SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT
June 2023

The Eleventh Circuit Reverses District Court Denial of Students' Temporary Restraining Order and Injunction

Students with respiratory disabilities moved for a temporary restraining order and preliminary injunction against Cobb County School District Superintendent, individual members of the Cobb County School Board, and the Cobb County School District (CCSD) during the Covid-19 pandemic. The students claimed that the CCSD's refusal to provide reasonable accommodations for in person schooling violated Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The students were given the choice to attend school in person or virtually for the 2021-2022 school year. The students chose to attend in person, but the students alleged that unless the CCSD reimplemented Covid-19 safety measures, the students would suffer irreparable harm and would be unable to attend school in person. The students moved for a temporary restraining order and preliminary injunction which was denied by the District Court in December 2022.

The students asked for the CCSD to comply with each of the Centers for Disease Control and Prevention's recommendations. Therefore the Court found there remained a live controversy. The Eleventh Circuit Court of Appeals found the District Court erred in finding the students' argument was regarding a right to education generally when the students were alleging specifically a denial of in person education. The Court found on remand that the District Court must analyze whether virtual schooling is a reasonable accommodation for in person schooling, not education in general. If it was found not to be a reasonable accommodation, then the District Court must consider whether virtual schooling is a reasonable accommodation for in person schooling, not education in general. If the District Court finds it is not, the District Court must consider whether the multi-layered approach to Covid-19 precautions the students seek constitutes a reasonable accommodation. The Court also found that the District Court erred in requiring the students to show a failure to accommodate or disparate treatment to proceed under an unjustified isolation theory.

A copy of the Court's opinion can be found here.

The Eleventh Circuit Court Holds that Separating School Bathrooms Based on Biological Sex is Constitutional and Comports with Title IX

On December 31, 2022, the United States Court of Appeals for the Eleventh Circuit issued an en banc decision ruling that public schools have the right to segregate bathrooms and locker rooms

by biological sex. The Court's decision favored the School Board of St. John's County, represented by Sniffen and Spellman, P.A.

Adams, a transgender student, was told he could either use the communal female bathrooms or the single-stall, sex-neutral bathrooms. After Adams failed to convince the school district to allow him to use the communal male bathrooms, he sued the school district, claiming that the district failing to grant his requested accommodation violated both the Equal Protection Clause and Title IX. The District Court agreed on both counts; however, the Eleventh Circuit reversed and remanded the case.

First addressing the Equal Protection Clause claim, the Eleventh Circuit reasoned that the claim must fail because, as to the sex discrimination claim, the bathroom policy clears the hurdle of intermediate scrutiny as it was clearly related to the objective of protecting the privacy interests of other students. Additionally, the Court found the bathroom policy does not discriminate against transgender students.

Further, the Eleventh Circuit held that the Title IX claim must fail because Title IX allows schools to separate bathrooms by biological sex. The reasons for this conclusion included that: (1) the statute is not ambiguous as to the word "sex," (2) the statute provides a separate carve-out for living and bathroom facilities, and (3) even if the statute was ambiguous, the spending clause's clear-statement rule would only violate Title IX if the meaning of "sex" unambiguously meant something other than biological sex, which it does not.

A copy of the Court's opinion can be found here.

K-12 Legislative Bills Summary

SB 266 – effective July 1, 2023

Senate Bill 266 requires the Board of Governors at universities to adopt regulations regarding a five-year post-tenure review, periodic academic program reviews, and to provide a directive to each university regarding any violation of the Florida Educational Equity Act, or programs based on theories that systemic racism, sexism, oppression, and privilege are inherent in the institutions of the US that were created to maintain social, political, and economic inequities.

The Bill also assigns final authority on hiring decisions to the president of the university, and requires the president (or designee) to present to the Board of Trustees the results of any performance evaluation of employees earning more than $200,000.

SB 266 also establishes content standards for core general education courses and bars content based on "theories that systemic racism, oppression, and privilege are inherent in institutions of the United States and were created to maintain social, political, and economic inequities."
At the university level, funds may not be expended on programs or campus activities that violate the Florida Education Equity Act, or those that advocate for diversity, equity, and inclusion.

HB 931 – effective July 1, 2023

HB 931 requires post-secondary universities to establish an "Office of Public Policy Events" that will be responsible for organizing and publicizing debates, group forums, and lectures that address multiple, divergent, and opposing perspectives. Universities must also maintain a calendar of these events and report to the Board of Governors about these events.

This Bill also prohibits the use of political loyalty tests in a state university's hiring, admissions, or promotion process.

Finally, the Bill establishes a Florida Student Association that is composed of 12 student body presidents of the State Universities. They must adopt bylaws and establish due process protections for the Association president.

SB 254 – effective May 17, 2023

This Bill outlaws prescribing sex reassignment surgery and medications to minors. It also grants Florida courts temporary emergency jurisdiction to intervene and halt any such procedures for minors who travel from out of state to Florida.

This Bill also requires that doctors provide information to adults receiving hormone therapies and surgeries about the dangers of the procedures, and the irreversible nature of the procedures.

Finally, government entities, including post-secondary institutions, group health insurance programs or managed services plans may not expend state funds on sex-reassignment prescriptions or procedures.

HB 1438 – effective May 17, 2023

This Bill imposes fines and license suspensions for hotels and restaurants that knowingly admit a child into an adult performance, in all venues, and includes drag shows and strip clubs.

HB 1521 – effective July 1, 2023

This Bill creates the "Safety in Private Spaces Act", which generally provides for restrooms and changing facilities for exclusive use by females or males (based on biological sex). HB 1521 establishes a procedure for individuals to notify authorized individuals for public sector entities (including state adult correctional institutions, K-12, post-secondary universities, juvenile correctional facilities, secure detention centers/facilities, and any public buildings that are owned or leased by the state, a state agency, county, city, or special district) that a person of the opposite biological sex has entered into a restroom or changing facility designated for exclusive use for males or females. Again, there are exceptions carved out for persons born with a medically verifiable genetic condition.

The Bill also requires all other entities that have a bathroom or changing facility to have facilities that are exclusively for males or females (based on biological sex at birth), as well as a unisex bathroom or changing facility that is enclosed in floor-to-ceiling walls with a full door that locks. Educational institutions must also establish disciplinary procedures in their codes of conduct for any student who willfully enters a restroom or changing facility designated for the opposite sex, and refuses to depart when asked to do so by an authorized person. This Bill will also require educational institutions and other covered entities to submit documentation regarding compliance.

Finally, HB 1521 provides that beginning July 1, 2024, a person can submit a complaint to the Attorney General if a covered entity failed to meet the requirements above, and possible penalties for failure to meet requirements include licensure or regulatory disciplinary action, injunctive relief, and fines.

HB 225 – effective July 1, 2023

HB 225 authorizes charter schools and Florida Virtual School students to participate in interscholastic extracurricular activities at a private schools. Also, the Bill authorizes public school students to participate in an interscholastic extracurricular activities in the district or to develop an agreement to participate at a private school if their current school does not offer the activity (certain standards must be met with the receiving school).

The Bill also modifies the Florida High School Athletic Association (FHSAA) program in various ways, including allowing private school students to participate in an interscholastic extracurricular activity at a public school that is a member of the FHSAA.

HB 225 also requires certain athletic associations to adopt policies or procedures to allow opening remarks at championship events, with specified conditions for those remarks.

HB 1069 – effective July 1, 2023

HB 1069 addresses the processes for review of library and classroom materials available to students in public schools. It requires the suspension of materials alleged to contain pornography or obscene depictions of sexual conduct, and requires that the school board discontinue the use of any material the board does not allow a parent to read aloud in a board meeting. The Bill also requires that meetings of committees to resolve book and classroom materials objections be noticed and open to the public. An appeals process whereby a special magistrate can be appointed is also outlined.

HB also expands the requirements for age-appropriate and developmentally appropriate instruction for *all* students in pre-kindergarten through grade 12, and prohibits classroom instruction on sexual orientation and gender identity in pre-k through 8th grade.

Finally, HB 1069 provides that Florida's students and teachers will no longer have to "declare" their pronouns in school or be forced to use pronouns not based on biological sex. The law states that a person's sex is an "immutable biological trait", with the limited exceptions for people with a specific genetic or biochemical disorder. The law also provides that school employees are not

allowed to share their preferred pronouns to students, or ask a student to provide his or her preferred pronouns or discipline a student for failing to do so.

Post-Secondary Legislative Bills Summary

HB 3- effective date: 7/1/2023: Government and Corporate Activism

Find the Bill here

House Bill 3 requires that any contract between a governmental entity, (including the Florida College System institution, state university or associated board) and an investment manager must contain the following provision in any communication between the investment manager to a company in which the investment manager invests public funds on behalf of the governmental entity and discusses political, social, or ideological interests; subordinates the interests of the company's shareholders to the interest of another entity; or advocates for the interest of an entity other than the company's shareholders:

"The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the state of Florida."

The contract may be unilaterally terminated if that language is not included and the communication discusses political, social, or ideological interests.

The Bill also requires investments of certain state and local government funds to be based entirely on "pecuniary factors." Pecuniary is defined in the bill as: "a factor that the Chief Financial Officer, or other party authorized to invest on his or her behalf, prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of many social, political, or ideological interests."

The Bill also prohibits the Florida College System institution and state universities from requesting certain documentation from vendors and giving preference based on social, political, or ideological beliefs.

SB 256- effective date: "except as otherwise provided": Employee Organizations Representing Public Employees

Find the Bill here

Senate Bill 256 amends Florida Statutes Chapter 447 and creates new requirements on employee organizations that represent public employees in collective bargaining. Senate Bill 256 requires:

- A public employee who wishes to become a member of an employee organization must sign and date an authorization form with the bargaining agent starting on July 1, 2023. The specific information for the form is included in the Bill.

- A public employee may revoke membership in the employee organization at any time during the year without any reason.
- An employee organization must retain for inspection the membership authorization forms and revocations.
- Except as authorized in subsection 2 of the Bill, an employee organization may not have dues and uniform assessments collected by the employer from the salaries of the employees in the unit.
- Every employee organization seeking to become a certified bargaining agent for public employees must register with the commission. The bill lays out what must be included in the form for registration.
- Expands the information required for an organization's annual renewal with PERC.
- If the employee organization does not register it may not participate in a representation hearing, representation election, or be certified as a collective bargaining unit.
- The employee organization must be recertified as the bargaining agent if the number of employees paying dues is less than 60 percent of the number of employees eligible for representation in the bargaining unit.
- A public employer or bargaining unit employee may challenge an organization's renewal application if they believe the application to be inaccurate.
- The Bill lays out reasons the commission may revoke or deny an organization's renewal or certification.
- Each organization must provide its members with an annual audited financial report. The organization must also inform its members each year of all costs of membership.
- Expands prohibited activities by employee organizations.
- Authorizes the commission to waive certain provisions for employee organizations.

SB 7026- effective date: 7/1/2023- Higher Education Finances:

Find the Bill **here**

SB 7026 looks at higher education finances, specifically fee waivers, authorized expenditures included in a carry forward spending plan for state universities and Florida College System institutions, and regulations for boards of trustees relating to contracting for the construction of new facilities.

SB 7026 provides that the Board of Governors shall be responsible for developing regulations for boards of trustees relating to the procedures for contracting for professional services and for the construction of new facilities or for the remodeling, renovation, or maintenance of or additions or repairs to existing facilities by October 1, 2023.

SB 7026 expands authority for state universities and colleges to waive certain fees. The Bill allows a state university or Florida College System institution to waive out-of-state fees for a student who is an intercollegiate athlete. A state university or Florida College System institution may also waive

application, tuition, or related fees for people 60 years or older and who are residents of Florida and attend classes for credit as well as for people who supervise student interns.

The Bill also establishes that a Florida College Institution or state university employee may not receive more than $250,000 annually from appropriated State funds.

The Bill discusses the carry forward spending plan for Florida College System institutions and state universities and takes out some of the restrictions on carry forward spending. The bill takes out the caps for spending on remodeling infrastructure projects and completion of renovation, repair, or maintenance projects.

SB 7026 also removes cost and gross square feet maximums that must be followed for replacing minor facilities with Public Education Capital Outlay funds.

HB 1537- effective date: 7/1/2023- Education

Find the Bill here

House Bill 1537 deals with education generally. Specifically, the bill relates to post-secondary institutions because it deals with dual enrollment and acceleration mechanisms.

The Bill provides that the State Board of Education and Board of Governors shall identify Florida College System institutions and state universities to develop courses for students in secondary education for which college credit can be awarded. The Department of Education may partner with an independent third-party testing organization to develop assessments. Postsecondary credit is limited to students who receive a minimum score that is accepted.

The Department of Education and Board of Governors must issue a report to the Legislature by January 1, 2024, on the acceleration mechanisms and how they align with postsecondary completion rates. The DOE shall approve courses for inclusion in the dual enrollment program that is age and developmentally appropriate.

The Bill discusses Bright Futures Scholarship and allows for the student's performance on the SAT, ACT, or Classic Learning Test (CLT) to meet the requirements for Bright Futures. Further, the Bill allows students to combine volunteer and paid work hours to meet the Bright Futures requirements.

SB 540- effective date: 7/1/2023- Local Government Comprehensive Plans

Find the Bill here

SB 540 provides that land development regulations relating to any characteristic of development other than use, or intensity or density of use, do not apply to Florida College System institutions.

SB 258- effective date: 7/1/2023- Prohibited Applications on Government-issued Devices

Find the Bill here

Senate Bill 258 prohibits certain applications on government-issued devices for public employees, including those employed by universities or institutions of higher education. The Department of Management Services (DMS) is responsible for compiling a list of prohibited applications. The Bill prohibits applications created or maintained by a foreign principal and that engage in:

a. Collecting keystrokes or sensitive personal, financial, proprietary, or other business data;
b. Compromising e-mail and acting as a vector for ransomware deployment;
c. Conducting cyber-espionage against a public employer;
d. Conducting surveillance and tracking of individual users; or
e. Using algorithmic modifications to conduct disinformation or misinformation campaigns;

The Bill also prohibits applications created or maintained by foreign principals that pose a security risk by allowing unauthorized access to or temporary unavailability to the public employer's records.

Public employers are responsible for blocking and restricting these prohibited applications on government-issued devices. Public employers should also maintain the ability to remotely wipe and uninstall a prohibited application. Public employers must remove prohibited applications from government issued devices within 15 calendar days of the DMS's prohibited application list being posted.

SB 240- effective date: 7/1/2023- Education

Find the Bill here

The Bill provides that a career center may offer an associate applied science or associate in science degree program through agreements between the Florida College System institution and other accredited postsecondary educational institutions. The Florida College System or private college may submit an alternative proposal for a degree program and describe the process.

The Bill gives authority to district school boards and state colleges the responsibility to approve workforce education programs that have a curriculum framework developed by the Department of Education. The bill also removes the requirement for state colleges that all programs offered to meet local workforce demand include a money-back guarantee for employment.

The Bill provides that for postsecondary vocational programs offered by the career centers the standard tuition shall be $71.98 per credit hour for residents and nonresidents and an out-of -state fee of $215.94 per credit hour.

The Bill also lays out the Florida Work Experience Program and discusses the approval and funding process for Florida College System institutions and school districts to conduct these programs.

Each institution shall also report to the department the number of students eligible for the program for each academic term. A Florida College System institution offering a new workforce program must be approved by the board of trustees of the Florida College System institution.

HB 269- effective date: 5/1/2023- Public Nuisances
Find the Bill here

House Bill 269 provides that it is a first-degree misdemeanor to enter the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person and that has been warned to leave the campus and refuses to do so.

SB 846-effective date: 7/1/2023- Agreements of Educational Entities with Foreign Entities

Find the Bill here

SB 846 establishes that state universities and state colleges may not accept grants or participate in any agreement with any college or university based in a "foreign country of concern" or any foreign principal. Foreign countries of concern include the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic.

A foreign principal is defined as:
1. The government or an official of the government of a foreign country of concern;
2. A political party or a member of a political party in a foreign country of Concern;
3. A partnership, an association, a corporation, an organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary thereof; or
4. Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States.

Further, the Bill provides that state universities and state colleges may not accept or solicit any gifts from in its official capacity from a foreign country of concern or foreign principal. Beginning December 1, 2023, a state university or state college may not any grant or form a partnership with any college based in a foreign country of concern or with any foreign principal except if:

- The Board of Governors approves the state university to enter into a partnership or agreement if it is not detrimental to the United States or its residents and it is deemed to be valuable to the students of the state university.

- The State Board of Education approves the state college to enter into a partnership or agreement if it is not detrimental to the United States or its residents and it is deemed to be valuable to the students of the state university.

By December 1, 2024, and each December 1 after, the Bill requires the Board of Governors and Department of Education to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives of the partnerships and agreements between state college and state universities with foreign countries of concern and principals. The Board of Governors and Department of Education may withhold additional performance funding from a state university or state college if the college or university enters into a partnership or agreement with a foreign country of concern or foreign principal without approval.

Florida House Bill 999 Would Restrict Certain Funding and Subject Matter in Higher Education

The Bill grants additional power to the Board of Governors to periodically review the mission of each university, provide revisions to said missions, and provide direction to universities to remove from its programs any major or minor utilizes pedagogical methodology associated with "Critical Theory." The Bill states this includes, but is not limited to, Critical Race Theory, Critical Race Studies, Critical Ethnic Studies, Radical Feminist Theory, Radical Gender Theory, Queer Theory, Critical Social Justice, or Intersectionality, as defined in Board of Governors regulation, or any major or minor that includes a curriculum that promotes the concepts listed in Section 1000.05(4)(a), Florida Statutes.

The Board of Governors is authorized, through the Bill, to adopt regulations that require post-tenure reviews of faculty members at any time for cause. Each state university board of trustees may, at the board's chair's request, review any faculty member's tenure status based on the regulation provided by the Board of Governors.

The Bill provides certain guidelines for the hiring of faculty members, specifying that a university president may provide hiring recommendations to the board of trustees, but the president and board are not required to consider the recommendations of other faculty, individuals, or other external groups. Further, the board is permitted to grant the president hiring power, although limitations apply. The Bill requires the board's approval on the president's appointed executive team.

Under the Bill, a state university may not solicit pledges, except pledges to uphold the law, or statements or commitments for or against certain viewpoints about diversity, equity, and inclusion, Critical Race Theory rhetoric, or political identity or ideology, as part of any hiring, promotion, disciplinary, or evaluation process, applicable to potential and actual employees and students. Further, the Bill prohibits a state college, state university, or one of their direct-support organizations, from expending state or federal funds on: (1) promoting the concepts listed in Section 1000.05(4)(a), Florida Statutes, (2) advocacy for diversity, equity, and inclusion, (3) promoting or engaging in political activism, and (4) embrace as government speech preferential

treatment or special benefits to individuals on the basis of race, color, national origin, sex, disability, or religion. Programs and activities required by federal law for situations such as Pell Grants or first-generation students are not prohibited by this legislation. Student fees to support student-led organizations would be permitted, notwithstanding any speech or expressive activity by such organizations that would otherwise violate the above, provided that the public funds must be allocated to student-led organizations pursuant to written policies or regulations of the college or university.

The Bill amends general education course requirements to prohibit courses that distort significant historical events or that use instruction from Critical Theory and establishes new standards and adoption procedures for general education course requirements.

The Bill was reported favorably by the Postsecondary Education & Workforce Subcommittee on March 9, 2023. It is now in the Education and Employment Committee. The committee substitute for the Bill can be found here.

Florida Legislature Introduces Bill Which Would Require School Employers to Refer to Students by Their Sex

HB 1223 and SB 1320 would mandate that no employee, contractor, or student of a public K-12 educational institution shall be required, as a condition of employment, enrollment, or participation in a program, refer to another person using a preferred personal title or pronoun that does not correspond to that person's sex. Additionally, the Bills would prohibit employees or contractors of the schools from asking students what their preferred pronouns are or referring to students by a personal title or pronoun which does not correlate to their sex. The bills would also expand the existing prohibition on instruction on gender identity and sexual orientation from prekindergarten through third grade to prekindergarten through eighth grade.

The Bill was reported favorably by the Choice & Innovation Subcommittee on March 14, 2023. It is now in the Education and Employment Committee. The committee substitute for the Bill can be found here.

U.S. Supreme Court Reinstates Disabled Student's Challenge Under Americans with Disabilities Act

On March 21, 2023, in *Perez v. Sturgis Public Schools*, Case No. 21-887 (Mar. 21, 2023), the U.S. Supreme Court unanimously held that the United States District Court for the Western District of Michigan improperly dismissed a disabled student's claim under the Americans with Disabilities Act ("ADA"), pursuant to section 1415(l) of the Individuals with Disabilities in Education Act ("IDEA"), for failure to exhaust available administrative remedies. At issue in *Perez* was the plaintiff's and his parents' assertion that the school board misrepresented the educational support plaintiff received as well as his educational status. Upon learning of his actual educational status, plaintiff and his parents filed an administrative complaint with the Michigan Department of

Education, alleging that the school board failed to provide plaintiff with a free and appropriate public education ("FAPE") as required by the IDEA. Ultimately, the administrative case was settled and dismissed prior to hearing. Subsequently, plaintiff filed a separate suit in the federal District Court seeking compensatory damages under the ADA. The District Court, in an order later affirmed by the Appellate Court, dismissed plaintiff's ADA complaint, focusing on the harms alleged within the complaint, and concluding that Plaintiff's claim was barred by Section 1415(l) of the IDEA for failure to fully exhaust available administrative remedies.

While the District Court and Appellate Court relied on the harms alleged within plaintiff's complaint to conclude that it was an IDEA claim by another name, and therefore should be dismissed pursuant to section 1415(l), the Supreme Court shifted the emphasis of the exhaustion analysis from the harms alleged to the "nature of the relief sought." To that end, the Supreme Court concluded that even though plaintiff's suit was admittedly based on a past denial of FAPE, plaintiff was not required to exhaust his administrative claim where his suit was brought under "another federal law for compensatory damages—a form of relief everyone agrees the IDEA does not provide." The Supreme Court ultimately explained that section 1415(l) does not require "a plaintiff [to] exhaust administrative processes under IDEA that cannot supply what he seeks."

A copy of the Court's Opinion can be found here.

Florida District Court Dismisses Parents' Suit Challenging School District's Meeting with Transgender Student

On December 22, 2022, Florida Northern District Court Judge, Mark Walker, granted the Leon County School Board's Motion to Dismiss. A suit brought by the parents of a transgender student which alleged that the School Board violated the parents' constitutional rights when it met with the transgender student to develop a support plan without the parents present. The five-count complaint asserted violations of the parents' substantive due process rights, including the right to direct the upbringing of their child, the right to direct the medical and mental health decision-making for their child, and the right to familial privacy all under the 14th Amendment to the U.S. Constitution. The Complaint additionally alleged violations of the plaintiffs' right to privacy and substantive due process rights under the Florida Constitution. The Court ultimately concluded as to the federal claims, that the Complaint failed to state a cause of action because the conduct alleged failed to rise to the level of substantive due process violation. Specifically, the Court held: "While Defendants alleged conduct may give rise to other claims, Plaintiffs fail to state a substantive due process claim because Defendants' alleged conduct does not rise to the level of conscience-shocking, as defined by binding case law." In light of the Complaint's failure to state a federal claim, the Court declined to accept supplemental jurisdiction over the plaintiffs' remaining state law claims and therefore dismissed those claims without prejudice.

A copy of the Court's Order can be found here.

Florida Legislature Expands School Voucher Program to All-School Aged Children

On March 27, 2023, Governor DeSantis signed into law, HB 1, which expands eligibility for Florida's Family Empowerment Scholarship to all Florida families with elementary, middle, or high school-aged children. The law, effective July 1, 2023, eliminates financial eligibility requirements and a cap on enrollment of the preexisting Florida Empowerment Scholarship for Educational Options, which provides stipends for Florida students to attend private schools. Priority for receipt of available scholarship funds will be given to low-income students as well as students who are in foster or out-of-home care. The law also allows the creation of "education savings accounts," where families who are approved to receive the stipend may deposit the stipend in the event it is not needed at the time it is received. Up to $24,000 can be saved in the account until it expires when the student turns 21, receives a high school diploma, or attends public school. The monies in the account can also be used to cover other approved, school-related expenses besides tuition.

A copy of the legislation can be found here.

Claimant's Due Process Rights Violated When Given Inadequate Notice

Reddick was an African American woman who sued USF for discrimination based on race, color, gender, and disability pursuant to Florida Statutes Chapter 760. The FCHR sent a letter to Reddick informing her that, because 180 days had passed from when her complaint was filed, and because the Florida Commission on Human Relations (FCHR) had not yet determined whether there was reasonable cause, Reddick had four options.

The letter gave no indication to Reddick that, when she chose one option, she would not be able to later choose another. Reddick maintained that she wanted to pursue a civil action over an administrative action, but based on the notice she was given sought an administrative hearing with the Division of Administrative Hearings (DOAH). Florida Statute760.11(8) provides that if the FCHR fails to determine whether there is reasonable cause under the section within 180 days of the filing of the complaint, "an aggrieved person may proceed under subsection (4), as if the FCHR determined that there was reasonable cause." Under subsection 4, where the FCHR has determined that there is reasonable cause, an aggrieved person may either bring a civil action or request for an administrative hearing.

The Court concluded that the letter did not count as adequate notice under Florida Statute 760.11(4) and (8). The Court held that Reddick's due process rights were violated and reversed.

Find the case here.

Firm News

Robert Sniffen served as a co-presenter at the 19th Annual HR Tallahassee Conference and Expo sponsored by the Big Bend Chapter of the Society for Human Resources Management. The

presentation focused on HR compliance and risk management issues and was held at the Florida State University Turnbull Center.

Jeffrey Slanker has joined the Academy of Florida Management Attorneys (AFMA).

Michael Spellman spoke at the Florida Municipal Insurance Summit on May 19 in Ft. Myers, Florida, and gave a presentation titled "How to Become a Master Facilitator of Employment Practices."

Robert Sniffen's article "Small Employers Beware – Equal Employment Opportunity Law Coverage Issues" was published in the May/June 2023 edition of *ASSOCIATION SOURCE*, magazine.

Sniffen & Spellman, P.A. is pleased to announce the inclusion of six attorneys in the 2023 edition of Florida Super Lawyers. Each year, no more than five percent of the lawyers in the state are selected by the research team at Super Lawyers to receive a Super Lawyers honor and no more than 2.5 percent of the lawyers in the state are selected to receive a Rising Star honor.

This year's honorees includes:

2023 Florida Super Lawyers:
-**Matthew Carson**: Schools & Education, Civil Litigation, Civil Rights
-Terry Harmon: Schools & Education, Employment & Labor, Administrative Law, General Litigation
-**Rob Hauser**: Appellate, Civil Litigation
-**Robert Sniffen**: Employment & Labor, Civil Litigation, Schools & Education
-**Michael Spellman**: Civil Rights, Employment Litigation: Defense, Civil Litigation: Defense, Constitutional Law

2023 Rising Star:
-**Jeffrey Slanker**: Employment & Labor, Appellate, Civil Rights

Jeffrey Slanker has become Board Certified by the Florida Bar in Appellate Practice. Board certification is Florida's official, independent determination of a lawyer's expertise to practice in a specialty field of law. It is the gold standard for Florida lawyers, representing a recognition by a lawyer's peers that they have attained a level of professional expertise in their chosen fields. Of the over 80,000 lawyers in Florida that are eligible to practice law, there are only 217 Board Certified in Appellate Practice. Jeff's appellate practice spans state appellate courts in Florida and the United States Court of Appeals for the Eleventh Circuit. He represents clients in appellate matters in a variety of subject areas of the law including labor and employment law, state and local government law, constitutional law, and civil rights law.

Past Issues of the Education Law Alert Available on Website

You may view past issues of the Education Law Alert on the Firm's website: www.sniffenlaw.com. After entering the Firm's website, click on the "Publications" page. Our Firm also highlights various articles of interest on our official Twitter feed, @Sniffenlaw.