

AUGUST, 2005

# HODGES, LOIZZI, EISENHAMMER, RODICK & KOHN

## MONTHLY TICKLER

### CONSUMER PRICE INDEX

Percent Changes As Reported by the Bureau of  
Labor Statistics

For the month of JUNE, 2005

Urban Wage  
Earners & Clerical

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Monthly	0.4	0.2
12 Month	2.6	2.5
St. Louis-6 Month	1.9	2.0
12 Month	3.3	3.4
U.S.-Monthly	0.1	0.1
12 Month	2.5	2.6

July CPI Figures will be released August 23, 2005.

Visit the CPI at <http://stats.bls.gov/eag/eag.us.htm>

#### Reminders/Notes

- Remember to save the date for the upcoming HLERK Regional Conferences on Recent Developments in School Law sponsored by [IASA](#). Dates and locations are: October 6<sup>th</sup> in Collinsville, October 20<sup>th</sup> in Itasca and October 27<sup>th</sup> in Peoria. You should have already received your invitation. Please contact Kathy Nelson at the IASA at (217) 787-9306 or Vanessa Clohessy at our Arlington Heights office with questions.
- Remember that school boards are now required to have procedures in place governing [AEDs](#). Contact Sonja Trainor with questions.
- Remember that on January 1, 2006, [amendments to the Open Meetings Act](#) go into effect regarding posting of meeting agendas on school websites.

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.

**September 17 is Constitution Day and Citizenship Day**--Pursuant to [legislation](#) recently passed by Congress and signed by President Bush ([H.R. 4818, Div. J, Title I, Sec. 111\(b\)](#)) all educational institutions receiving federal funding are *required* to hold an educational program pertaining to the United States Constitution on September 17<sup>th</sup> of each year commemorating the September 17, 1787 signing of the Constitution.

This legislation is effective for September 17, 2005. If September 17<sup>th</sup> falls on a Saturday, Sunday, or holiday, then Constitution Day shall be held during the preceding or following week.

**Please contact Barbara Erickson with questions.**

**ISBE Issues "Guidance" Concerning Rights of Disabled Students Voluntarily Enrolled in Private Schools**--In our July *Tickler* we reviewed both federal and state compliance activities relative to the [Individuals with Disabilities Education Improvement Act of 2004](#). One of the most difficult and complex areas for Illinois school districts has been the change in requirements for public school districts serving voluntarily placed private school students with disabilities.

To provide guidance to school districts facing these issues, on August 11<sup>th</sup>, ISBE issued a document entitled [Interim Guidance for Special Education Services for Parentally Placed Private School Students with](#)

Disabilities. This *Guidance* is effective immediately and addresses a variety of important issues including: what private schools are covered, child find and evaluation responsibilities, calculation of the proportionate share amount, and conduct of the “timely and meaningful” consultation process.

Initially, although *IDEA 2004* places responsibility for both child find and services on the “boundary district” where the private school is located, the *Guidance* creates a one year transition period during which evaluation responsibilities will continue to rest with the school district of residence during the upcoming school year.

The *Guidance* also provides that ISBE is calculating each school district’s “proportionate share” amount and expects to have that information to school districts by mid-September. School Districts are also granted an extension until October to complete the timely and meaningful consultation requirements with representatives of private schools.

The *Guidance* reminds school districts that the representatives of private schools must sign an acknowledgement that they agree that the consultation process was timely and meaningful, or the school district must provide written documentation of its efforts to do so.

Finally, school districts are reminded that private schools may file complaints with ISBE over the consultation process and ISBE’s decision can be appealed to the Department of Education.

**Contact Bennett Rodick, Jay Kraning or Nancy Krent with questions. We will be discussing these issues at the upcoming IASA sponsored HLERK Regional Conferences on Recent Developments in School Law.**

**Former Illinois Teacher Could Not Prove First Amendment or Due Process Violations in Her Resignation--**In [Lifton v. Board of Education of the City of Chicago](#), 2005 WL 1705075, (July, 2005) the Seventh Circuit Court of Appeals, which governs Illinois, affirmed the dismissal of a former teacher’s claims against the Chicago Board of Education and the building principal after she resigned claiming First Amendment violations, defamation, due process violations, and intentional infliction of emotional distress.

In *Lifton*, a kindergarten teacher outwardly opposed the early renewal of her principal’s contract and wished to restructure the kindergarten program. After she was informed by the principal that the kindergarten program would not be restructured, she sent unauthorized and inappropriate letters to students and parents regarding her desire to restructure the program.

The Board issued a “warning resolution” recommending her suspension. Without serving the suspension, Lifton resigned shortly thereafter claiming that she was being retaliated against because of these activities in violation of the First Amendment. The court found that while her speech on these matters was, in fact, protected by the First Amendment, the disciplinary action was motivated by the unauthorized nature of the letters and the flyers she sent to parents and students, not by their content. Thus, there was no First Amendment violation.

The court also dismissed her defamation claim stating that the principal’s comments to parents and the assistant principal that Lifton was “lazy,” “burnt out,” “unstable” and “doesn’t want to work” were only statements of opinion.

**Please contact Barbara Erickson with questions.**