



**Appellate Court Upholds Suspension of Non-Tenured Teacher’s Teaching Certificate**—In *Board of Education of Park Forest Heights School District No. 163 v. State Certification Board*, decided January 26th, an Illinois appellate court affirmed the circuit court and Regional Superintendent’s decision to suspend a probationary teacher’s certificate based on the teacher’s mid-school year resignation from the District in order to accept a teaching assignment at another district.

Under Section 24-14 of the *School Code*, teachers that break their contracts mid-year in order to accept a teaching position at another district may have their certificates suspended for “unprofessional conduct”. The case had a long and involved history prior to reaching the appellate court. The teacher in this case originally had an

administrative hearing before the Regional Superintendent who found that he resigned to accept another teaching position. The teacher appealed to the State Certification Board which did not hold a new hearing, but reversed the Regional Superintendent based on the record from the Regional Superintendent’s hearing. Next, the District appealed to the circuit court which ruled in favor of the District, thus reinstating the teacher’s suspension.

The appellate court decided three major issues. First, the court found that the District had the ability to file a complaint appealing the State Certification Board’s decision to deny the suspension. The court so ruled because the District had a general interest in deterring its teachers from resigning in the middle of the school year.

*Continued on Page 2*

**School Board Approval Now Required for Certain Contracts**

Effective July 1, 2006, Section 10-20.21 of the *School Code* governing contracts will be amended by [P.A. 94-0714](#) which requires school boards to formally *approve* all contracts for goods and services that are intended to generate over \$1,000 in revenue for the school district.

The new provision covers contracts for vending machines, sports and other attire, class rings and photography services. The law also requires that school boards report such contracts as an attachment to their annual budgets filed with the Illinois State Board of Education, in a form to be later determined by ISBE.

*Please contact Debra Kaplan for more information.*

**Race Discrimination Claim Against Illinois School District Dismissed by Federal Court**

A Chicago federal trial court recently dismissed a race discrimination suit filed by a former employee claiming discrimination and retaliation against her because of her race.

In *Mighty v. Glenview Community Consolidated School District No. 34*, the employee claimed that the District’s actions, in response to parent complaints, including requiring the teacher to copy the administration on emails and include them in conferences, requiring the teacher to allow assistant

*Continued on Page 2*

**Consumer Price Index**

Percent change for the month of **January, 2006**; for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.6	0.5
12 Mth	4.0	4.2
St. Louis-6 Mth	1.3	1.5
12 Mth	3.3	3.5
U.S. Mthly	0.8	0.8
12 Mth	4.0	4.1

February CPI figures will be released March 18, 2006. See the most recent CPI at our website [www.hlerk.com](http://www.hlerk.com).

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

**Reminders/Notes**

\*Remember your statutory and collective bargaining agreement deadlines for reductions-in-force of certificated and educational support personnel. Contact Ellen Rothenberg with your inquiries.

\*Review the necessity of administrative reclassifications or non-renewal of employment contracts and take necessary action prior to April 1st. Contact Ellen Rothenberg if you have questions concerning your legal obligations.

\***Jay R. Kraning** recently, on behalf of [ISBE](#), helped train Illinois special education hearing officers on implementing IDEA 2004 due process reforms at a program of the Hearing Officer’s Education Network.

**Offices:**

- Arlington Hts. 847-670-9000
- Springfield 217-546-9200
- Belleville 618-355-7850

**Department of Education Issues Proposed Flexibility Regulations Implementing NCLB**

The Department of Education has issued proposed regulations which, if adopted, would implement the new flexibility standards for special education students announced by DOE Secretary Spellings last Fall.

These regulations allow states to create modified academic achievement standards for students with disabilities who do not qualify as "significantly cognitively impaired". States and LEAs would include proficient and advanced scores from as-

sessments based on modified achievement standards in AYP determinations, subject to a 2% cap (of all students tested) at the district and state levels based on the total number of students assessed. The regulations coordinate the *No Child Left Behind* regulations with respect to this student population with the proposed regulations under the [Individuals with Disabilities Education Act](#).

***For more information or to request a complimentary copy of the proposed regulations, please contact Stephanie Jones or Sara Boucek.***

**Convicted Child Sex Offender Challenges Constitutionality of Illinois Sex Offender Law**

In a case pending before the Illinois Central District Federal Court, an anonymous man is challenging recent amendments made to state law last Spring that put additional restrictions on convicted child sex offenders that wish to visit their children at school.

Under the amended law, child sex offenders with children in school may only be within 500 feet of the school when children are present to attend parent-teacher conferences. Schools may grant permission to such parents to attend other activities at their discretion. In this case, however, the school's policy does not provide for such permission.

The man has attended many activities at his children's school without incident. He claims that the sex offender law is unconstitutional because it continues to punish him for a crime he served a sentence for years ago, thus depriving him of due process and equal protection under the law. He further argues that the law simply makes no distinction between those child sex offenders who have been model citizens since serving their sentences and those who continue to pose a real risk to children. Recently, the judge ordered the man to reveal his identity in the case; however, that order is now under reconsideration by the court.

***Please contact Debra Kaplan with questions or send in the enclosed order form to purchase a recently updated copy of our model policy regarding the presence of child sex offenders on school grounds.***

***Non-Tenured Teacher, Cont.***

Second, the court held that the teacher was not entitled to another hearing by the Certification Board. Based on language in the *School Code*, teachers are only entitled to full evidentiary hearings by the Certification Board where their certificates have been *revoked*, rather than merely suspended. Finally, the court stated that this provision of Section 24-14

applies to both tenured *and* non-tenured teachers because the language in the statute makes "all teachers" liable for breaking their contracts in order to accept another teaching position during a school year.

***Please contact Terry Hodges or Debra Kaplan with questions concerning the impact of this decision on your school district.***

***Race, cont.***

principals to handle the discipline of certain students, and requiring her to participate in a growth plan in order to be renewed for a fifth year of employment, were discriminatory.

The District Court for the Northern District of Illinois disagreed with the former employee and granted summary judgment to the District, stating that the actions taken were not adverse employment actions. HLERK attorneys **Ellen Rothenberg** and **Stephanie Jones** successfully defended the District in the litigation.

***For more information, please call Stephanie Jones.***

**Trial Court Upholds Dismissal of Tenured Teacher for Immoral Conduct**

In *Leonard v. Consolidated High School District No. 230*, a Cook County trial court upheld a hearing officer's decision dismissing a tenured teacher, for cause, due to immoral sexual conduct in an internet chat room off school premises. The hearing officer upheld the dismissal and ruled in favor of the District. The teacher then appealed to the Circuit Court of Cook County, which affirmed the decision of the hearing officer on January 26th. The District was defended by HLERK's **Vanessa Clohessy** and **Sonja Trainor**.

***Please contact Sonja Trainor for more information.***

CONTACT US:  
info@hlerk.com

3030 Salt Creek Lane · Suite 202 · Arlington Heights, Illinois 60005  
3048 Spring Mill Drive · Springfield, Illinois 62704  
521 West Main, Suite 201D · Belleville, Illinois 62220