

# SNIFFEN & SPELLMAN, P.A.

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## EDUCATION LAW ALERT July 2023

### **The Supreme Court's Landmark Decision on Affirmative Action Imposes a Re-Examination of College Admission Policies**

The 2023 Supreme Court decision in *Students for Fair Admissions v. Harvard* and *Students for Fair Admissions v. the University of North Carolina* marks a major turning point in U.S. college admissions. The Court ruled that the colleges' affirmative action programs, which considered race in admissions, went against the Fourteenth Amendment's Equal Protection Clause. In simple terms, the Court determined that while race can't be a deciding factor in admissions, it can be considered within the context of a student's unique life experiences or distinctive attributes that contribute to the university community.

The contrasting opinions written by the justices reflect the complexity of the issue. The majority opinion, authored by Chief Justice Roberts, emphasizes eliminating all forms of racial discrimination. Meanwhile, the dissenting voices, led by Justice Sotomayor, argue that achieving equality requires acknowledging the existing racial inequalities.

This landmark ruling has substantial implications for colleges and universities, prompting a re-evaluation of admissions policies. Race-conscious admissions have been crucial tools for fostering diverse academic environments. While not entirely prohibited, they must be closely tied to a student's background or potential contributions. This change necessitates a refined and nuanced approach to admissions that balances legal compliance and the commitment to diversity and inclusion.

### **Florida Department of Education Approves New Standards on Teaching African American History**

Last year, Governor Ron DeSantis signed House Bill 7, which restricts how topics of race can be discussed in K-12 classrooms, into law. As a result, Florida's State Board of Education adopted new standards for teaching African American history in grades K-12.

Some noteworthy changes to Florida's African American history standards include, as it pertains to elementary school, changing instruction from "evaluating" the civic and political contributions of various African American leaders to merely "identifying" the individuals, and in Grades 6-8, a clarification to the standard of examining the various duties and trades performed by slaves which includes instruction on "how slaves developed skills which, in some instances, could be applied for their personal benefit." Additionally, the standards of discussion in high school education have become more generalized.

To see all of the State's Academic Standards in Social Studies for 2023, please click [here](#).

## **What Florida's New Permitless Carry Legislation Means for Schools**

House Bill 543, which took effect as law starting on July 1, 2023, amends the Guardians Program to allow private schools to have guardians, appointed by the head of the private school, on their campuses. The program was previously only available to public and charter schools.

The bill provides the training of guardians is a statewide curriculum that can be administered by Sheriffs in the counties where the schools are located. Notably, the amount of training time required on active shooter scenarios is now double what it was previously.

Under the new legislation, each law enforcement agency must develop and maintain an active assailant response policy. The Marjory Stoneman Douglass High School Public Safety Commission developed a model policy which will be published by the Florida Department of Law Enforcement. Based on this model, each agency must develop their own plan based on the specific capabilities of that department. It must include plans for coordination and communication with other agencies, as well as establishing clear command protocols. All sworn personnel must be trained within 180 days of enacting or revising one of these policies, and thereafter at a minimum, annually.

The new law also directs the Florida Department of Education to establish the Florida Safe Schools Canine Program, which may designate a person, school, or business entity as a “partner” if the person, school, or business entity provides a monetary or in-kind donation to a law enforcement agency to purchase, train, or care for a firearm detection canine.

Additionally, the Office of Safe Schools is required to create a Florida-specific system and processes for managing behavioral threats, including a behavioral threat assessment instrument and a threat management portal. All threat management teams will be required to use the statewide portal when it becomes available. Further, all associated threat assessment records on a given student must be transferred within 3 school days if a student transfers schools. The bill also clarifies that an individual that is personally familiar with the student who is the subject of the assessment must be included on the team. Finally, each school board must create and adopt a zero-tolerance list of acts that must be reported.

For more information, please click [here](#).

## **Case Coming Before the Supreme Court in October Will Reconsider Lateral Transfers as Adverse Employment Action**

This October, the Supreme Court will decide whether Title VII of the Civil Rights Act of 1964 prohibits discrimination in transfer decisions absent a separate determination that the transfer was materially adverse in *Muldrow v. City of St. Louis*. While certainly pivotal in the employment law context, the decision will be applicable to school entities where lateral transfers often occur on a regular basis. The decision will likely contemplate whether items like change in “prestige,” “workplace environment,” and “responsibilities” are actionable.

## **Firm News**

**Rob Sniffen** has been elected Secretary to the Board of Directors for the Community Foundation of North Florida, a non-profit organization that provides leadership in charitable giving, charitable planning and endowment building with the goal of building a stronger community through philanthropy and endowments.

**Mitchell Herring** provided a presentation on employment law to the Florida Veterinary Medical Association Power of Ten Leadership Program, a program which provides a specialized curriculum to recent Doctor of Veterinary Medicine graduates to help them build the skills they need to effectively operate their businesses.

## **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](http://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.