

MARCH, 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 January, 2005
Urban Wage
Earners & Clerical

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Monthly	0.2	0.2
12 Month	2.4	2.5
St. Louis-6 Month	1.4	1.4
12 Month	4.1	4.0
U.S.-Monthly	0.2	0.2
12 Month	3.0	3.0

February CPI Figures will be released March 23, 2005.
Visit the CPI at <http://stats.bls.gov/eag/eag.us.htm>

Reminders/Notes

- Three new administrator academy approved programs on IDEA reauthorization are now available to administrators (See Article, next column).
- Bennett Rodick will join Chris Koch, ISBE's assistant superintendent for special education, in speaking at the IASB Northwest Division meeting on March 3rd.
- Remember to adopt policies governing graduation of disabled students by March 1st.
- File statements of economic interest as required by law.
- Send a record of Board of Education minutes to the school district's treasurer.

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.

New, Administrator Academy Approved, IDEA Reauthorization Programs Available--HLERK is pleased to announce that, due to overwhelming demand, the [Special Education Leadership Academy, Illinois State Board of Education](#) and Regional Offices of Education have opened three new **administrator academy approved** programs on the reauthorization of the [Individuals with Disabilities Education Act](#). The three programs are:

March 10, 2005

**Oakton Community College
Des Plaines, IL**

April 15, 2005

Holiday Inn, Tinley Park

April 22, 2005

Holiday Inn, Urbana, IL

Registration forms are enclosed and are also available by contacting SELA at 618.395.8626.

HLERK has now completed four sold-out administrator academy approved programs on IDEA reauthorization throughout Illinois; we wish to thank the SELA for its sponsorship of these important educational opportunities for school administrators. In addition, HLERK will soon publish a completely new edition of its *IDEA Reauthorization Handbook*.

Please contact Bennett Rodick or Nancy Krent with your IDEA inquiries or with questions concerning the reauthorization programs.

Illinois Legislation Requires Schools to Implement Breakfast Programs-- [P.A. 93-1086](#), effective immediately, amends the *School Breakfast and Lunch Program Act*, [105 ILCS 125/0.01](#), and requires all schools in which at least 40 percent of the students are eligible for free or reduced lunch to operate and implement a school breakfast program by **May 16th** of this year and every year thereafter.

Students who are not eligible for free or reduced lunch may be charged for their breakfast. School districts may petition their regional superintendents to opt out of the school breakfast program requirement if they determine that the expense reimbursement would not fully cover the cost of implementing and operating a school breakfast program.

Please contact Jennifer Meskin with questions or to request a complimentary copy of this Act.

Seventh Circuit Limits Substantive Due Process Claims in Student Expulsions/Reiterates High Standard to Overcome Qualified Immunity of School Administrators--In *Tun vs. Whitticker*, [No. 04-2972 \(7th Cir. 2005\)](#), the federal Appellate Court which governs Illinois considered whether an expulsion of a student by an Indiana school district, which was later reversed by the board of education, nonetheless violated the “substantive due process” rights of the affected student.

While the Appellate Court disagreed with the expulsion imposed by the administration, the act of discipline did not violate “substantive due process” and the school administrators were entitled to “qualified immunity” from suit because the plaintiff could not establish that the administration should have known that they could not impose the discipline under the circumstances.

The plaintiff was a high school student and member of the wrestling team. He was caught with negatives of nude pictures of himself and three other boys also on the wrestling team. The pictures were taken by a foreign exchange student while the boys were in the locker room showers. The Plaintiff did not object to the pictures being taken nor did he report the incident. On the other hand he had no involvement in taking the pictures other than having the negatives in his hand.

The administration expelled the student for his “misconduct.” The Plaintiff appealed his expulsion alleging that his actions were not an expellable offense under board of education policy and his expulsion was reversed by the board.

He then alleged that his substantive due process rights were violated and sued the administrators. The Court found that while the expulsion was not appropriate its imposition did not “shock the conscience,” a very high standard to meet, and, in any event, was ultimately reversed by the board.

Moreover, the Court held that, even if the expulsion was unconstitutional, the administrators would have been entitled to “qualified immunity” from suit, as the right to be free from discipline under these circumstances was not a “clearly established right.”

Finally the Court emphasized the importance of “procedural” due process in discipline cases noting that the expulsion was reversed pursuant to the procedural rights of appeal afforded to the student.

Please contact Bennett Rodick with questions or for a complimentary copy of Tun vs. Whitticker.