

## **ISBA School Law Seminar (12/11/2024)**

By *Laurence Wang* (12/14/2024)

I attended this seminar from 12/11 09:00AM to 03:30PM. About 150 attendees for the seminar, most of them are school board members and attorneys. There were 6 major sections/topics after the opening remarks by Lisa Tanselle.

Here are some highlights of each section:

- I. The New and Review of Federal Pregnancy Discrimination and Accommodation Laws: Kathryn E. DeWeese from *Bunger & Robertson* hosted this section which covers several laws. The Pregnancy Discrimination Act (PDA) 1978, an amendment to Title VII, the principal federal statute prohibiting discrimination based on pregnancy, childbirth, or related medical conditions, requiring employers with 15+ employees to treat pregnant workers equally in hiring, promotions, and workplace conditions. The Pregnant Workers Fairness Act (PWFA), effective June 2023, mandates reasonable accommodation for pregnancy-related limitations unless they cause undue hardship, covering conditions like gestational diabetes, lactation, and preeclampsia. The PUMP Act (Providing Urgent Maternal Protections) ensures nursing mothers receive reasonable break time and a private, non-bathroom space to express breast milk for one year postpartum. The Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid leave for childbirth or related medical needs, while the Americans with Disabilities Act (ADA) may cover pregnancy-related impairments if they substantially limit major life activities. Together, these laws aim to protect and accommodate workers throughout pregnancy, childbirth, and postpartum periods.
  
- II. Tort Liability: This section summarized key legal principles in tort law (civil), including 1) negligence, 2) intentional torts, and 3) liability. It explained concepts like duty of care, proximate cause, contributory and comparative negligence, and doctrines like respondeat superior ("let the master answer") and res ipsa loquitur ("the thing speaks for itself"). Case examples, such as

United States v. Carroll Towing and Palsgraf v. Long Island Railroad, illustrate how courts apply these principles through cost-benefit analysis and proximate cause tests. Special considerations for schools, such as reasonable care for students and Indiana's Tort Claims Act (ITCA), are discussed with cases like Murray v. IPS and Hopkins v. IPS. Overall, 2 speakers of this section emphasized compliance with legal standards and balancing risks in decision-making. The liability was capped at \$0.7M for one person/occurrence and \$5M for multiple people.

III. The Transformation of School Board Meetings: Embracing Live Streaming and Engagement for All: Monica J. Conrad from Lewis & Kappes, P.C. presented at this section. Starting July 1st, 2025, school boards must live stream meetings (excluding executive sessions), archive recordings for at least 90 days, and make them publicly accessible. Public comment must be allowed, with reasonable, content-neutral rules to maintain order, while avoiding viewpoint discrimination. School board meetings are considered limited public forums, where 1st Amendment rights apply, but offensive or disruptive speech can be restricted if rules are narrowly tailored. Recent legal cases and Public Access Counselor Advisory Opinions highlight the importance of consistent and clear policies on public participation, both during meetings and on school-managed social media platforms. Boards shall operate transparently, maintain decorum, and regularly update policies to balance public engagement with legal obligations.

IV. Appropriate Boundaries for Teacher/Student Relationships: with 35 years' working experience in public education, W. Douglas Thorne, Chief of Staff from Elkhart Community Schools, presented numerous valuable best practices in this school safety topic protecting student, staff and school. Positive teacher-student relationships are crucial for student success and teacher well-being, but maintaining professional boundaries is essential to prevent misconduct. Policies/laws prohibit behaviors like inappropriate gifts, personal communications, or physical contact with students, and school employees must report any violations promptly.

Investigations involve coordination with law enforcement, evidence collection, and interviews while avoiding retraumatization of victim and respecting confidentiality and due process. Employees are trained to handle allegations properly, ensuring student safety and compliance with Title IX. The process concludes with a thorough review, final report, and steps to improve policies and training for the future. I found this section very insightful.

- V. **Regulating Offensive and Hate Speech in the School Setting:** This section was entertaining yet a comprehensive review of the evolving legal landscape governing student speech, and emphasizing schools' responsibility to foster both free expression and a safe educational environment. Five Supreme Court landmark cases as well as legal principles governing the regulation of offensive and hate speech in schools, balancing students' First Amendment rights with the need to maintain a safe and productive educational environment, were carefully studied. Cases like *Tinker v. Des Moines* emphasize that student speech can only be restricted if it causes substantial disruption, while court decisions like *Bethel v. Fraser* and *Hazelwood v. Kuhlmeier* allow schools to regulate lewd, vulgar, or school-sponsored speech. More recent cases, such as *Mahanoy v. B.L.*, address off-campus speech, requiring schools to justify discipline based on tangible disruption to the school environment. Courts also evaluate speech involving hate symbols or discriminatory messages, like Confederate flags or anti-LGBTQ statements, by considering local context and potential harm to students' learning. The main takeaway for me is that school must carefully weigh the legal precedents, the specific context, and potential impacts on students' rights and well-being when regulating speech.

- VI. **Recent Legal Developments:** This section highlighted notable legal rulings and upcoming court cases affecting schools, public agencies, and federal regulations.

Overall, this whole day seminar is a great continuous learning opportunity, and very helpful for me in performing public service duties in a better way.