

HLERK

HODGES, LOIZZI, EISENHAMMER, RODICK & KOHN

NOVEMBER, 2004

MONTHLY TICKLER

CONSUMER PRICE INDEX

Percent Changes As Reported by the Bureau of
Labor Statistics
For the month of September, 2004
Urban Wage
Earners & Clerical

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Monthly	-0.1	-0.1
12 Month	2.1	1.8
St. Louis-6 Month	2.6	2.6
12 Month	3.9	4.0
U.S.-Monthly	0.2	0.2
12 Month	2.5	2.4

October CPI Figures will be released November 15, 2004.
Visit the CPI at <http://stats.bls.gov/eag/eag.us.htm>

Reminders/Notes

- We are pleased to have concluded our Annual School Law Conferences. If you were unable to attend, you may purchase our comprehensive Conference Handbook by sending in the attached order form.
- Please join us at our annual hospitality suite at the Annual Joint Conference on Saturday, November 20th, and please attend the HLERK attorney sessions during the Joint Conference (See Articles, p.2).
- Conduct your tax levy hearing, adopt the levy and file the certificate of tax levy by statutorily required dates. Please contact Bob Kohn or Heather Brickman with questions concerning your tax levy.

The *Tickler* is intended solely to provide information to the school community. It is neither legal advice nor a substitute for legal counsel. The *Tickler* is intended as advertising but not as a solicitation of an attorney/client relationship.

HLERK to Open “Metro-East” Office--We are pleased to announce that the firm will open an office in the Metro-East area of Illinois across the Mississippi River from St. Louis, to better serve Illinois school districts in this rapidly growing part of our state. Details will be presented in future issues of the *Tickler*.

Please contact Heather Brickman with questions concerning our new office.

Denial of “Cued-Speech” Methodology Judicially Affirmed--An Illinois federal trial court has affirmed a due process hearing officer’s decision denying placement in a private “cued-speech” program at school district expense in *J.H. v. Mount Prospect School District No. 57*.

The due process hearing was successfully defended by HLERK attorneys **Nancy Krent** and **Tina Christofalos** (September, 2002, *Tickler*). In *J.H.*, the parents sought to have the Mt. Prospect School District pay for the parents’ unilateral placement of their pre-school age son in the Alexander Graham Bell School, which provides services to hearing impaired children utilizing the “cued speech” methodology.

The ISBE hearing officer ruled in favor of the school district and rejected the parents’ demand for placement in a cued speech program. In the federal court appeal, the parents focused their argument on whether the district’s audiologist administered a hearing and speech test in a manner consistent with the protocol for the test instrument. Accordingly, the parents argued that the district had developed a procedurally deficient IEP based on an inappropriately administered test instrument.

The court ruled first that the Parents had waived the argument concerning the test protocols and administration by failing to fully develop them at the due process hearing. Even if they had, the court found, the hearing officer fully considered the argument and, in the court's words, devoted more attention to it than the argument deserved.

The court concluded that even if the argument had not been waived, the district's audiologist administered the test consistent with the test protocols. Those protocols allowed the test administrator discretion in how to administer the test with very young children. Moreover, the district presented expert testimony that the audiologist administered the test properly.

The *J. H.* decision evidences the continuing assertion by parents of the need for specific methodologies to address their children's disabilities. More importantly, it advances the position that school districts can prevail in "methodology" disputes by proving that the district considered the parents' concerns and had a scientifically valid methodology in place.

In addition, the *J. H.* decision demonstrates the importance of administering evaluative tests consistent with the diagnostic test protocols.

Please contact Nancy Krent or Tina Christafolos with questions concerning the Jack H. decision or to request a complimentary copy.

New Legislation Expands Time to Canvass Votes after Election—As a result of [P.A. 93-847](#), which is currently in effect, the time period for a board of education to canvass votes concerning any referenda or public policy questions has been expanded from seven to twenty-one days. Accordingly, boards must complete the canvass of votes resulting from school district issues on the ballot for the November 2nd election on or before November 23, 2004.

Please contact Heather Brickman, Terry Hodges or Bob Kohn with issues concerning the November 2nd election results.

HLERK Attorneys to Present at IASA/IASB/IASBO Joint Conference--We are pleased to announce that several HLERK attorneys will present at the upcoming annual Joint Conference. In particular, this year has seen a surge in issues under the [Freedom of Information Act](#) and the new [Ethics Act](#).

Please join us at the following sessions:

Ignorance Is No Excuse: Avoiding Ethics Act Violations and Conflicts of Interest with **Heather Brickman** on Saturday, November 20th from 3:30-5:00 p.m. in the Columbus I/J Ballroom of the Hyatt Regency Hotel.

Open Meetings Act and FOIA Requirements with **Bob Kohn, Cindi DeCola and Tina Christafolos** on Saturday, November 20th from 1:30-3:00 p.m. at the Swissotel-Grand III, Lower Level III.

Ask an Attorney: Special Session for Board of Education Secretaries with **Stan Eisenhammer** on Saturday, November 20th at 3:00 p.m. in the Alpine Ballroom of the Swissotel.

Finally, **Bennett Rodick and Rob Swain** will present at the Illinois Council of School Attorneys meeting on the *Alex R v. Forrestville School District No. 221* litigation.

HLERK welcomes you to the Joint Conference sessions.

HLERK Hospitality Suite Upcoming--We are pleased to announce, and you should already have received your invitation to, our annual reception at the Joint Conference on Saturday, November 20th from 3:00 to 7:00 p.m. As in the past we will host the reception in the Monarch Suite of the Hyatt Hotel's East Tower with an outstanding view of the evening fireworks. We look forward to seeing you there!

Please contact Stan Eisenhammer with inquiries concerning our Hospitality Suite.