: Updates and Analysis

On December 9, 2008, the Family Policy Compliance Office (FPCO) published the final FERPA regulations in the Federal Register. These regulations, which became effective on January 8, 2009, make numerous changes, confirmations, and clarifications to previous interpretations of FERPA. This presentation would review these changes covering the new two-prong approach to disclosure in the event of a health or safety emergency, the outsourcing exemption, changes to the definition of directory information, alumni record, and in attendance, and the authorization to disclose educational records to the original author.

Lisa C. Williams, J.D.: Senior Associate, Williams Kastner, Seattle, WA

President: Catherine L. Matthews, J.D., Ph.D.: Indiana University, Bloomington, IN

Concurrent Topic Sessions B

Thursday, October 22, 2009 | 10:40 A.M. – 11:50 A.M.

B1: Equal Protection/Civil Rights/Due Process

▶ location: Secretariat A

Students Have Due Process Rights?

The presentation will discuss the due process rights that students have in discipline procedures.

Kimaka Nichols-Graham, J.D.: Attorney, South Carolina Legal Services, Greenville, SC

President: Donald Wattam, Ph.D.: Assistant Professor, University of Idaho, Coeur d'Alene, ID

B2: Equal Protection/Civil Rights/Due Process

► location: Secretariat B

Across the Border and Into the Classroom: Safeguarding the Legal Rights of Immigrant Students and English Language Learners

This presentation will address the legal problems faced by school districts in addressing the needs of immigrant students and English language learners. It will address the legal and practical dilemmas presented by changes in our Nation's public school population.

John W. Borkowski, J.D.: Partner, Hogan & Hartson LLP, South Bend, IN

President: Philip H. Wagner, Ph.D.: Assistant Superintendent, Beachwood City Schools, Beachwood, OH

B3: School Finance | School Reform

► location: Broadway A

Amendment Strike Down and Public Education: Florida Supreme Court Decisions to Remove Amendments 5, 7 and 9 from the General Election Ballot

On September 15, 2008, the Florida Supreme Court rejected two proposals to amend the Florida Constitution. Three amendments were proposed to appear on the November 2008 General Election ballot. Amendment 5 propositioned to replace State required school property taxes with state revenues. Amendment 7 and 9 addressed State statute and public school vouchers. The purpose of this paper is to examine the historical framework that scaffolds the proposed amendments, possible outcomes had the amendments been placed on the General Election Ballot and the continued efforts of interest groups and Florida's voters. Florida may display how special interest groups can influence public policy via State referendum in reference to amending state constitutional parameters regarding public education.

Carlee Poston Escue, M.A.: Doctoral Candidate, University of Florida, Gainesville, FL

John Dayton, J.D., Ed.D.: Professor, University of Georgia, Athens, GA

The State Constitutionality of Voucher Programs: Religion is Not The Sole Determinant

An overview of the state constitutionality of publicly-funded voucher programs with a special emphasis on non-religious obstacles.

Preston Green, J.D., Ed.D.: Associate Professor, Penn State University, University Park, PA

Peter L. Moran, J.D.: Doctoral Candidate & Research Assistant, Penn State University, University Park, PA

President: R. Craig Wood: Professor, University of Florida, Gainesville, FL

B4: Specialized Topics

► location: Broadway B

Stopping Child Sexual Abuse: This is a School Leadership Issue

There is an epidemic of catastrophic proportions taking place in the United States. There are children that are suffering in silence and adults that are turning their backs on this atrocious unspeakable treatment. The epidemic is that of Child Sexual Abuse. Few people are aware that 1 in every six boys will be sexually abused before his 18th birthday; in addition, research has shown that 1 in four girls will be sexually abused before her 18th birthday. Nationally, that calculates to 5,911,224 male and 9,206,617 female children that will be the victims of sexual abuse prior to reaching the age of adulthood. The costs of law suits for school districts reaches millions of dollars each year. This presentation will present the facts about child sexual abuse and ways that school districts can put policies in place to decrease legal ramifications of inappropriate sexual behavior in the school environment.

Mark W. Mitchell, Ed.D.: Assistant Professor, Winthrop University, Rock Hill, SC

James Van Patten, Ph.D.: Professor, Florida Atlantic University, Boca Raton, FL

Child Maltreatment and the Schools: Issues and Implications from the Professional Literature

This presentation reviews legal and social science literature to reveal trends and issues regarding child abuse and neglect reporting and broader child protection issues relevant to schools.

Chuck Vergon, Ph.D.: Professor, University of Michigan-Flint, Flint, MI

Presenter: **Michael Hazelkorn, Ph.D.:** Professor, University of West Georgia, Carrollton, GA

B5: Education Policy and Administration | Specialized Topics

► location: Broadway C

McKinney-Vento Homeless Act: Theory into Practice

As educational disparity continues, especially among districts in close geographic proximity, the attempt of individuals to manipulate the system in order to obtain the best possible education for their children will continue. The presenters will first give a general overview of the important provisions of the McKinney-Vento Homeless Assistance Act. Then, using hypotheticals and case studies, the presenters will show how the McKinney-Vento Homeless Assistance Act can or should be applied to different situations which may be encountered by schools. The presenters will also encourage questions and discussion from those in attendance regarding issues in educating the homeless.

Elizabeth T. Lugg, J.D., Ph.D.: Associate Professor, Illinois State University, Normal, IL

Cathleen J. Weber, Ed.S.: Assistant Principal, Ridgeview Junior/Senior High School, Colfax, IL

McKinney-Vento: Opportunities and Challenges

The McKinney-Vento Homeless Education Assistance Act provides substantive and procedural protections to students who become homeless, as defined in the law. The Act expands the opportunities and protections for homeless students but creates challenges for school districts in many areas, including transportation, educational programming and staffing. This presentation will explore the opportunities for students created by the Act and the challenges for school districts working to implement the law.

P. Tyson Bennett, J.D.: Partner, Carney, Kelehan, Bresler, Bennett & Scherr, LLP, Annapolis, MD

President: Mark Lineburg, Ed.D.: Assistant Superintendent of Operations, Amherst County Public Schools, Amherst, VA

Concurrent Topic Sessions C

Thursday, October 22, 2009 | 1:00 P.M. – 2:10 P.M.

CI: Equal Protection/Civil Rights/Due Process | Specialized Topics

► location: [Broadway A](#)

Latinos and Educational Equality

Review the unique demographics of the Latino population (growth rate, geographic location, residential isolation compared to African-Americans) and discuss emerging educational equality issues (racial/ethnic isolation, language instructional needs, multi-group analysis in NCLB and after PICS).

Kristi Bowman, J.D., M.A.: Associate Professor of Law, Michigan State University, East Lansing, MI

From Blackstone to America's Last Frontier: Education in Alaska Amid Rural-Urban Tensions

How Native sovereignty in Alaska became shunted to corporate viewpoints through ANCSA, and how this has left continuing rural-urban tensions on school funding.

Lawrence Lee Oldaker, Ed.D.: Professor Emeritus, University of Alaska Southeast, Juneau, AK

Amy Dagley, M.A.T.: Doctoral Student, The University of Alabama, Tuscaloosa, AL

President: Darlene Y. Bruner, Ed.D.: Associate Professor, University of South Florida, Tampa, FL

C2: Ethics

► location: [Secretariat A](#)

The Continuing Need for Ethics Training for Pre-Service Teachers and Practicing Educators

The two presenters have trained many pre-service teachers as well as professional educators. Frequently, teachers say they were never trained in ethics and

ethical decision making. We will share some of the issues that come before the Standards Board as well as the training we provide.

Rosa Weaver, Ed.D.: Assistant Professor, Northern Kentucky University, Highland Heights, KY

Alicia A. Sneed, J.D.: Director of Legal Services, Education Professional Standards Board, Frankfort, KY

President: Brad Colwell, J.D., Ph.D.: Associate Dean, Southern Illinois University, Carbondale, IL

C3: Higher Education Law, Policy, Issues

► location: Broadway B

Institutional Non-Discrimination Policies and the First Amendment Rights of Student Organizations at Public Colleges and Universities

The presentation examines the First Amendment rights of student organizations at public colleges and universities, especially in relation to institutional non-discrimination policies.

Neal H. Hutchens, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

President: Jeffrey C. Sun, J.D.: Assistant Professor, University of North Dakota, Grand Forks, ND

C4: Fourth Amendment | Education Policy and Administration

► location: Secretariat B

School Resource Officers and the Legal Parameters That Define Their Roles

An analysis of a comprehensive investigation of all 50 states educational codes will be provided as well as an analysis of case law that govern the role of SROs.

Jennifer Sughrue, Ph.D.: Associate Professor, Florida Atlantic University, Boca Raton, FL

M. David Alexander, Ed.D.: Department Chair and Professor, Virginia Tech, Blacksburg, VA

Mark Lineburg, Ed.D.: Assistant Superintendent of Operations, Amherst County Public Schools, Amherst, VA

Legal Issues in School Policing: The 21st Century Challenge

The purposes of this presentation will be 1) to identify the frequency, outcomes and issue categories of published federal and state court decisions concerning school police including, but not limited to, school resource officers, and 2) to examine the practical implications for school districts. The first part will address the history and policy issues of school policing. The second part will present the overall frequency and outcomes of the relevant court decisions in terms of forum and issue category. The final part of the paper will discuss the implications of the findings for school districts.

Betty Cox, J.D., Ed.D.: Assistant Professor, Educational Studies, University of Tennessee at Martin, Martin, TN

Luke M. Cornelius, J.D., Ph.D.: Associate Professor, University of West Georgia, Carrollton, GA

President: Alvin Schilling, J.D., Ph.D.: Attorney, R. Craig Wood & Associates, Gainesville, FL

C5: Equal Protection/Civil Rights/Due Process | Specialized Topic

► location: Broadway C

Amendments to the Americans with Disabilities Act

In 2008, the president signed into law amendments to the Americans with Disabilities Act which overturned substantial case law. In 2009, the new president is scrutinizing the rights of students and employees with disabilities. Learn the current state of the law and pending regulations, and how they may affect your schools and colleges.

Lynn Rossi Scott, J.D.: Shareholder, Brackett & Ellis PC, Fort Worth, TX


Health Services v. Medical Services: When Can School Districts Draw the Line?

Medically fragile students and students who otherwise have extensive health needs are entering school in record numbers. School district personnel are frequently asked to perform a myriad of health services for students, ranging from the administration of medication, to catheterization, to insulin injections. As student health needs grow more complex, it is easy to become confused about what services are appropriate to perform and what services school personnel are not required to provide. This session will use examples from recent case from around the country to help school personnel respond appropriately.

Darcy Kriha, J.D.: Partner, Franczek Radelet & Rose P.C., Chicago, IL

Presenter: Carole A. de Casal, Ed.D.: Department Chair and Professor, Tennessee State University, Nashville, TN

Be sure to pick up a copy of our
2010 Call for Conference Proposals
at the registration desk. Don't miss the
opportunity to present at next year's conference!



California School Law
Second Edition

FRANK KEMERER and PETER SANSONO

"*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."

—Larry Maw,
Former Superintendent of the San Marcos Unified School District

\$27.95 paper \$75.00 cloth

800.621.2736 www.sup.org

Stanford
University Press

Concurrent Topic Sessions D

Thursday, October 22, 2009 | 2:20 P.M. – 3:30 P.M.

D1: First Amendment

► location: [Broadway B](#)

Chasing Change: Technology and Students' Right to Free Speech

This presentation addresses the courts' efforts to address issues related to emerging technologies (e.g., cell phones, internet blogs) and their effects on students' free speech rights.

R. Stewart Mayers, Ed.D.: Associate Professor, Southeastern Oklahoma State University, Durant, OK

Student Cyber Speech: Tinkering with the Substantial Disruption Test

This presentation will discuss application of the infamous substantial disruption test, first articulated in *Tinker v. Des Moines*, to cases of student cyber speech. The substantial disruption test is the most widely used framework by courts for analyzing cyber speech cases. Given the freshness of student cyber speech dilemmas, ongoing scholarship such as this which analyzes judicial trends in application of the substantial disruption test is beneficial to scholars and courts as uniformity is sought. Recommendations for school policy development will be included.

Jesulon S. R. Gibbs, J.D., Ph.D.: Assistant Professor, South Carolina State University, Orangeburg, SC

President: John W. Borkowski, J.D.: Partner, Hogan & Hartson LLP, South Bend, IN

D2: School Finance

► location: [Broadway A](#)

Isn't School Supposed to be Free?: State Constitutions, School Fees, and Related Litigation

Many state constitutions provide for a system of "free" public schools. This presentation examines litigation challenging school fees in states with this constitutional language.

Christine S. Kiracofe, Ed.D.: Assistant Professor, Northern Illinois University, DeKalb, IL

Free Education and No Fee Schools in South Africa – A Contradiction in Terms?

A critical discussion of the legal and practical implications of efforts to make quality education available to all in South African public schools.

Jean W. van Rooyen, M.Ed.: Exec. Manager/Lecturer, CELP/University of Pretoria, South Africa

President: William E. Thro, J.D., M.A.: University Counsel & Assistant Professor, Christopher Newport University, Newport News, VA

D3: Special Education

► location: Secretariat A

The Class Action Procedure as a Tool in Obtaining IDEA Compliance

This presentation will examine the requirements for class certification in I.D.E.A. litigation under Rule 23 of the Federal Rules of Civil Procedure, and how these cases play out in the post-certification context. Special emphasis will be placed on the use of the class action procedure as a tool in addressing systemic IDEA failures and post-judgment enforcement.

Lewis M. Wasserman, J.E., Ph.D.: Assistant Professor, Virginia Tech, Blacksburg, VA

President: Elizabeth T. Lugg, J.D., Ph.D.: Associate Professor, Illinois State University, Normal, IL

D4: Educational Policy and Administration | Specialized Topics

► location: Secretariat B

The Top Three Legal Issues Facing School Leaders

The presentation will include a summary of field research on what legal issues have been most troubling in the last three years, and what issues school administrators believe will be most problematic in the next three years. Three panelists (one ed admin professor, one sitting superintendent, and one lawyer) will respond to how the findings could affect their individual professional roles.

T.C. Mattocks, Ed.D.: Associate Professor, Bridgewater State College, Bridgewater, MA

Jeb Booth, Ph.D.: Assistant Professor, Criminal Justice, Salem State College, Salem, MA

K-12 Public Education: A Look at U.S. Supreme Court Trends

This mixed method descriptive study examined emerging trends in U.S. Supreme Court K-12 education cases between 1972 and 2008. The multilevel research produced outcome analyses of lawsuits by students, employees and others; court case outcomes; majority opinion author; and court of emergence within the Federal Judicial Circuits. This research further identified U.S. Supreme Court decisions from 1972-2008; case outcomes by lawsuit categorizations; and discernable historic trends.

Kelly M. Benson, Ed.D.: Assistant Professor, Central Washington University, Ellensburg, WA

Roberta D. Evans, Ed.D.: Dean, School of Education, The University of Montana, Missoula, MT

Don Wattam, Ed.D.: Assistant Professor, Educational Leadership, University of Idaho, Coeur d'Alene, ID

President: Carlee Poston Escue, M.A.: Doctoral Candidate, University of Florida, Gainesville, FL

D5: Specialized Topics | Higher Education Law, Policy, Issues

► location: Broadway C

Intellectual Property Rights and the Schools: Trade Marks, Copyright, and Infringement

Every time a teacher shows her class a video from Blockbuster, she has probably violated federal copyright laws. When the local Walgreens sells knock-off sweat-shirts bearing the local high school logo, it has violated the school's proprietary trademark. If a school presents a play without permission from the playwright's publisher, it risks liability for damages and attorney fees. These subjects are infrequently addressed by education attorneys, yet intellectual property claims pose both risks and financial rewards to school systems that are up to date. Moreover, the digital age has brought about new challenges for school systems utilizing licensed technology. Our presentation will address the current state of the law regarding copyright, trademark, and intellectual property rights as they relate to public schools.

Leslie R. Stelman, J.D.: Professor, Johns Hopkins University, Baltimore, MD

A More Effective Policy to Handle Cheating and Plagiarism at Colleges and Universities

High Schools and Colleges face an epidemic of cheating and plagiarisms. Recent litigation outlines constitutional questions facing public institutions and contractual issues facing private institutions

Robert M. Hendrickson, Ed.D.: Professor & Senior Scientist, Penn State University, University Park, PA

Phillip Blackman: Ph.D. candidate in the Higher Education, Penn State University, University Park, PA

President: Peter L. Moran, J.D.: Research Assistant, Penn State University, University Park, PA

The Education Law Association has several endowments that ELA members have funded. Choose to support the *Joseph C. Beckham Dissertation of the Year Award*, the *Steven S. Goldberg Award for Distinguished Scholarship in Education Law*, or the *George Jay Joseph Education Law Writing Award* endowments. Help us continue offering these prestigious national awards each year! Call us at 937-229-3589.

Endowment Fund Opportunities

First General Session

Thursday, October 22, 2009 | 4:00 P.M. - 5:30 P.M.

Millennials and the Americans with Disabilities Act in Higher Education

This presentation includes issues about how students with disabilities transition from K-12 to higher education, what they need to know about how the legal requirements change, and what administrators should do about that.

► location: Crystal Ballroom

Laura Rothstein, joined the Louis D. Brandeis School of Law at the University of Louisville as Professor of Law and Dean in 2000 (serving as dean until 2005). In 2006, she was appointed by the University of Louisville as a Distinguished University Scholar.



Laura Rothstein, J.D.

Professor of Law
& Distinguished
University Scholar;
Louis D. Brandeis
School of Law;
University of Louisville;
Louisville, Kentucky

Entering the field of disability discrimination law in 1979, she is one of the founding scholars in the area, and has written eleven books and numerous book chapters, articles, and other works on disability discrimination. Her work covers all aspects of disability discrimination, but focuses on issues in higher education, legal education, and special education. School choice and students with disabilities, genetic testing and students with disabilities, mental illness in the workplace, students with learning disabilities in higher education are among the topics on which she has written and lectured.

Presider: Christopher Borreca, J.D.: Attorney, Thompson & Horton, Houston, TX

Welcome Reception

Thursday, October 22, 2009 | 5:45 P.M. - 6:45 P.M.

► location: Bluegrass Room

Immediately following the First General Session, the Welcome Reception is the place to have a beverage, a few light hors d'oeuvres, and mingle with your colleagues. *No additional cost for paid registrants—guest tickets are available at the registration desk.*

Concurrent Topic Sessions E

Friday, October 23, 2009 | 8:00 A.M. – 9:10 A.M.

E1: Equal Protection/Civil Rights/Due Process

► location: [Broadway A](#)

Politics and School Desegregation Before and After *Parents Involved*

This session explores the possible impact of the U.S. Supreme Court 2007 decision in *Parents Involved* on racial and ethnic minority students. This decision dismantled the ability of school districts to act affirmatively to racially desegregate their schools by assigning students to schools beyond their neighborhoods as sanctioned in the Court's 1971 decision in *Swann*. In addition because this action will lead to more de facto segregated schools by race and ethnicity what are the possible implications for quality education for minority students? Finally, the role of economic globalization on the need for the highest quality of education for racially isolated schools that were less of an economic factor when the Court in 1954 ruled that school segregation was unconstitutional.

Frank Brown, Ph.D.: Professor, University of North Carolina, Chapel Hill, NC

Richard Hunter, Ed.D.: Professor, University of Illinois, Urbana-Champaign, IL

Laura McNeal, J.D., Ph.D.: Assistant Professor, Michigan State University, East Lansing, MI

Presenter: Spencer C. Weiler, Ph.D.: Assistant Professor, University of Northern Colorado, Greeley, CO

E2: Special Education

► location: [Secretariat A](#)

The Parents Revoke Consent for Special Education: Now What?

This interactive session explores different perspectives on legal, ethical, and practical issues raised by new federal regulations permitting parents to revoke consent for special education.

Mary Anne Linden, J.D., Ph.D.: Assistant Professor, University of Portland, Portland, OR

Suzy Harris, J.D.: Attorney, Suzy Harris Law, Portland, OR

Presenter: Mark W. Mitchell, Ed.D.: Assistant Professor, Winthrop University, Rock Hill, SC

E3: Ethics

► location: [Broadway B](#)

“I Am Your Role Model”: Evaluating a Teacher’s Fitness for Duty after Off Duty Misconduct

This presentation describes employment and licensing standards such as conduct unbecoming a teacher and professional misconduct that apply to teachers outside of their classrooms.

Daniel McIntyre, J.D.: Partner, Brindza McIntyre & Seed LLP, Cleveland, OH

Philip H. Wagner, Ph.D.: Assistant Superintendent, Beachwood City Schools, Beachwood, OH

How Florida Handles Violations of the Professional Code of Ethics

Patterns of educator violations of the Florida Principles of Professional Conduct of the Educational Profession, disciplinary actions enacted, and examples of court cases are reviewed.

Darlene Y. Bruner, Ed.D.: Associate Professor, University of South Florida, Tampa, FL

President: Joy Cumming, J.D., Ph.D.: Professor, Griffith University, Brisbane, Queensland, Australia

E4: Specialized Topics | Technology

► location: Broadway C

Unchartered Territory: The Current Legal Landscape of Cyber Charter Schools

This presentation will review the current four states (California, Colorado, Ohio, and Pennsylvania) with cyber charter school legislation and provide legal and policy recommendations for states with cyber charter schools that are operating without any relevant legislation.

Kevin P. Brady, Ph.D.: Assistant Professor, North Carolina State University, Raleigh, NC

Regina Umstead, J.D., Ph.D.: Assistant Professor, Central Michigan University, Mount Pleasant, MI

Parental Rights and Responsibilities in Online Learning Environments

Online learning environments are becoming popular with school districts. This session reviews case law and the role of parents in the delivery of online education.

Belinda M. Cambre, J.D.: Assistant Professor, University of New Orleans, New Orleans, LA

President: Suzanne E. Eckes, J.D., Ph.D.: Associate Professor, Indiana University, Bloomington, IN

E5: Fourth Amendment

► location: Secretariat B

Fourth Amendment Update

An update on recent Fourth Amendment law in public schools, this presentation covers personal searches, strip searching, seizure, cyber-bullying, video surveillance and police involvement.

Jacqueline A. Stefkovich, J.D., Ed.D.: Associate Dean, The Pennsylvania State University, University Park, PA

Lawrence F. Rossow, Ph.D.: Professor, University of Oklahoma, Norman, OK
Kevin M. McKenna, J.D.: Shareholder, Latsha, Davis, Yohe & McKenna, PC, Exton, PA

President: Julie Mead, Ph.D.: Professor, University of Wisconsin – Madison, Madison, WI

Concurrent Topics Sessions F

Friday, October 23, 2009 | 9:20 A.M. – 10:30 A.M.

F1: First Amendment

► location: Secretariat B

The Conversation Continues: Tackling Legal Problems Involving Religion and Schools

This session discusses the status of religion in schools, focusing on such issues as prayer, aid to religiously affiliated schools, and religious meetings in schools.

Edwin Darden, J.D.: Applesseed, Washington, D.C.

Ralph D. Mawdsley, J.D., Ph.D.: Roslyn Z. Wolf Endowed Chair in Urban School Leadership, Cleveland State University, Cleveland, OH

Martha M. McCarthy, Ph.D.: Chancellor Professor, Indiana University, Bloomington, IN

Charles J. Russo, J.D., Ed.D.: Panzer Chair in Education, and Adjunct Professor of Law, University of Dayton, Dayton, OH

David M. Schimmel, J.D.: Professor, University of Massachusetts at Amherst, Amherst, MA

President: Jesulon S. R. Gibbs, J.D., Ph.D.: Assistant Professor, South Carolina State University, Orangeburg, SC

F2: Equal Protection/Civil Rights/Due Process

► location: Broadway C

South Africa's Approach to the Best Interests of the Child in Developing the Rights of the Child

The South African constitutionally entrenched best interests of the child approach in developing children's rights is discussed with reference to recent case law and legislation.

Mariette Reyneke, L.L.M.: Senior Lecturer, University of the Free State, Bloemfontein, RSA

President: Lynn Rossi Scott, J.D.: Shareholder, Brackett & Ellis PC, Fort Worth, TX

F3: School Finance

► location: Secretariat A

Judicial Review and the Separation of Powers in Education Finance Adequacy Litigation: A Proposal for Adjudicatory Reform

This presentation proposes a framework for deciding the proper scope of judicial review in education finance adequacy litigation in light of separation of powers concerns.

Scott R. Bauries, J.D.: Assistant Professor, University of Kentucky, Lexington, KY

New Directions in School Funding and Governance: Moving from Politics to Evidence

This presentation provides an analysis of recent judicial and legislative efforts to link decisions about educational resources with scientific evidence.

Benjamin M. Superfine, J.D., Ph.D.: Assistant Professor, University of Illinois at Chicago, Chicago, IL

Presenter: Betty Cox, J.D., Ed.D.: Assistant Professor, Educational Studies, University of Tennessee at Martin, Martin, TN

F4: Equal Protection/Civil Rights/Due Process | Ethics

► location: Broadway B

Title IX Liability for Peer-on-Peer Harassment

Under Title IX, public schools may be held liable for mishandling student complaints of peer-on-peer harassment. Learn to properly respond to complaints, protect the victim and minimize exposure to liability.

Todd Sorensen, J.D.: Attorney, Williams Kastner & Gibbs PLLC, Seattle, WA

Confronting Ethical Ambivalence in the Legal Response to Sexual Misconduct Between Employees and Students

This presentation draws upon the philosophies of Kant, Rawls and Dewey to highlight ethical and legal duties to address sexual misconduct between employees and students.

Susan C. Bon, J.D., Ph.D.: Associate Professor, George Mason University, Fairfax, VA

Lisa R. McBride, J.D.: Partner, Thompson & Horton LLP, Houston, TX

Presenter: John W. Borkowski, J.D.: Partner, Hogan & Hartson LLP, South Bend, IN

F5: Higher Education Law, Policy, Issues

► location: Broadway A

Donor Intent of Major University Gifts

This presentation examines the legal, professional, and ethical obligations associated with restricted gifts at colleges and universities.

Jeffrey C. Sun, J.D.: Assistant Professor, University of North Dakota, Grand Forks, ND

Carrie M. Lovelace, J.D.: Associate Director of Planned Giving, Office of Development, Yale University, New Haven, CT

Presenter: Susan G. Clark, J.D., Ph.D.: Professor, University of Akron, Akron, OH

Promotional Opportunities

The Education Law Association has an expanded array of promotional opportunities. Gain valuable exposure with a target audience while supporting the efforts of the Education Law Association. Become a sponsor today! Call us at 937-229-3589.

Concurrent Topics Sessions G

Friday, October 23, 2009 | 10:40 A.M. – 11:50 A.M.

G1: Equal Protection/Civil Rights/Due Process

► location: Secretariat A

Employing the Correlates of Race to Abate Re-Segregation in Schools

This presentation will examine the Parents involved in *Community Schools v. Seattle Sch. Dist. No. 1*, 127 S.Ct. 2738 (2007) with the *Meredith v. Jefferson County Bd. of Ed.* and related case law both before and after the decision that limited the extent to which race exclusively may be considered in students assignments to schools. The presenter will review the recent court cases, frame issues in the current litigation context, and propose future strategies for participants. She will attempt to sort out the constitutionally permissible parameters for such programs and explain the range of choices available to localities in developing such plans.

Lisa G. Driscoll, Ph.D.: Assistant Professor, Virginia Tech, Blacksburg, VA

Altering Grade Configuration in Virginia Schools: Reducing School Segregation without Explicitly Considering Race

This paper discusses an option for reducing school segregation that conforms to the PICS decision and uses school districts from Virginia as illustrative examples.

William J. Glenn, J.D., Ph.D.: Assistant Professor, Virginia Tech, Falls Church, VA

President: Felix Simieou III, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

G2: First Amendment

► location: Secretariat B

Do Students have a Constitutional Right to Express Anti-Gay Sentiments in the Schools? A Conflict Between Two Federal Appellate Courts

This paper will analyze the conflict between the Ninth Circuit's decision in *Harper v. Poway Unified School District* (2006) (later vacated by the Supreme Court) and the Seventh Circuit's decision in *Nuxoll v. Indian Prairie School District* (2008).

Richard Fossey, J.D., Ed.D.: Professor & Program Coordinator, University of North Texas, Denton, TX

Suzanne E. Eckes, J.D., Ph.D.: Associate Professor, Indiana University, Bloomington, IN

Student Expression and Issues of Sexual Minority

This presentation summarizes and illustrates some of current legal trends regarding the First Amendment rights of sexual minority youth and their supporters as well as those students opposed to homosexuality.

Thomas J. Graca, J.D., Ed.D.: Assistant Professor, University of Texas at Arlington, Arlington, TX

David L. Stader, Ed.D.: Associate Professor, University of Texas at Arlington, Arlington, TX

President: Brian Schwartz, J.D.: Associate Director & General Counsel, Illinois Principals Association, Springfield, IL

G3: Special Education | Education Policy and Administration

► location: Broadway B

The Unique Challenges of Providing Special Education in Charter Schools

Charter schools have recently come under fire for failing to properly serve disabled students. This presentation will examine state and federal law governing the obligation of charter schools to serve disabled students and the unique hurdles the schools face in complying with the law.

Robert A. Garda, J.D.: Associate Professor of Law, Loyola University of New Orleans, New Orleans, LA

No Soup for You: The Legal Ramifications of Denying Curricula Options to Free or Reduced Lunch Students

Can charter schools remove students who qualify for free/reduced lunch if it cannot provide the service? This question, and others are answered in this presentation.

Spencer C. Weiler, Ph.D.: Assistant Professor, University of Northern Colorado, Greeley, CO

J. Bradford Every: Graduate Student, University of Northern Colorado, Greeley, CO

President: Kelly A. Sherrill, J.D., Ph.D.: Attorney and Ph.D. Candidate, University of Georgia, Athens, GA

G4: Education Policy and Administration | School Reform

► location: Broadway A

FERPA and Student Privacy 2009: New Regulations, Old Problems?

Overview of new FERPA regulations (emergency disclosures, records of former students, etc.) and other student privacy developments, with suggestions for changes to school FERPA policies.

Lynn M. Daggett, J.D., Ph.D.: Professor, Gonzaga Law School, Spokane, WA

The Nature and Role of the Relationship Between School Leader and the School Attorney in Addressing School Law Issues: A National Study

A national study describes when school leaders called their attorneys, how helpful those attorneys were, and what relationship they would like with their attorneys.

Vivian Hopp Gordon, J.D., Ph.D.: Assistant Professor, Loyola University Chicago, Chicago, IL

President: Susan G. Clark, J.D., Ph.D.: Professor, University of Akron, Akron, OH

G5: First Amendment | Higher Education Law, Policy, Issues

► location: Broadway C

Fan Behavior and Free Speech

This presentation will review the legal precedent on free speech issues and address what steps can be taken to regulate fan behavior and control the disruptive spectator.

Joseph Beckham, J.D., Ph.D.: Professor, Florida State University, Tallahassee, FL

The Legal Legacy of Basketball Coach Jerry Tarkanian: Transformation of the NCAA Rule Enforcement Process

Jerry Tarkanian fought UNLV and the NCAA. This presentation addresses the legislative initiatives and jurisprudence that resulted from those battles and their impact on NCAA rule enforcement.

Gerald C. Kops, J.D., Ph.D.: Professor, UNLV, Las Vegas, NV

Parent Speech and the Courts

This presentation will review recent parent speech cases in eight federal circuits to assist school personnel in avoiding violation of parent speech rights.

Ann Hassenpflug, Ph.D.: Professor, University of Akron, Cuyahoga Fall, OH

President: Regina Umpstead, J.D., Ph.D.: Assistant Professor, Central Michigan University, Mount Pleasant, MI

Role-Alike Luncheon

Friday, October 23, 2009 | 12:00 P.M. - 1:00 P.M.

Pick up your bagged lunch and join your constituency group for relevant discussion on current topics. *No additional cost for paid registrants—guest tickets are available at the registration desk.*

- ▶ Administrator Group Location: J. Graham Brown
- ▶ Attorney Group Location: Gallery Ballroom
- ▶ Professor Group Location: Bluegrass Room

Concurrent Topic Sessions H

Friday, October 23, 2009 | 1:10 P.M. – 2:20 P.M.

HI: First Amendment

▶ location: Broadway B

Expression, Retaliation & Litigation: An Update of Recent Public School Employee Speech Cases

In this presentation, particular attention is given to several employee speech cases handed down since the U.S. Supreme Court's decision in *Garcetti v. Ceballos* in 2006. Additionally, the presentation will explore the avenues used to pursue First Amendment retaliation claims (e.g., Section 1983 versus federal Whistleblower statutes).

Brenda R. Kallio, Ed.D.: Associate Professor, University of North Dakota, Grand Forks, ND

Richard T. Geisel, J.D., Ph.D.: Assistant Professor, Grand Valley State University, Grand Rapids, MI

Employee Speech Issues in Schools and Universities

An exploration of case law involving employee speech issues in K-12 schools and universities and colleges.

Dave Dagley, J.D., Ph.D.: Professor, The University of Alabama, Tuscaloosa, AL

Ed Nichols, Ed.D.: Assistant Superintendent, Decatur City Schools, Decatur, AL

Presenter: Edwin Darden, J.D.: Appleseed, Washington, D.C.

H2: Higher Education Law, Policy, Issues

► location: [Broadway C](#)

The Supreme Court Resolves a Circuit Court Split over Whether Title IX Provides the Exclusive Remedy for Claims of Sexual Discrimination: *Fitzgerald v. Barnstable School Committee*

A discussion of the Supreme Court's ruling in *Fitzgerald v. Barnstable School Committee*, concerning the previous limitations of suits brought in cases of student sexual harassment. The Court found that Title IX does not preempt actions under Section 1983.

Alvin Schilling, J.D., Ph.D.: Attorney, R. Craig Wood & Associates, Gainesville, FL

The Shifting Landscape of Title IX: An Examination of Recent Regulatory Changes and Retaliation Claims Against Colleges and Universities

This presentation explores changes in Title IX implementing regulations, the new retaliation standard established by the Supreme Court in 2005, and costly litigation against colleges and universities.

Kerry Brian Melear, Ph.D.: Associate Professor of Higher Education, University of Mississippi, Oxford, MS

Macey L. Edmondson: Public Services Law Librarian, University of Mississippi School of Law, Oxford, MS

Presenter: Neal H. Hutchens, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

H3: Special Education

► location: [Broadway A](#)

Providing a Legally Appropriate Special Education for Students with Bipolar Disorder: Issues and Analysis

The presentation will focus on special education issues related to students with bipolar (manic-depressive) disorder, including identification and evaluation, eligibility, IEP development, goals and objectives, methods of instruction, FBAs, BIPs, accommodations, transition plans, and collaboration with other health and community service professionals pursuant to IDEA, ADA, and Section 504.

Kelly A. Sherrill, J.D., Ph.D.: Attorney and Ph.D. Candidate, University of Georgia, Athens, GA

Enhancing Programming for Students with Autism: A Legal and a Programmatic Perspective

A step-by-step approach will be outlined for conducting evaluations of programming for students with autism. The importance of research-based, legally defensible programs will be presented.

Janet Butz, Ph.D.: President, CARE, L.L.C., Las Vegas, NV

Christopher Borreca, J.D.: Attorney, Thompson & Horton, Houston, TX

President: Jon E. Anderson, J.D.: Shareholder and Team Leader, Godfrey and Kahn S.C., Madison, WI

H4: Specialized Topics

► location: Secretariat B

K-12 Education Law Update

This interactive session takes a look at court cases, statutes and regulations from the past year that will have a day-to-day impact on K-12 school districts. During the first half of the session, the presenters will discuss various legal issues and present useful information in implementing new laws and requirements. During the second half of the session the presenters will open the floor for audience participation and questions.

Brian Schwartz, J.D.: Associate Director & General Counsel, Illinois Principals Association, Springfield, IL

Brad Colwell, J.D., Ph.D.: Associate Dean, Southern Illinois University, Carbondale, IL

President: Joseph Matula, Ph.D.: Assistant Professor, Governors State University, Palos Park, IL

H5: Education Policy and Administration | Equal Protection/Civil Rights/Due Process

► location: Secretariat A

Balancing Culture, Beliefs, and Human Dignity and Uphold a Disciplined Environment in Schools in South Africa

The paper reports on the role of the judiciary in the advancement of human rights in education in South Africa and the role of the judiciary in supporting schools in balancing culture, beliefs, and human dignity in maintaining a disciplined school environment.

Rika Joubert, Ph.D.: Associate Professor, University of Pretoria, South Africa

Garland ISD Freedom of Choice: Equal Protection or Violation?

Are Freedom of Choice plans, like the Garland Independent School District's, that were written to guarantee students equal protection now being used to violate it?

Wendy L. Brower, M.A.: Student Services Coordinator, Garland ISD, Garland, TX

Theresa N. Williams, Ed.D.: Director of Student Services, Garland ISD, Garland, TX

President: Todd Sorensen, J.D.: Attorney, Williams Kastner & Gibbs PLLC, Seattle, WA

Second General Session

Friday, October 23, 2009 | 2:30 P.M. - 4:00 P.M.

Reforming Education with the American Recovery and Reinvestment Act

Mr. Rose will deliver remarks on the American Recovery and Reinvestment Act (ARRA), focusing on how it is working to save jobs, turn around struggling schools, and spark innovation in states and school districts across the country. Mr. Rose will discuss the reform roles of key ARRA programs—including the Race to the Top Fund, the State Fiscal Stabilization Fund, Title I School Improvement Grants, the Innovation Fund, and the Teacher Incentive Fund.

► location: Crystal Ballroom

Charles P. Rose is the general counsel for the U.S. Department of Education. He was nominated by President Obama on March 18, 2009, and confirmed by the United States Senate on May 1, 2009. In this position, Rose serves as the chief legal officer



Charles P. Rose, J.D.

General Counsel ;
U.S. Department of
Education;
Washington, D.C.

for the Department and as the legal adviser to the secretary of education on all matters affecting the Department's programs and activities. Prior to his appointment, Rose was engaged in the private practice of law. He was a founding partner and corporate secretary of Franczek Radelet P.C. (*formerly Franczek Radelet & Rose P.C.*), established in 1994. There, he represented school districts, municipalities, and other public employers across Illinois with respect to labor relations and collective bargaining matters, general matters of labor and employment law, and education law. Rose served as the lead negotiator on hundreds of collective bargaining agreements for a wide variety of public employers, including the Chicago Public Schools and City of Chicago.

President: Lois F. Berlin, Superintendent, Falls Church City Public Schools, Falls Church, VA

New Attendee Review/Reception

Friday, October 23, 2009 | 4:15 P.M. - 4:45 P.M.

► location: Bluegrass Room

After the Second General Session, new conference attendees are invited to come meet the ELA board of directors and staff. You will have an opportunity to share your thoughts and ideas. *No additional cost for new attendees.*

Third General Session

Saturday, October 24, 2009 | 8:30 A.M. - 9:45 A.M.

Supreme Court Update

Get an overview of recent and upcoming cases, as well as other important legal issues and national trends, and their impact on public education.

► location: Crystal Ballroom

Christopher P. Borreca was the education director of the Center for the Retarded Inc. in Houston for nine years before becoming an attorney. He has extensive experience in special education issues, as well as



Christopher P. Borreca, J.D.

ELA Immediate Past President;
Founding Partner
Thompson & Horton, LLP
Houston, Texas

contract issues, employment issues, and other school law matters. Mr. Borreca also has experience with hearings on student discipline, employee grievances, personnel and school board appeals. A registered lobbyist, he also is active at the state and federal legislative level working on behalf of school districts and educational organizations. He has published articles in the *Houston Lawyer* and *Texas School Law: A Practical Guide*, and has held a leadership position in the Education Law Association since 2000 and is currently immediate past president of ELA.

Perry A. Zirkel is university professor of education and law at Lehigh University, where he formerly was dean of the College of Education and more recently held the Iacocca Chair in Education for its five-year term. He



Perry Zirkel, J.D., Ph.D.

Professor
Lehigh University
Bethlehem, Pennsylvania

has a Ph.D. in Educational Administration and a J.D. from the University of Connecticut, and a Master of Laws degree from Yale University. He has written more than 1,200 publications on various aspects of school law, with an emphasis on legal issues in special education. He writes a regular column in *Phi Delta Kappan*, another for *Principal* magazine, and a third, more recently, for *Teaching Exceptional Children*. Past president of the Education Law Association and co-chair of the Pennsylvania special education appeals panel from 1990 to 2006, he is the author of the two-volume reference *Section 504, the ADA, and the Schools*, and the recent CEC monograph *The Legal Meaning of Specific Learning Disability*. Dr. Zirkel is also the author of the forthcoming ELA publication, *A Digest of Supreme Court Decisions Affecting Education*.

Presenter: Patrick Pauken, J.D., Ph.D.: Associate Professor, Educational Administration and Leadership Studies, Bowling Green State University, Bowling Green, OH

Concurrent Topic Sessions I

Saturday, October 24, 2009 | 9:55 A.M. – 11:05 A.M.

11: Beckham Dissertation & Joseph Law Writing Award Winners

► location: Secretariat B

Joseph C. Beckham Dissertation of the Year Award Winner

The *Joseph C. Beckham Dissertation of the Year Award* recipient will present his winning dissertation: “Judicial Review and the Separation of Powers in State Constitutional Litigation Challenging the Adequacy of Education Spending: Complementary Analysis and a Proposed Adjudicatory Model.”

Scott R. Bauries, J.D.: Assistant Professor, University of Kentucky, Lexington, KY

George Jay Joseph Education Law Writing Award Winner

The *George Jay Joseph Education Law Writing Award* recipient will present her winning paper: “From Comparing Plus Factors to Context Review: The Future of Affirmative Action in Higher Education.”

Lauren S. Foley: Juris Doctor candidate, Michigan State College of Law, East Lansing, MI

President: David S. Doty, J.D., Ph.D.: Utah’s 41st School District, Sandy, UT

12: School Reform

► location: Broadway C

Getting By with a Little Help from Your Friends: How to Use Accountability Laws to Transform Education Practice

Highlighting reforms implemented during the past eight years, this presentation will illustrate how state and federal accountability laws create opportunities for innovation.

Rich Haglund, J.D.: General Counsel, Tennessee State Board of Education, Nashville, TN

President: Kathleen Crume, M.A.: Academy School District Twenty, Colorado Springs, CO

13: Education Policy and Administration

► location: Broadway A

A Race to the Bottom? President Obama’s Incomplete Strategy for Reforming Education in Struggling Schools and the Perils of Ignoring Poverty

This presentation will address the Race to the Top Fund, a competitive federal grant fund designed to spur educational reform at the individual state level, and how it exposes the major deficit in President Obama’s plan for reforming this country’s struggling schools: a reluctance to acknowledge explicitly the relationship between struggling schools and poverty.

Monica Teixeira de Sousa, J.D.: Professor, New England Law, Boston, MA

President: Rebecca Schlosser, J.D., Ed.D.: Assistant Professor, Sul Ross State University, Alpine, TX

I4: Technology

► location: [Broadway B](#)

Exposing the Gap: Educators' Legal Literacy About Cyber Bullying

This session will compare a hypothetical definition of cyber bullying, as defined by state law, and a functional definition, revealed through surveys from K-12 educators.

Amy H. Glass: Doctoral Candidate, Johns Hopkins University, Baltimore, MD

President: Belinda M. Cambre, J.D.: Assistant Professor, University of New Orleans, New Orleans, LA

I5: Equal Protection/Civil Rights/Due Process

► location: [Secretariat A](#)

Judicial Policymaking and Educational Opportunity

This paper will demonstrate that recent trends in equal protection construction have not contributed to a constitutional mandate for more equal results in educational opportunity.

Paul E. Green, Ph.D.: Associate Professor, University of California, Riverside, CA

President: William E. Thro, J.D., M.A.: University Counsel & Assistant Professor, Christopher Newport University, Newport News, VA

Concurrent Topic Sessions

Saturday, October 24, 2009 | 11:15 A.M. – 12:25 P.M.

J1: Education Policy and Administration

► location: [Secretariat B](#)

Current Issues for Schools and Religions in Australia

This presentation examines issues of religion in schools through the establishment of religious faith schools in Australia, including legislation and constitutional interpretation.

Joy Cumming, J.D., Ph.D.: Professor, Griffith University, Brisbane, Queensland, Australia

Significant Disproportionality and Coordinated Early Intervening Services: An Examination of State and District Responses to IDEA's Directive

This presentation reports on how state and local educational agencies have responded to the IDEA's requirements regarding the disproportionate representation of students of color in special education. Various state definitions of "significant disproportionality" will be examined as well as data regarding the number of districts in each state that have fallen under state oversight for practices resulting in disproportionality. LEA responses under "Coordinated Early Intervening Services" are also examined

Julie Mead, Ph.D.: Professor, University of Wisconsin – Madison, Madison, WI

President: Brenda R. Kallio, Ed.D.: Associate Professor, University of North Dakota, Grand Forks, ND

J2: Specialized Topics | Higher Education Law, Policy, Issues

► location: Broadway A

An Analysis of the Impact of House Bill 536 on Teaching Education Law
Does law have a place in school leader preparation? This presentation establishes the essential role it plays and provides examples of how to prove it.

Kermit Buckner, Ed.D.: Professor, East Carolina University, Greenville, NC

Share Your School Law Teaching Ideas

Professors of school law will share their teaching ideas with other attendees, who will be other professors of school law. There will be no specific presentation but a discussion of effective teaching techniques. The focus will be on teaching and not on content.

Joseph Matula, Ph.D.: Assistant Professor, Governors State University, Palos Park, IL

President: Dave Dagley, J.D., Ph.D.: Professor, The University of Alabama, Tuscaloosa, AL

J3: First Amendment

► location: Broadway B

The Rocket's Red Glare: The Largely Errant and Deflected Flight of *Tinker*

Commemorating the 40th anniversary of the Supreme Court's decision in *Tinker v. Des Moines Community Independent School District*, this session will provide track the trajectory of the holding and dicta of the majority opinion the lower courts and in the subsequent Big Three of student First Amendment expression at the Supreme Court *Frasier*, *Kuhlmeier*, and *Morse*. The conclusion is that the decision contained the seeds of its own undoing and that its overall effect has been symbolic rather than substantial.

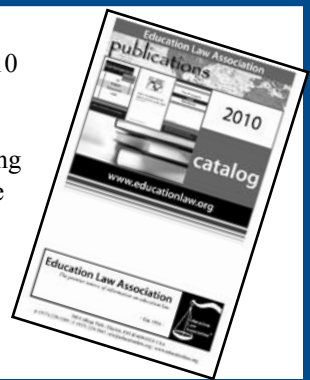
Perry A. Zirkel, J.D., Ph.D.: Professor, Lehigh University, Bethlehem, PA

President: Ed Nichols, Ed.D.: Assistant Superintendent, Decatur City Schools, Decatur, AL

ELA Publications

Look inside your registration packet for a 2010 publications catalog.

Various ELA books and monographs, including *The Yearbook of Education Law 2009*, 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.



J4: Fourth Amendment

► location: Secretariat A

The War on Drugs vs. Teachers' Fourth Amendment Rights: Are Teachers in Safety Sensitive Positions?

Reviews and analyzes court decisions and news reports on the status of drug testing of teachers and school employees.

Nathan M. Roberts, J.D., Ph.D.: Department Head and Associate Professor, University of Louisiana at Lafayette, Lafayette, LA

Robert LeBlanc, Ed.D.: Dean, School of Education, University of St. Thomas, Houston, TX

President: Preston Green, J.D., Ed.D.: Associate Professor, Penn State University, University Park, PA

J5: Goldberg Award Winner

► location: Broadway C

Steven S. Goldberg Award for Distinguished Scholarship in Education Law Winner

The *Steven S. Goldberg Award for Distinguished Scholarship in Education Law* recipient will present his winning publication: *The Courts and Standards-Based Education Reform*.

Benjamin M. Superfine, J.D., Ph.D.: Assistant Professor, University of Illinois at Chicago, Chicago, IL

President: Christopher Borreca, J.D.: Attorney, Thompson & Horton, Houston, TX

Concurrent Topic Sessions K

Saturday, October 24, 2009 | 1:20 P.M. – 2:30 P.M.

K1: School Reform

► location: Broadway B

Increasing Graduation Rates “Schools Response to No Child Left Behind”

This paper examines factors contributing to low graduation rates and interventions schools are using to respond. It offers recommendations for administrators to address the issue.

Felix Simieou III, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

Bettye Grigsby, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

John Decman, Ed.D.: Associate Professor, University of Houston at Clear Lake, Houston, TX

President: Ed Nichols, Ed.D.: Assistant Superintendent, Decatur City Schools, Decatur, AL

K2: Specialized Topics | Technology

► location: Secretariat B

Web 2.0 Technology and Teaching Educational Law

How YouTube, blogs, wikis, podcasts and other Web 2.0 technologies improve instruction in educational law while at the same time improving student's technological literacy.

Justin M. Bathon, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

Teachers and Social Networking

Schools are now grappling with teachers' use of social networking web sites. Its appropriateness, legal, ethics, and policy issues will be discussed.

Michael Tan, Ph.D.: Associate Professor, William Woods University, Fulton, MO

President: Janet Decker, Ph.D. (ABD): Indiana University, Bloomington, IN

K3: Education Policy and Administration

► location: Broadway C

A Study Applying the Synergistic Leadership Theory to the Legal Profession

A nationwide study that applies the synergistic leadership theory to education attorneys and compares those results to similar SLT studies of business and education leaders.

Rebecca Schlosser, J.D., Ed.D.: Assistant Professor, Sul Ross State University, Alpine, TX

Stacey Edmonson, Ed.D.: Associate Professor, Sam Houston State University, Huntsville, TX

President: Edwin Darden, J.D.: Appleseed, Washington, D.C.

K4: Education Policy and Administration

► location: Broadway A

What Educators, Parents, and Attorneys Should Know About Bullying

This section explores what research tells us about the bully and the bullied, with accent on policy development for the prevention and response to bullying behavior of children in K-12 education.

Steve Permuth, Ed.D.: Professor, University of South Florida

Jan Urbanski, Ed.D.: Supervisor, Safe and Drug Free Schools Office, Pinellas County Schools, Florida

President: Preston Green, J.D., Ed.D.: Associate Professor, Penn State University, University Park, PA

Concurrent Topic Sessions L

Saturday, October 24, 2009 | 2:40 P.M. – 3:50 P.M.

L1: Higher Education Law, Policy, Issues

► location: Secretariat B

Dispositions and Fitness to Teach: A Review of the Court Cases and Policies

This session will review court cases and university policies regarding candidate's dispositions and attitudes appropriate for teaching. Examples of measuring dispositions will also be discussed.

Marilyn J. Bartlett, J.D., Ph.D.: Dean and Professor, Texas A&M University, Kingsville, TX

President: Janet Decker, Ph.D. (ABD): Indiana University, Bloomington, IN

L2: Equal Protection/Civil Rights/Due Process

► location: Broadway C

Employment and Labor Law Developments in the Obama Era

The presentation will review developments/changes in employment and labor law over the first eight months of President Obama's term.

Jon E. Anderson, J.D.: Shareholder and Team Leader, Godfrey and Kahn S.C., Madison, WI

President: Lisa Flake: University of Dayton School of Law, Dayton, OH

L3: First Amendment

► location: Broadway B

What I Should Have Said 25 Years Ago

In a sequel to a paper presented at ELA 25 years ago, the presentation reviews the forces behind changes in church-state relationships.

B. Glen Epley, Ph.D.: Professor and Chair, Stetson University, Deland, FL

President: Richard Fossey, J.D., Ed.D.: Professor & Program Coordinator, University of North Texas, Denton, TX

L4: Technology/Higher Education

► location: Broadway A

Battleground in the Ether: Emerging Tensions and Common Interests among On-line Learning Institutions and State Regulatory Agencies

This discussion will focus on issues associated with the growth of online higher education and its potential impact on educational law, state-based consumer protection prerogatives, and access to higher education. Participants will have the opportunity to help chart a course for their profession as it confronts emerging dimensions of the law that lack precedent in more traditional dimensions of college and university operations.

Russell Kitchner, Ph.D.: Director of Regulatory and Governmental Relations, American Public University System, Charles Town, WV

President: L. Dean Webb, Ed.S., Ph.D.: Professor, Educational Leadership and Policy Studies, Arizona State University, Tempe, AZ

Special Meetings

Board of Directors Meetings

Wednesday, October 19, 2009 | 1:00 P.M. - 4:00 P.M.

▶ **location:** Louis XVI Suite

Saturday, October 24, 2009

▶ **location:** Gallery Boardroom

2:00 P.M. - 2:30 P.M. - Executive Board and New Board Members

3:00 P.M. - 4:30 P.M. - Full Member Board of Directors Meeting

School Law Reporter Committee Meeting

▶ **location:** Broadway A

Saturday, October 24, 2009 | 7:30 A.M. - 8:15 A.M.

2010 Conference Program Meeting

▶ **location:** Broadway B

Saturday, October 24, 2009 | 7:30 A.M. - 8:15 A.M.

State Membership Directors Meeting

▶ **location:** Broadway C

Saturday, October 24, 2009 | 7:30 A.M. - 8:15 A.M.

2009 Committee Chairs

Ambassadors

Christopher P. Borreca

Joseph Award

Perry Zirkel

2009 Conference Program

John W. Borkowski,
Patrick Pauken, & Lois Berlin

McGhehey Award

Jeffrey J. Horner

Development

Patrick Mahon

Membership:

Brad Colwell

Beckham Award

Richard Fossey

Nominations

Christopher P. Borreca

ELIP

Allan G. Osborne, Jr.
& Ralph Mawdsley

Professional Partnership

Robert Garda

Goldberg Award

Lois Berlin
& Christopher P. Borreca

Publications

Kenneth Lane

Seminars/Technology

Edwin C. Darden

2009 ELA Officers

Executive Committee

- **President**
Kathleen Crume, M.A.
Academy School District Twenty
Colorado Springs, CO
- **Vice President**
Edwin C. Darden, J.D.
Appleseed
Washington, D.C.
- **President Elect**
Brad Colwell, J.D., Ph.D.
Southern Illinois University
Carbondale, IL
- **Immediate Past President**
Christopher P. Borreca, J.D.
Thompson & Horton, LLP
Houston, Texas

Board of Directors

- John W. Borkowski, J.D.
Hogan & Hartson, LLP
South Bend, IN
- J. Patrick Mahon, Ph.D.
Retired School Administrator
Young Harris, GA
- Susan G. Clark, J.D., Ph.D.
University of Akron
Akron, OH
- Edwin Nichols, Ed.D.
Decatur City School System
Decatur, AL
- David S. Doty, J.D., Ph.D.
Canyons School District
Sandy, UT
- William E. Thro, J.D.
Christopher Newport University
Newport News, VA
- Suzanne E. Eckes, J.D., Ph.D.
Indiana University
Bloomington, IN
- L. Dean Webb, Ed.S., Ph.D.
Arizona State University
Tempe, AZ
- Preston Green, Ed.D., J.D.
Pennsylvania State University
University Park, PA

Staff Members

Cate K. Smith.....Executive Director
Judy Pleiman.....Member Services and Accounting
Jody Thornburg.....Publications Manager

ELA Past Presidents

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

- | | | | |
|---------|---|------|---|
| 1955-56 | <i>Madaline Kinter Remmlein</i> , Assistant Director, Research Division, National Education Association | 1974 | <i>Robert E. Phay</i> , Kenan Professor of Public Law and Director of Principals' Executive Program, University of North Carolina-Chapel Hill |
| 1957 | <i>Eugene S. Lawler</i> , Professor of Education, Florida State University | 1975 | <i>M. Chester Nolte</i> , Professor of Education, University of Denver |
| 1958-59 | <i>Reynolds C. Seitz</i> , Dean, Law School, Marquette University | 1976 | <i>Irving C. Evers</i> , Attorney at Law, Hackensack, NJ |
| 1960 | <i>Edward C. Bolmeier</i> , Professor of Education, Duke University | 1977 | <i>August W. Steinhilber</i> , Associate Executive Director, National School Boards Association |
| 1961 | <i>Marion A. McGhehey</i> , Specialist in School Law, U.S. Office of Education | 1978 | <i>Philip K. Piele</i> , Professor and Director, ERIC Clearinghouse of Educational Management, University of Oregon |
| 1962 | <i>Walter L. Hetzel</i> , Superintendent of Schools, Ames, IA | 1979 | <i>Kelly Frels</i> , Attorney at Law, Bracewell & Patterson, LLP Houston, TX |
| 1963 | <i>Marlin M. Volz</i> , Dean, Law School, University of Louisville | 1980 | <i>Burton R. Shifman</i> , Attorney at Law, Shifman & Goodman, PC, Southfield, MI |
| 1964 | <i>Lloyd E. McCann</i> , Professor of Education, University of Arizona | 1981 | <i>Floyd G. Delon</i> , Professor of Educational Administration, University of Missouri-Columbia |
| 1965 | <i>Lee O. Garber</i> , Professor of Education, University of Pennsylvania | 1982 | <i>William F. Paton</i> , Oconomowoc Public Schools, Oconomowoc, WI |
| 1966 | <i>Henry E. Butler, Jr.</i> , Professor of Education, University of Rochester | 1983 | <i>Ralph D. Stern</i> , Attorney at Law, Whitmore & Kay, Palo Alto, CA |
| 1967 | <i>E. Edmund Reutter, Jr.</i> , Professor of Education, Teachers College, Columbia University | 1984 | <i>Dale Gaddy</i> , Director of School District Management, National School Board Association, Alexandria, VA |
| 1968 | <i>Martha L. Ware</i> , Assistant Secretary, National Education Association | 1985 | <i>Martha M. McCarthy</i> , Professor of Educational Administration, Indiana University-Bloomington |
| 1969 | <i>Joseph E. Bryson</i> , Professor of Education, University of North Carolina at Greensboro | 1986 | <i>John F. Lewis</i> , Attorney at Law, Squire Sanders & Dempsey, Cleveland, OH |
| 1970 | <i>John Philip Linn</i> , Professor of Law, University of Denver | 1987 | <i>D. Parker Young</i> , Professor of Higher Education, Institute of Higher Education, University of Georgia-Athens |
| 1971 | <i>Manny S. Brown</i> , Attorney at Law, Racine, WI | | |
| 1972 | <i>Thomas A. Shannon</i> , Deputy Superintendent and School Attorney, San Diego, CA | | |
| 1973 | <i>Roger M. Shaw</i> , Professor of Education, Kent State University | | |

1988	<i>William C. Bednar, Jr.</i> , Attorney at Law, Eskew, Muir & Bednar, Austin, TX	1999	<i>Charles J. Russo</i> , Professor and Fellow, Center for International Programs, School of Education and Allied Professions, University of Dayton, Dayton, OH
1989	<i>Marvyn D. Jaffe</i> , Principal, Staples High School, Westport, CT	2000	<i>Terrence Leas</i> , Dean, Yakima Valley Community College, Grandview, WA
1990	<i>Stephen B. Thomas</i> , Professor & Coordinator of Educational Administration, Kent State University, OH	2001	<i>Ralph D. Mawdsley</i> , Professor of Educational Administration, Department of Counseling, Administration, Supervision, and Adult Learning, Cleveland State University, Cleveland, OH
1991	<i>Joseph C. Beckham</i> , Professor of Education, Florida State University - Tallahassee	2002	<i>R. Craig Wood</i> , Attorney at Law, McGuireWoods LLP, Charlottesville, VA
1992	<i>James C. Ullman</i> , Attorney at Law, Jennings, Strouss & Salmon, Phoenix, AZ	2003	<i>Allan G. Osborne, Jr.</i> , Principal, Snug Harbor Community School, Quincy, MA
1993	<i>Steve W. Batson</i> , Vice President of Planning & Institutional Advancement, West Virginia State College	2004	<i>Philip T.K. Daniel</i> , Professor, The Ohio State University Columbus, OH
1994	<i>Nelda Cambron-McCabe</i> , Professor of Educational Administration, Miami University of Ohio - Oxford	2005	<i>P.Tyson Bennett</i> , Attorney, Reese & Carney, LLP, Annapolis, MD
1995	<i>Ivan Gluckman</i> , Director of Legal Services and General Counsel, National Association of Secondary School Principals, Reston, VA	2006	<i>Lois F. Berlin</i> , Superintendent, Falls Church City Public Schools, Falls Church, VA
1996	<i>Perry A. Zirkel</i> , Iacocca Professor of Education, Lehigh University, Bethlehem, PA	2007	<i>M. David Alexander</i> , Virginia Tech, Blacksburg, VA
1997	<i>Richard Dickinson</i> , General Counsel, Ohio School Boards Association, Columbus, OH	2008	<i>Christopher P. Borreca</i> , Thompson & Horton, LLP, Houston, TX
1998	<i>Jeffrey J. Horner</i> , Attorney at Law, Bracewell & Patterson, LLP, Houston, TX		

ELA Executive Directors

1954–56.....	Lee O. Garber (Deceased)
1957–61.....	Roger M. Shaw (Deceased)
1962–82.....	Marion A. McGhehey (Deceased)
1983–90.....	Thomas N. Jones
1990–91.....	Stephen B. Thomas (Interim)
1991–94.....	Floyd G. Delon
1995–99.....	Robert M. Wagner
2000–2009.....	Mandy Schrank
2009–present.....	Cate K. Smith

ELA Awards

M.A. McGhehey Award

This annual award is presented at the annual conference in recognition of outstanding service in the field of education law and to the Education Law Association.

1984 Reynolds C. Seitz	1997 Nelda Cambron-McCabe
1985 Roger M. Shaw (Deceased)	1998 John Lewis
1986 E. Edmund Reutter, Jr.	1999 D. Parker Young
1987 Irving C. Evers (Deceased)	2000 Perry Zirkel
1988 M. Chester Nolte	2001 Clifford P. Hooker
1989 Walter L. Hetzel	2002 Charles J. Russo
1990 Stephen B. Thomas	2003 Jeffrey J. Horner
1991 Kelly Frels	2004 Ralph D. Mawdsley
1992 Martha M. McCarthy	2005 Richard J. Dickinson
1993 Martha L. Ware (Deceased)	2006 Philip T.K. Daniel
1994 Floyd G. Delon	2007 M. David Alexander
1995 August W. Steinhilber	2008 Allan G. Osborne, Jr.
1996 Joseph C. Beckham	

Joseph C. Beckham Dissertation of the Year Award

This 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 – July 31 of the award year.

1987 Rosette Liberman	2000 Theresa B. Harrison
1990 Terrence Leas	2001 Kerry Brian Melear
1991 Jill Jones White	2002 Watt Lesley Black, Jr.
1992 Anne Browning Masters	2003 Richard Elliott Day
1993 James Thomason Jeffers	2004 Judith Risch
1994 Julie Fisher Mead	2005 John LaNear
1996 Patricia Todd Bausch	2006 Rodney Marty
1997 Susan Clark	2007 Laurence B. Alexander
1998 Douglas R. Pearson	2008 Howard J. Eberwein, III
1999 Cheri C. Magill	2009 Scott R. Bauries

Steven S. Goldberg Award for Distinguished Scholarship in Education Law

This annual award is presented in recognition of an outstanding article, book, book chapter, or other form of scholarly legal writing in the field of education law and recognizes a work of scholarly excellence that has an impact on education law.

2007 Goodwin Liu	2008 James E. Ryan	2009 Benjamin M. Superfine
------------------	--------------------	----------------------------

George Jay Joseph Education Law Writing Award

The purpose of this national competition is to generate increased interest in and recognition of education law among not only graduate students in education schools but also, in particular, to students in law schools.

2008 Kimberly Gee	2009 Lauren S. Foley
-------------------	----------------------

SLR Reporters

Federal Courts

U.S. Supreme Court

Fred Hartmeister
Texas Tech University
Rebecca Hellbaum
Health Sciences Center
Texas Tech University

Court of Appeals

1st Circuit

Chris Mattocks
Bridgewater State College

2nd Circuit

Kathryn McCary
McCary & Huff, LLP

3rd Circuit

Wendy Beetlestone
Hangley Aronchick Segal & Pudlin

4th Circuit

Jennifer Riedthaler
Lorain County Prosecutor's Office

5th Circuit

Thomas Graca
University of Texas Arlington

6th Circuit and Ohio

Valerie Riedthaler
Norton City School District

Daniel McIntyre

Brindza, McIntyre, & Seed, LLP

7th Circuit

Suzanne Eckes
Indiana University

Amy Stekette

Baker & Daniels LLP

8th Circuit

Séamus P. Boyce
Church, Church, Hittle, & Antrim

Cindy Lavorato

University of St. Thomas

9th Circuit

Lisa C. Williams
Williams Kastner

10th Circuit

Larry Rossov
University of Oklahoma

11th Circuit

David D'Agata
Office of General Counsel – Jacksonville, FL

Federal Supplement

Michael Yates
Missouri Southern State University
Brenda Kallio
University of North Dakota
Philip Wagner
Beachwood City Schools
Michael Tan
William Woods University

Higher Education

Federal Cases

Luke M. Cornelius
University of West Georgia
Alvin Schilling

State Cases

Kerry Brian Melear
University of Mississippi
Elizabeth T. Lugg
Illinois State University

State Courts

Southern

Johnny R. Purvis
University of Central Arkansas

Northwestern

Rick Geisel
Grand Valley State University

Northeastern

Jesulon Gibbs
South Carolina State University

Justin Bathon

Indiana University

Amy Glass

The John Hopkins University

Southwestern

Michael Tan
William Woods University

Rebecca Schlosser

Sul Ross State University

Southeastern

Venitta McCall
University of Mary Washington

Pacific

Ed Irvin
State of Nevada

Atlantic

Joseph Clark
Nordonia Hills City Schools

New York

Vivian Hopp Gordon

Co-Editors

Brad Colwell
Southern Illinois University - Carbondale
Rich Haglund
Tennessee State Board of Education

Index: Topics

Concurrent Topic Sessions A..... 10

A1: Equal Protection/Civil Rights/Due Process	10
A2: School Finance.....	11
A3: Special Education.....	11
A4: Technology.....	11
A5: Higher Education Law, Policy, Issues..	12

Concurrent Topic Sessions B..... 12

B1: Equal Protection/Civil Rights/Due Process	12
B2: Equal Protection/Civil Rights/Due Process	13
B3: School Finance School Reform.....	13
B4: Specialized Topics.....	14
B5: Education Policy and Administration Specialized Topics.....	14

Concurrent Topic Sessions C 15

C1: Equal Protection/Civil Rights/Due Process Specialized Topics.....	15
C2: Ethics.....	15
C3: Higher Education Law, Policy, Issues..	16
C4: Fourth Amendment Education Policy and Administration.....	16
C5: Equal Protection/Civil Rights/Due Process Specialized Topic	17

Concurrent Topic Sessions D 18

D1: First Amendment.....	18
D2: School Finance.....	18
D3: Special Education.....	19
D4: Educational Policy and Administration Specialized Topics.....	19
D5: Specialized Topics Higher Education Law, Policy, Issues	20

Concurrent Topic Sessions E..... 22

E1: Equal Protection/Civil Rights/Due Process	22
E2: Special Education	22
E3: Ethics.....	22
E4: Specialized Topics Technology	23
E5: Fourth Amendment.....	23

Concurrent Topics Sessions F 24

F1: First Amendment	24
F2: Equal Protection/Civil Rights/Due Process	24
F3: School Finance	24
F4: Equal Protection/Civil Rights/Due Process Ethics.....	25
F5: Higher Education Law, Policy, Issues ..	25

Concurrent Topics Sessions G..... 26

G1: Equal Protection/Civil Rights/Due Process	26
G2: First Amendment.....	26
G3: Special Education Education Policy and Administration	27
G4: Education Policy and Administration School Reform	27
G5: First Amendment Higher Education Law, Policy, Issues	27

Concurrent Topic Sessions H 28

H1: First Amendment.....	28
H2: Higher Education Law, Policy, Issues..	29
H3: Special Education.....	29
H4: Specialized Topics.....	30
H5: Education Policy and Administration Equal Protection/Civil Rights/Due Process ..	30

Concurrent Topic Sessions I..... 33

I1: Beckham Dissertation & Joseph Law Writing Award Winners.....	33
I2: School Reform.....	33
I3: Education Policy and Administration....	33
I4: Technology	34
I5: Equal Protection/Civil Rights/Due Process	34

Concurrent Topic Sessions J 34

J1: Education Policy and Administration....	34
J2: Specialized Topics Higher Education Law, Policy, Issues	35
J3: First Amendment	35
J4: Fourth Amendment.....	36
J5: Goldberg Award Winner.....	36

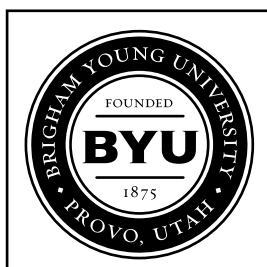
Concurrent Topic Sessions K 36

K1: School Reform	36
K2: Specialized Topics Technology	37
K3: Education Policy and Administration ..	37
K4: Education Policy and Administration ..	37

Concurrent Topic Sessions L..... 38

L1: Higher Education Law, Policy, Issues ..	38
L2: Equal Protection/Civil Rights/Due Process	38
L3: First Amendment	38
L4: Technology/Higher Education.....	38

2009 Exhibitors, Sponsors, & Advertisers



Kern Alexander
American Public School Law



Journal of Law and Education
Jefferson Law Book Company

Index: Presenters

Alexander, M. David.....16	Graca, Thomas J.....26	Sneed, Alicia A.....16
Anderson, Jon E.....38	Green, Paul E.....34	Sorensen, Todd.....25
Bartlett, Marilyn J.....38	Green, Preston.....13	Stader, David L.....26
Bathon, Justin M.....37	Grigsby, Bettye.....36	Stefkovich, Jacqueline A.....23
Bauries, Scott R.....24,33	Haglund, Rich.....33	Stellman, Leslie R.....20
Beckham, Joseph.....27	Harris, Suzy.....22	Sughrue, Jennifer.....16
Bennett, P. Tyson.....15	Hartmeister, Fred.....6	Sun, Jeffrey C.....25
Benson, Kelly M.....19	Hassenpflug, Ann.....28	Superfine, Benjamin M.....25, 36
Blackman, Phillip.....20	Hendrickson, Robert M.....20	Tan, Michael.....37
Bon, Susan C.....6, 25	Hunter, Richard.....22	Thro, William E.....11
Booth, Jeb.....19	Hutchens, Neal H.....16	Umpstead, Regina.....23
Borkowski, John W.....13	Joubert, Rika.....30	Urbanski, Jan.....37
Borrea, Christopher.....30	Kallio, Brenda R.....28	van Patten, James.....14
Bowman, Kristi.....15	Kiracofe, Christine S.....18	Tan, Rooyen, Jean W.....18
Brady, Kevin P.....23	Kitchner, Russell.....38	Vergon, Chuck.....14
Brower, Wendy L.....30	Kops, Gerald C.....28	Villani, Christine.....11
Brown, Frank.....22	Kriha, Darcy.....17	Wagner, Philip H.....22
Bruner, Darlene Y.....23	LeBlanc, Robert.....36	Wasserman, Lewis M.....19
Buckner, Kermit.....35	Linden, Mary Anne.....22	Wattam, Don.....19
Butz, Janet.....30	Lineburg, Mark.....16	Weaver, Rosa.....16
Cambre, Belinda M.....23	Lovelace, Carrie M.....25	Weber, Cathleen J.....14
Clark, Susan G.....6	Lugg, Elizabeth T.....14	Weiler, Spencer C.....27
Colwell, Brad.....30	Mann, Richard L.....12	Williams, Lisa C.....12
Conn, Kathleen.....6	Mattocks, T.C.....19	Williams, Theresa N.....30
Cornelius, Luke M.....16	Matula, Joseph.....35	Wood, R. Craig.....11
Cox, Betty.....16	Mawdsley, Ralph D.....24	Zirkel, Perry A.....35
Cumming, Joy.....34	Mayers, R. Stewart.....18	
Daggett, Lynn M.....27	McBride, Lisa R.....25	
Dagley, Amy.....15	McCarthy, Martha M.....24	
Dagley, Dave.....29	McIntyre, Daniel.....22	
Daniel, Philip T.K.....11	McKenna, Kevin M.....23	
Darden, Edwin.....24	McNeal, Laura.....22	
Dayton, John.....13	Mead, Julie.....34	
de Casal, Carole A.....10	Melear, Kerry Brian.....29	
de Sousa, Monica Teixeira.....33	Mitchell, Mark W.....14	
Decman, John.....36	Mooney, Cynthia.....11	
Driscoll, Lisa G.....26	Moran, Peter L.....13	
Dutile, Fernand N.....6	Mulligan, Patricia A.....10	
Eckes, Suzanne E.....26	Nichols, Ed.....29	
Edmondson, Macey L.....29	Nichols-Graham, Kimaka.....12	
Edmonson, Stacey.....37	Oldaker, Lawrence Lee.....15	
Epley, B. Glen.....38	Pauken, Patrick D.....6, 11	
Escue, Carlee Poston.....13	Permuth, Steve.....37	
Evans, Roberta D.....19	Reyneke, Mariette.....24	
Every, J. Bradford.....27	Roberts, Nathan M.....36	
First, Patricia.....6	Rossow, Lawrence F.....23	
Foley, Lauren S.....33	Russo, Charles J.....24	
Fossey, Richard.....26	Schilling, Alvin.....29	
Garda, Robert A.....27	Schimmel, David M.....24	
Geisel, Richard T.....28	Schlosser, Rebecca.....37	
Gibbs, Jesulon S. R.....18	Schwartz, Brian.....30	
Glass, Amy H.....34	Scott, Lynn Rossi.....6, 17	
Glenn, William J.....26	Sherrill, Kelly A.....29	
Gordon, Vivian Hopp.....27	Simieou III, Felix.....36	

Education Law Association 55th Annual Conference

- Est. 1954 - *The premier source of information on education law*



October 21-24, 2009
Louisville, KY



2009

**Thank you for attending the
2009 ELA 55th Annual Conference!**

We look forward to seeing you next year in
Vancouver, British Columbia, Canada!

300 College Park | Dayton, OH 45469-0528
p: (937) 229-3589 | f: (937) 229-3845 | ela@educationlaw.org | www.educationlaw.org