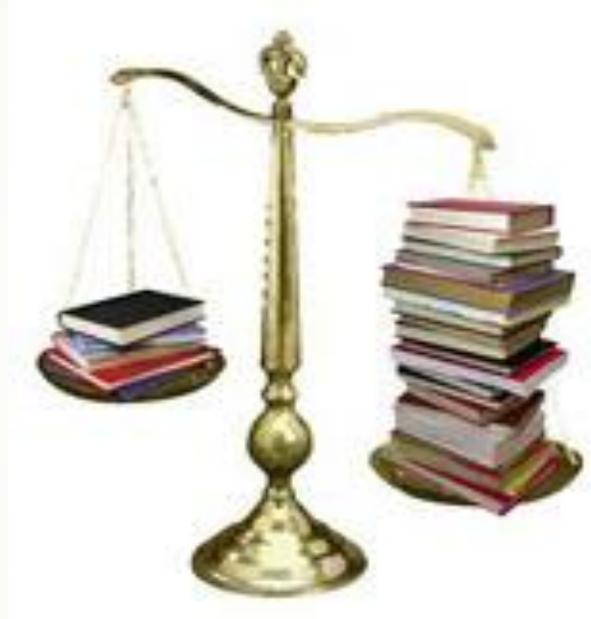


# Legal Issues Update



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# Presentation Source: Georgia Association of Educational Leaders



2016 Spring Legal Issues Conference

March 7 – 8, 2016

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# Enrollment Issues to Consider



- Is the child eligible for enrollment?
- Is the individual authorized to enroll the student in your district?
- Who can enroll / withdraw child?

# Enrollment Issues to Consider



- What documentation is required for enrollment?
- Records requirements for transferring students in grades 7 - 12
- Felony Convictions

# Can we deny or delay enrollment?



- Homeless Students
- Authorization to refuse admission
- Students Returning from YDC or other incarceration

# Student Withdrawals

SBOE Rule 160-5-1-.28



- A student may be withdrawn by a parent, guardian, grandparent or other person that enrolled the child.
- When withdrawn according to system procedures and with documentation of proof as required by SBOE rule (160-5-1-.28).
- “It is the responsibility of the principal to ensure that all student withdrawal information is complete and accurate.”

# Parental Permission to Drop Out

SBOE rule & O.C.G.A. 20-2-690.1 (e)



- 16 and 17 year olds who are not emancipated require written parental permission to drop out.
- Principal or designee must convene a conference within 2 school days of “notice of intent of the child” to drop out.
- During conference, make a “reasonable attempt” to share educational options available (GED), consequences of dropping out, lower earnings, fewer jobs, inability to move on to higher education, etc.

# Emancipation



“The termination of the rights of a parent to the custody, control, services, and earnings of a child” (O.C.G.A. 15-11-2(29)).

- I. Operation of Law
- II. Court Order – Petition filed by a child with the juvenile court

# Developing a Local Attendance Policy *(SBOE Rule 160-5-10-.10)*



- All LEA must develop a Local Attendance Policy
- Attendance Protocol Committee
- Students absences **must** be documented as excused in certain situations.
- Required Policy Notices
- Tracking Home, Private & Virtual Attendance

# Teenage and Adult Driver Responsibilities Act (TADRA)



- DDS no longer revokes or suspends driver's licenses based on attendance, instead, issuance based on enrollment in school.
  
- Schools are not longer required:
  - To send notice of attendance noncompliance to state
  - To notify students 14 and older when within 3 days of license suspensions or revocation

# Student Records & FERPA



- Directory Information
- Sole Use Exception
- Legitimate Educational Interest Exception
- Subpoenas & Summons to Testify in Court

# An Overview of Student Medical Records



- 1988 – Restrictions on Contraceptives
- 2000 – School Health Nurses in Schools
- 2002 – Self-Administration of Asthma Meds
- 2008 – Automated External Defibrillators in High Schools
- 2009 – Epipen Self-Administration
- 2011 – Schools Can Administer Epipen if Student is Unable

# An Overview of Student Medical Records



- 2011 – Schools can Administer Epipen Without Prescription in Emergency
- 2012 – Diabetes Medical Management Plans
- 2013 – Schools can obtain prescription and Stock Epipen
- 2015 – Schools Can Obtain Prescription, Stock & Administer Levalbuterol Sulfate

# Suicide Prevention Training

HB 198 ~ Jason Flatt Act



- The Department of Education shall adopt rules to require that all certificated public school personnel receive annual training in suicide awareness and prevention.
- Each local school system shall adopt a policy on student suicide prevention. It must address procedures relating to suicide prevention, intervention, and postvention.

# Student 504 Plans



- **It is not enough to have an impairment. It must also substantially limit a major life activity**
  - Performing manual tasks, walking, seeing, hearing,
  - speaking, breathing, learning, reading, concentrating,
  - thinking, communicating, working
  
- **Including major bodily functions**
  - functions of the immune system, normal cell growth,
  - digestive, bowel, bladder, neurological, brain,
  - respiratory, circulatory, endocrine and reproductive functions.

# New Cyberbullying Law



- ▶ Applies to acts of cyberbullying which occur through the use of electronic communication, **whether or not such electronic act originated on school property or with school equipment** if:
  - (1) directed specifically at students or school personnel
  - (2) maliciously intended for the purpose of threatening the safety of those specified or substantially disrupting the orderly operation of the school, and
  - (3) creates a reasonable fear of harm

# Reporting Child Abuse



- “Reasonable Cause”
- Intentional failure to make required report is a misdemeanor and possible civil liability may follow.
- Oral report by telephone or other oral communication or a written report by electronic submission or facsimile shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected child abuse has occurred.

## If School Personnel Recommend Private Therapy, Who Pays?



- A School District is **not** liable for expense of private counseling solely because a counselor or teacher recommends to a parent that private counseling is advisable.
- District **must pay** only when IEP Team determines outside services are needed for an appropriate education.

# Concerns with the Cloud



## Potential Concerns with the Cloud

- Data Loss
- Loss of accessibility
- Security Concerns
- Privacy

## Advantages of the Cloud

- 24/7 Accessibility
- Convenience
- Cost and Personal Needs
- Ease of Communication with state and federal offices.

## Records stored in “the cloud”



- ▶ FERPA does not prohibit the use of cloud computing solutions for the purpose of hosting education records. FERPA requires States to use reasonable methods to ensure the security of their IT solutions.

And remember, ALWAYS.....

**Document**

**Document**

**Document**





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