
Concurrent Topic Sessions A

Thursday, October 22, 2009 | 9:20 A.M. – 10:30 A.M.

A1: Equal Protection/Civil Rights/Due Process

◆ location: Secretariat A

The Dream Act for Post-Secondary Illegal Immigrant Students: Is It A Dream Or A Nightmare for the Universities?

The Dream Act, which has been proposed in the Senate again, will allow illegal immigrant students who complete school in the US to attend colleges and universities. At the present time, in most states, this class of students is not allowed to attend post-secondary institutions and are usually reported to the INS for action. The underlying proposition is that these students have spent most of their lives in the US, albeit illegally, and will continue to live in the US, therefore, it is better to have them as part of the educated citizenry than not. The many debates surrounding this proposal, the economic impacts (both negative and positive), the states who allow illegals to attend college at present, and the legislative actions of each of the 50 states will be discussed in this session. Participants will have an opportunity to understand the proposed law, the status of their state, the economic impact, and other relevant issues surrounding the Dream Act.

Carole A. de Casal, Ed.D.: Department Chair and Professor, Tennessee State University, Nashville, TN

Patricia A. Mulligan, Ph.D.: Multiple Subjects Coordinator and Professor, California Polytechnic State University, San Luis Obispo, CA

Presenter: Kerry Brian Melear, Ph.D.: Associate Professor of Higher Education, University of Mississippi, Oxford, MS

A2: School Finance

◆ location: Broadway B

Recent Developments in School Finance Litigation

This presentation will examine the most recent school finance cases and explore whether there are new trends or continuing trends. It will also attempt to make judgments and predictions about the future of school finance litigation.

William E. Thro, J.D., M.A.: University Counsel & Assistant Professor, Christopher Newport University, Newport News, VA

R. Craig Wood: Professor, University of Florida, Gainesville, FL

Presenter: Scott R. Bauries, J.D.: Assistant Professor, University of Kentucky, Lexington, KY

A3: School Reform | Special Education

◆ location: Broadway C

Response to Intervention (RTI): Understanding IDEA Requirements and Application in the Schools

This presentation and paper examines the IDEA regulations regarding Response to Intervention. The presentation and paper also analyze the application of RTI in schools based on current research models. Given this new requirement under IDEA school districts need to comprehensively understand both the regulations and how to create RTI models in their schools. The presentation will allow for engagement of the audience to weigh in their opinions and recommendations for the implementing RTI.

Christine Villani, Ed.D., M.A.: Associate Professor, Southern Connecticut State University, New Haven, CT

Cynthia Mooney, Ph.D.: Educational Consultant, Cleveland, OH

Presenter: Theresa A. Ochoa: Indiana University, Bloomington, IN

A4: Technology

◆ location: Secretariat B

Technological Advances, Student Expression, and the Authority of School Officials

This presentation includes two parts. The first reviews how school districts have been permitted to regulate student speech. This analysis includes four U.S. Supreme Court decisions that have addressed student speech (Tinker, Bethel, Hazelwood, and Morse) as well as recent efforts to apply the principles found therein to concerns involving computers and access to the Internet. Part two is a quantitative study that seeks to better understand how school districts and school officials have adapted to this legal environment.

Philip T.K. Daniel, J.D., Ed.D.: Professor, The Ohio State University, Columbus, OH

Patrick D. Pauken, J.D., Ph.D.: Associate Professor, Bowling Green State University, Bowling Green, OH

Cyber Cheating and Sexting

This presentation will examine the increasing use of technology by students for academic cheating and “Sexting” (sending of graphic images and pornographic material by cell phone to friends). After a discussion of current student behavior and potential school discipline and criminal felony prosecution, the presentation will focus on possible school policy responses, recommendations for student handbook provisions and recommended communication to parents. Attendee discussion will be encouraged.

Richard L. Mann, J.D.: State Legal Counsel for the Ohio Association of Secondary School Administrators, Columbus, OH

Presenter: T.C. Mattocks, Ed.D.: Associate Professor, Bridgewater State College, Bridgewater, MA

A5: Higher Education Law, Policy, Issues

◆ location: Broadway A

How Have the FERPA Amendments Been Received and Will They Withstand Legal Scrutiny?

On December 9, 2008, the Family Policy Compliance Office (FPCO) published the final FERPA regulations in the Federal Register. These regulations, which became effective on January 8, 2009, make numerous changes, confirmations, and clarifications to previous interpretations of FERPA. This presentation would review these changes covering the new two-prong approach to disclosure in the event of a health or safety emergency, the outsourcing exemption, changes to the definition of directory information, alumni record, and in attendance, and the authorization to disclose educational records to the original author.

Gregory D. Shelton, J.D.: Of Counsel, Williams Kastner, Seattle, WA

Lisa C. Williams, J.D.: Senior Associate, Williams Kastner, Seattle, WA

Presenter: Catherine L. Matthews, J.D., Ph.D.: Indiana University, Bloomington, IN

Concurrent Topic Sessions B

Thursday, October 22, 2009 | 10:40 A.M. – 11:50 A.M.

B1: Equal Protection/Civil Rights/Due Process

◆ location: Secretariat A

Students Have Due Process Rights?

The presentation will discuss the due process rights that students have in discipline procedures.

Kimaka Nichols-Graham, J.D.: Attorney, South Carolina Legal Services, Greenville, SC

Struck Out! Due Process for Coaches – An Idaho Case Study

Coaches and (other extra duty personnel) have limited due process rights. Yet school administrators often ignore even basic due process, resulting in complicated and costly legal disputes. An Idaho case study of abusive due process is examined with possible implications for administrators in other states.

Russell A. Joki, Ph.D.: Professor, University of Idaho, Boise, ID

Presenter: Donald Wattam, Ph.D.: Assistant Professor, University of Idaho, Coeur d'Alene, ID

B2: Equal Protection/Civil Rights/Due Process

◆ location: Secretariat B

Across the Border and Into the Classroom: Safeguarding the Legal Rights of Immigrant Students and English Language Learners

This presentation will address the legal problems faced by school districts in addressing the needs of immigrant students and English language learners. It will address the legal and practical dilemmas presented by changes in our Nation's public school population.

John W. Borkowski, J.D.: Partner, Hogan & Hartson LLP, South Bend, IN

Presenter: Philip H. Wagner, Ph.D.: Assistant Superintendent, Beachwood City Schools, Beachwood, OH

B3: School Finance | School Reform

◆ location: Broadway A

Amendment Strike Down and Public Education: Florida Supreme Court Decisions to Remove Amendments 5, 7 and 9 from the General Election Ballot

On September 15, 2008, the Florida Supreme Court rejected two proposals to amend the Florida Constitution. Three amendments were proposed to appear on the November 2008 General Election ballot. Amendment 5 propositioned to replace State required school property taxes with state revenues. Amendment 7 and 9 addressed State statute and public school vouchers. The purpose of this paper is to examine the historical framework that scaffolds the proposed amendments, possible outcomes had the amendments been placed on the General Election Ballot and the continued efforts of interest groups and Florida's voters. Florida may display how special interest groups can influence public policy via State referendum in reference to amending state constitutional parameters regarding public education.

Carlee Poston Escue, M.A.: Doctoral Candidate, University of Florida, Gainesville, FL

John Dayton, J.D., Ed.D.: Professor, University of Georgia, Athens, GA

The State Constitutionality of Voucher Programs: Religion is Not The Sole Determinant

An overview of the state constitutionality of publicly-funded voucher programs with a special emphasis on non-religious obstacles.

Preston Green, J.D., Ed.D.: Associate Professor, Penn State University, University Park, PA

Peter L. Moran, J.D.: Doctoral Candidate & Research Assistant, Penn State University, University Park, PA

Presenter: R. Craig Wood: Professor, University of Florida, Gainesville, FL

B4: Specialized Topics

◆ location: Broadway B

Stopping Child Sexual Abuse – Legal and Social Issues

There is an epidemic of catastrophic proportions taking place in the United States. There are children that are suffering in silence and adults that are turning their backs on this atrocious unspeakable treatment. The epidemic is that of Child Sexual Abuse. Few people are aware that 1 in every six boys will be sexually abused before his 18th birthday; in addition, research has shown that 1 in four girls will be sexually abused before her 18th birthday. Nationally, that calculates to 5,911,224 male and 9,206,617 female children that will be the victims of sexual abuse prior to reaching the age of adulthood. The costs of law suits for school districts reaches millions of dollars each year. This presentation will present the facts about child sexual abuse and ways that school districts can put policies in place to decrease legal ramifications of inappropriate sexual behavior in the school environment.

Mark W. Mitchell, Ed.D.: Assistant Professor, Winthrop University, Rock Hill, SC

James Van Patten, Ph.D.: Professor, Florida Atlantic University, Boca Raton, FL

Child Protection and the Schools: Trends and Issues

This presentation reviews legal and social science literature to reveal trends and issues regarding child abuse and neglect reporting and broader child protection issues relevant to schools.

Chuck Vergon, Ph.D.: Professor, University of Michigan-Flint, Flint, MI

Presenter:

B5: Education Policy and Administration | Specialized Topics

◆ location: Broadway C

Issues Involving Educating the Homeless

As educational disparity continues, especially among districts in close geographic proximity, the attempt of individuals to manipulate the system in order to obtain the best possible education for their children will continue. The presenters will first give a general overview of the important provisions of the McKinney-Vento Homeless Assistance Act. Then, using hypotheticals and case studies, the presenters will show how the McKinney-Vento Homeless Assistance Act can or should be applied to different situations which may be encountered by schools. The presenters will also encourage questions and discussion from those in attendance regarding issues in educating the homeless.

Elizabeth T. Lugg, J.D., Ph.D.: Associate Professor, Illinois State University, Normal, IL
Cathleen J. Weber, Ed.S.: Assistant Principal, Ridgeview Junior/Senior High School, Colfax, IL

McKinney-Vento: Opportunities and Challenges

The McKinney-Vento Homeless Education Assistance Act provides substantive and procedural protections to students who become homeless, as defined in the law. The Act expands the opportunities and protections for homeless students but creates challenges for school districts in many areas, including transportation, educational programming and staffing. This presentation will explore the opportunities for students created by the Act and the challenges for school districts working to implement the law.

P. Tyson Bennett, J.D.: Partner, Carney, Kelehan, Bresler, Bennett & Scherr, LLP, Annapolis, MD

Presenter: Mark Lineburg, Ed.D.: Assistant Superintendent of Operations, Amherst County Public Schools, Amherst, VA

Concurrent Topic Sessions C

Thursday, October 22, 2009 | 1:00 P.M. – 2:10 P.M.

C1: Equal Protection/Civil Rights/Due Process | Specialized Topics

◆ location: Broadway A

Latinos and Educational Equality

Review the unique demographics of the Latino population (growth rate, geographic location, residential isolation compared to African-Americans) and discuss emerging educational equality issues (racial/ethnic isolation, language instructional needs, multi-group analysis in NCLB and after PICS).

Kristi Bowman, J.D., M.A.: Associate Professor of Law, Michigan State University, East Lansing, MI

Alaska Native Claims Settlement Act and Rural-Urban Tensions in School Funding

How Native sovereignty in Alaska became shunted to corporate viewpoints through ANCSA, and how this has left continuing rural-urban tensions on school funding.

Lawrence Lee Oldaker, Ed.D.: Professor Emeritus, University of Alaska Southeast, Juneau, AK

Amy Dagley, M.A.T.: Doctoral Student, The University of Alabama, Tuscaloosa, AL

Presenter: Darlene Y. Bruner, Ed.D.: Associate Professor, University of South Florida, Tampa, FL

C2: Ethics

◆ location: Secretariat A

The Continuing Need for Ethics Training for Pre-Service Teachers and Practicing Educators

The two presenters have trained many pre-service teachers as well as professional educators. Frequently, teachers say they were never trained in ethics and ethical decision making. We will share some of the issues that come before the Standards Board as well as the training we provide.

Rosa Weaver, Ed.D.: Assistant Professor, Northern Kentucky University, Highland Heights, KY

Alicia A. Sneed, J.D.: Director of Legal Services, Education Professional Standards Board, Frankfort, KY

Presenter:

C3: Higher Education Law, Policy, Issues

◆ location: Broadway B

Institutional Non-Discrimination Policies and the First Amendment Rights of Student Organizations at Public Colleges and Universities

The presentation examines the First Amendment rights of student organizations at public colleges and universities, especially in relation to institutional non-discrimination policies.

Neal H. Hutchens, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

Presenter: Jeffrey C. Sun, J.D.: Assistant Professor, University of North Dakota, Grand Forks, ND

C4: Fourth Amendment | Education Policy and Administration

◆ location: Secretariat B

School Resource Officers and the Legal Parameters That Define Their Roles

An analysis of a comprehensive investigation of all 50 states educational codes will be provided as well as an analysis of case law that govern the role of SROs.

Jennifer Sughrue, Ph.D.: Associate Professor, Florida Atlantic University, Boca Raton, FL

M. David Alexander, Ed.D.: Department Chair and Professor, Virginia Tech, Blacksburg, VA

Mark Lineburg, Ed.D.: Assistant Superintendent of Operations, Amherst County Public Schools, Amherst, VA

Legal Issues in School Policing: The 21st Century Challenge

The purposes of this presentation will be 1) to identify the frequency, outcomes and issue categories of published federal and state court decisions concerning school police including, but not limited to, school resource officers, and 2) to examine the practical implications for school districts. The first part will address the history and policy issues of school policing. The second part will present the overall frequency and outcomes of the relevant court decisions in terms of forum and issue category. The final part of the paper will discuss the implications of the findings for school districts.

Betty Cox, J.D., Ed.D.: Assistant Professor, Educational Studies, University of Tennessee at Martin, Martin, TN

Luke M. Cornelius, J.D., Ph.D.: Associate Professor, University of West Georgia, Carrollton, GA

Presenter: Alvin Schilling, J.D., Ph.D.: Attorney, R. Craig Wood & Associates, Gainesville, FL

C5: Equal Protection/Civil Rights/Due Process | Specialized Topic

◆ location: Broadway C

Amendments to the Americans with Disabilities Act

In 2008, the president signed into law amendments to the Americans with Disabilities Act which overturned substantial case law. In 2009, the new president is scrutinizing the rights of students and employees with disabilities. Learn the current state of the law and pending regulations, and how they may affect your schools and colleges.

Lynn Rossi Scott, J.D.: Shareholder, Brackett & Ellis PC, Fort Worth, TX

Health Services v. Medical Services: When Can School Districts Draw the Line?

Medically fragile students and students who otherwise have extensive health needs are entering school in record numbers. School district personnel are frequently asked to perform a myriad of health services for students, ranging from the administration of medication, to catheterization, to insulin injections. As student health needs grow more complex, it is easy to become confused about what services are appropriate to perform and what services school personnel are not required to provide. This session will use examples from recent case from around the country to help school personnel respond appropriately.

Darcy Kriha, J.D.: Partner, Franczek Radelet & Rose P.C., Chicago, IL

Presenter: Carole A. de Casal, Ed.D.: Department Chair and Professor, Tennessee State University, Nashville, TN

Concurrent Topic Sessions D

Thursday, October 22, 2009 | 2:20 P.M. – 3:30 P.M.

D1: First Amendment

◆ location: Broadway A

Chasing Change: Technology and Students' Right to Free Speech

This presentation addresses the courts' efforts to address issues related to emerging technologies (e.g., cell phones, internet blogs) and their effects on students' free speech rights.

R. Stewart Mayers, Ed.D.: Associate Professor, Southeastern Oklahoma State University, Durant, OK

Student Cyber Speech: Tinkering with the Substantial Disruption Test

This presentation will discuss application of the infamous substantial disruption test, first articulated in *Tinker v. Des Moines*, to cases of student cyber speech. The substantial disruption test is the most widely used framework by courts for analyzing cyber speech cases. Given the freshness of student cyber speech dilemmas, ongoing scholarship such as this which analyzes judicial

trends in application of the substantial disruption test is beneficial to scholars and courts as uniformity is sought. Recommendations for school policy development will be included.

Jesulon S. R. Gibbs, J.D., Ph.D.: Assistant Professor, South Carolina State University, Orangeburg, SC

Presenter:

D2: School Finance

◆ location: Broadway B

Isn't School Supposed to be Free?: State Constitutions, School Fees, and Related Litigation

Many state constitutions provide for a system of "free" public schools. This presentation examines litigation challenging school fees in states with this constitutional language.

Christine S. Kiracofe, Ed.D.: Assistant Professor, Northern Illinois University, DeKalb, IL

Free Education and No Fee Schools in South Africa – A Contradiction in Terms?

A critical discussion of the legal and practical implications of efforts to make quality education available to all in South African public schools.

Jean W. van Rooyen, M.Ed.: Exec.Manager/Lecturer, CELP/University of Pretoria, South Africa

Presenter: William E. Thro, J.D., M.A.: University Counsel & Assistant Professor, Christopher Newport University, Newport News, VA

D3: Special Education

◆ location: Secretariat A

The Class Action Procedure as a Tool in Obtaining IDEA Compliance

This presentation will examine the requirements for class certification in I.D.E.A. litigation under Rule 23 of the Federal Rules of Civil Procedure, and how these cases play out in the post-certification context. Special emphasis will be placed on the use of the class action procedure as a tool in addressing systemic IDEA failures and post-judgment enforcement.

Lewis M. Wasserman, J.E., Ph.D.: Assistant Professor, Virginia Tech, Blacksburg, VA

Presenter: Elizabeth T. Lugg, J.D., Ph.D.: Associate Professor, Illinois State University, Normal, IL

D4: Educational Policy and Administration | Specialized Topics

◆ location: Secretariat B

The Top Three Legal Issues Facing School Leaders

The presentation will include a summary of field research on what legal issues have been most troubling in the last three years, and what issues school administrators believe will be most problematic in the next three years. Three panelists (one ed admin professor, one sitting superintendent, and one lawyer) will respond to how the findings could affect their individual professional roles.

T.C. Mattocks, Ed.D.: Associate Professor, Bridgewater State College, Bridgewater, MA

Jeb Booth, Ph.D.: Assistant Professor, Criminal Justice, Salem State College, Salem, MA

K-12 Public Education: A Look at U.S. Supreme Court Trends

This mixed method descriptive study examined emerging trends in U.S. Supreme Court K-12 education cases between 1972 and 2008. The multilevel research produced outcome analyses of lawsuits by students, employees and others; court case outcomes; majority opinion author; and court of emergence within the Federal Judicial Circuits. This research further identified U.S. Supreme Court decisions from 1972-2008; case outcomes by lawsuit categorizations; and discernable historic trends.

Kelly M. Benson, Ed.D.: Assistant Professor, Central Washington University, Ellensburg, WA

Roberta D. Evans, Ed.D.: Dean, School of Education, The University of Montana, Missoula, MT

Don Wattam, Ed.D.: Assistant Professor, Educational Leadership, University of Idaho, Coeur d'Alene, ID

Presenter: Carlee Poston Escue, M.A.: Doctoral Candidate, University of Florida, Gainesville, FL

D5: Specialized Topics | Higher Education Law, Policy, Issues

◆ location: Broadway C

Copyrights, Trademarks, and the Schools

Every time a teacher shows her class a video from Blockbuster, she has probably violated federal copyright laws. When the local Walgreens sells knock-off sweatshirts bearing the local high school logo, it has violated the school's proprietary trademark. If a school presents a play without permission from the playwright's publisher, it risks liability for damages and attorney fees. These subjects are infrequently addressed by education attorneys, yet intellectual property claims pose both risks and financial rewards to school systems that are up to date. Moreover, the digital age has brought about new challenges for school systems utilizing licensed technology. Our presentation will address the current state of the law regarding copyright, trademark, and intellectual property rights as they relate to public schools.

Leslie R. Stelman, J.D.: Professor, Johns Hopkins University, Baltimore, MD

Cheating and Plagiarism in Higher Education: Public vs. Private and Academic vs. Disciplinary Due Process

High Schools and Colleges face an epidemic of cheating and plagiarisms. Recent litigation outlines constitutional questions facing public institutions and contractual issues facing private institutions

Robert M. Hendrickson, Ed.D.: Professor & Senior Scientist, Penn State University, University Park, PA

Phillip Blackman: Ph.D. candidate in the Higher Education, Penn State University, University Park, PA

Presenter: Peter L. Moran, J.D.: Research Assistant, Penn State University, University Park, PA

Concurrent Topic Sessions E

Friday, October 23, 2009 | 8:00 A.M. – 9:10 A.M.

E1: Equal Protection/Civil Rights/Due Process

◆ location: Broadway A

Quality Education for Minority Students After Parents Involved

This session explores the possible impact of the U.S. Supreme Court 2007 decision in *Parents Involved* on racial and ethnic minority students. This decision dismantled the ability of school districts to act affirmatively to racially desegregate their schools by assigning students to schools beyond their neighborhoods as sanctioned in the Court's 1971 decision in *Swann*. In addition because this action will lead to more de facto segregated schools by race and ethnicity what are the possible implications for quality education for minority students? Finally, the role of economic globalization on the need for the highest quality of education for racially isolated schools that were less of an economic factor when the Court in 1954 ruled that school segregation was unconstitutional.

Frank Brown, Ph.D.: Professor, University of North Carolina, Chapel Hill, NC

Richard Hunter, Ed.D.: Professor, University of Illinois, Urbana-Champaign, IL

Laurel McNeal, J.D., Ph.D.: Assistant Professor, Michigan State University, East Lansing, MI

Presenter: Spencer C. Weiler, Ph.D.: Assistant Professor, University of Northern Colorado, Greeley, CO

E2: Special Education

◆ location: Secretariat A

So The Parents Revoke Consent for Special Education: Now What?

This interactive session explores different perspectives on legal, ethical, and practical issues raised by new federal regulations permitting parents to revoke consent for special education.

Mary Anne Linden, J.D., Ph.D.: Assistant Professor, University of Portland, Portland, OR

Suzy Harris, J.D.: Attorney, Suzy Harris Law, Portland, OR

Presenter: Mark W. Mitchell, Ed.D.: Assistant Professor, Winthrop University, Rock Hill, SC

E3: Ethics

◆ location: Broadway B

Teacher Off-Duty Misconduct: Establishing a Legal Standard for Fitness for Duty and Rehabilitation

This presentation describes employment and licensing standards such as conduct unbecoming a teacher and professional misconduct that apply to teachers outside of their classrooms.

Daniel McIntyre, J.D.: Partner, Brindza McIntyre & Seed LLP, Cleveland, OH

Philip H. Wagner, Ph.D.: Assistant Superintendent, Beachwood City Schools, Beachwood, OH

Violations of the Principles of Professional Conduct of the Education Profession in Florida

Patterns of educator violations of the Florida Principles of Professional Conduct of the Educational Profession, disciplinary actions enacted, and examples of court cases are reviewed.

Darlene Y. Bruner, Ed.D.: Associate Professor, University of South Florida, Tampa, FL

Presenter: Joy Cumming, J.D., Ph.D.: Professor, Griffith University, Brisbane, Queensland, Australia

E4: Specialized Topics | Technology

◆ location: Broadway C

The Current Legal Landscape of Cyber Charter Schools

This presentation will review the current four states (California, Colorado, Ohio, and Pennsylvania) with cyber charter school legislation and provide legal and policy recommendations for states with cyber charter schools that are operating without any relevant legislation.

Kevin P. Brady, Ph.D.: Assistant Professor, North Carolina State University, Raleigh, NC

Regina Umpstead, J.D., Ph.D.: Assistant Professor, Central Michigan University, Mount Pleasant, MI

Parental Rights and Responsibilities in Online Learning Environments

Online learning environments are becoming popular with school districts. This session reviews case law and the role of parents in the delivery of online education.

Belinda M. Cambre, J.D.: Assistant Professor, University of New Orleans, New Orleans, LA

Presenter: Suzanne E. Eckes, J.D., Ph.D.: Associate Professor, Indiana University, Bloomington, IN

E5: Fourth Amendment

◆ location: Secretariat B

Fourth Amendment Update

An update on recent Fourth Amendment law in public schools, this presentation covers personal searches, strip searching, seizure, cyber-bullying, video surveillance and police involvement.

Jacqueline A. Stefkovich, J.D., Ed.D.: Associate Dean, The Pennsylvania State University, University Park, PA

Lawrence F. Rossow, Ph.D.: Professor, University of Oklahoma, Norman, OK

Kevin M. McKenna, J.D.: Shareholder, Latsha, Davis, Yohe & McKenna, PC, Exton, PA

Presenter: Julie Mead, Ph.D.: Professor, University of Wisconsin – Madison, Madison, WI

Concurrent Topics Sessions F

Friday, October 23, 2009 | 9:20 A.M. – 10:30 A.M.

F1: First Amendment

◆ location: Secretariat B

The Conversation Continues: Establishment Clause Update

This session discusses the status of religion in schools, focusing on such issues as prayer, aid to religiously affiliated schools, and religious meetings in schools.

Edwin Darden, J.D.: Appleseed, Washington, D.C.

Ralph D. Mawdsley, J.D., Ph.D.: Roslyn Z. Wolf Endowed Chair in Urban School Leadership, Cleveland State University, Cleveland, OH

Martha M. McCarthy, Ph.D.: Chancellor Professor, Indiana University, Bloomington, IN

Charles J. Russo, J.D., Ed.D.: Panzer Chair in Education, and Adjunct Professor of Law, University of Dayton, Dayton, OH

David M. Schimmel, J.D.: Professor, University of Massachusetts at Amherst, Amherst, MA

Presenter: Jesulon S. R. Gibbs, J.D., Ph.D.: Assistant Professor, South Carolina State University, Orangeburg, SC

F2: Equal Protection/Civil Rights/Due Process

◆ location: Secretariat A

Judicial Policymaking and Educational Opportunity

This paper will demonstrate that recent trends in equal protection construction have not contributed to a constitutional mandate for more equal results in educational opportunity.

Paul E. Green, Ph.D.: Associate Professor, University of California, Riverside, CA

South Africa's Approach to the Best Interests of the Child in Developing the Rights of the Child

The South African constitutionally entrenched best interests of the child approach in developing children's rights is discussed with reference to recent case law and legislation.

Mariette Reyneke, L.L.M.: Senior Lecturer, University of the Free State, Bloemfontein, RSA

Presenter: Lynn Rossi Scott, J.D.: Shareholder, Brackett & Ellis PC, Fort Worth, TX

F3: School Finance

◆ location: Broadway C

Judicial Review and the Separation of Powers in Education Finance Adequacy Litigation

This presentation proposes a framework for deciding the proper scope of judicial review in education finance adequacy litigation in light of separation of powers concerns.

Scott R. Bauries, J.D.: Assistant Professor, University of Kentucky, Lexington, KY

New Directions in School Funding and Governance: Moving from Politics to Evidence

This presentation provides an analysis of recent judicial and legislative efforts to link decisions about educational resources with scientific evidence.

Benjamin M. Superfine, J.D., Ph.D.: Assistant Professor, University of Illinois at Chicago, Chicago, IL

Presenter: Betty Cox, J.D., Ed.D.: Assistant Professor, Educational Studies, University of Tennessee at Martin, Martin, TN

F4: Equal Protection/Civil Rights/Due Process | Ethics

◆ location: Broadway B

Title IX Liability for Peer-on-Peer Harassment

Under Title IX, public schools may be held liable for mishandling student complaints of peer-on-peer harassment. Learn to properly respond to complaints, protect the victim and minimize exposure to liability.

Todd Sorensen, J.D.: Attorney, Williams Kastner & Gibbs PLLC, Seattle, WA

Confronting Ethical Ambivalence in the Legal Response to Sexual Misconduct Between Employees and Students

This presentation draws upon the philosophies of Kant, Rawls and Dewey to highlight ethical and legal duties to address sexual misconduct between employees and students.

Susan C. Bon, J.D., Ph.D.: Associate Professor, George Mason University, Fairfax, VA

Lisa R. McBride, J.D.: Partner, Thompson & Horton LLP, Houston, TX

Presenter:

F5: Higher Education Law, Policy, Issues

◆ location: Broadway A

Donor Intent of Major University Gifts

This presentation examines the legal, professional, and ethical obligations associated with restricted gifts at colleges and universities.

Jeffrey C. Sun, J.D.: Assistant Professor, University of North Dakota, Grand Forks, ND

Carrie M. Lovelace, J.D.: Associate Director of Planned Giving, Office of Development, Yale University, New Haven, CT

Presenter:

Concurrent Topics Sessions G

Friday, October 23, 2009 | 10:40 A.M. – 11:50 A.M.

G1: Equal Protection/Civil Rights/Due Process

◆ location: Broadway A

Employing the Correlates of Race to Abate Re-Segregation in Schools

This presentation will examine the Parents involved in *Community Schools v. Seattle Sch. Dist. No. 1*, 127 S.Ct. 2738 (2007) with the *Meredith v. Jefferson County Bd. of Ed.* and related case law both before and after the decision that limited the extent to which race exclusively may be considered in students assignments to schools. The presenter will review the recent court cases, frame issues in the current litigation context, and propose future strategies for participants. She will attempt to sort out the constitutionally permissible parameters for such programs and explain the range of choices available to localities in developing such plans.

Lisa G. Driscoll, Ph.D.: Assistant Professor, Virginia Tech, Blacksburg, VA

Altering Grade Configuration in Virginia Schools: Reducing School Segregation without Explicitly Considering Race

This paper discusses an option for reducing school segregation that conforms to the PICS decision and uses school districts from Virginia as illustrative examples.

William J. Glenn, J.D., Ph.D.: Assistant Professor, Virginia Tech, Falls Church, VA

Presider: Felix Simieou III, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

G2: First Amendment

◆ location: Secretariat B

Do Students have a Constitutional Right to Express Anti-Gay Sentiments in the Schools? A Conflict Between Two Federal Appellate Courts

This paper will analyze the conflict between the Ninth Circuit's decision in *Harper v. Poway Unified School District* (2006) (later vacated by the Supreme Court) and the Seventh Circuit's decision in *Nuxoll v. Indian Prairie School District* (2008).

Richard Fossey, J.D., Ed.D.: Professor & Program Coordinator, University of North Texas, Denton, TX

Suzanne E. Eckes, J.D., Ph.D.: Associate Professor, Indiana University, Bloomington, IN

Student Expression and Issues of Sexual Minority

This presentation summarizes and illustrates some of current legal trends regarding the First Amendment rights of sexual minority youth and their supporters as well as those students opposed to homosexuality.

Thomas J. Graca, J.D., Ed.D.: Assistant Professor, University of Texas at Arlington, Arlington, TX

David L. Stader, Ed.D.: Associate Professor, University of Texas at Arlington, Arlington, TX

Presider: Brian Schwartz, J.D.: Associate Director & General Counsel, Illinois Principals Association, Springfield, IL

G3: Special Education | Education Policy and Administration

◆ location: Secretariat A

The Unique Challenges of Providing Special Education in Charter Schools

Charter schools have recently come under fire for failing to properly serve disabled students. This presentation will examine state and federal law governing the obligation of charter schools to serve disabled students and the unique hurdles the schools face in complying with the law.

Robert A. Garda, J.D.: Associate Professor of Law, Loyola University of New Orleans, New Orleans, LA

No Soup for You: The Legal Ramifications of Denying Curricula Options to Free or Reduced Lunch Students

Can charter schools remove students who qualify for free/reduced lunch if it cannot provide the service? This question, and others are answered in this presentation.

Spencer C. Weiler, Ph.D.: Assistant Professor, University of Northern Colorado, Greeley, CO

J. Bradford Every: Graduate Student, University of Northern Colorado, Greeley, CO

Presider: Kelly A. Sherrill, J.D., Ph.D.: Attorney and Ph.D. Candidate, University of Georgia, Athens, GA

G4: Education Policy and Administration | School Reform

◆ location: Broadway B

FERPA and Student Privacy 2009: New Regulations, Old Problems?

Overview of new FERPA regulations (emergency disclosures, records of former students, etc.) and other student privacy developments, with suggestions for changes to school FERPA policies.

Lynn M. Daggett, J.D., Ph.D.: Professor, Gonzaga Law School, Spokane, WA

The Nature and Role of the Relationship Between School Leader and the School Attorney in Addressing School Law Issues: A National Study

A national study describes when school leaders called their attorneys, how helpful those attorneys were, and what relationship they would like with their attorneys.

Vivian Hopp Gordon, J.D., Ph.D.: Assistant Professor, Loyola University Chicago, Chicago, IL

Presenter: Susan G. Clark, J.D., Ph.D.: Professor, University of Akron, Akron, OH

G5: First Amendment | Higher Education Law, Policy, Issues

◆ location: Broadway C

Unsportsmanlike Conduct: Fan Behavior and Free Speech in Schools and Colleges

This presentation will review the legal precedent on free speech issues and address what steps can be taken to regulate fan behavior and control the disruptive spectator.

Joseph Beckham, J.D., Ph.D.: Professor, Florida State University, Tallahassee, FL

The Legal Legacy of Basketball Coach Jerry Tarkanian: Transformation of the NCAA Rule Enforcement Process

Jerry Tarkanian fought UNLV and the NCAA. This presentation addresses the legislative initiatives and jurisprudence that resulted from those battles and their impact on NCAA rule enforcement.

Gerald C. Kops, J.D., Ph.D.: Professor, UNLV, Las Vegas, NV

Parent Speech and the Courts

This presentation will review recent parent speech cases in eight federal circuits to assist school personnel in avoiding violation of parent speech rights.

Ann Hassenpflug, Ph.D.: Professor, University of Akron, Cuyahoga Fall, OH

Presenter: Regina Umpstead, J.D., Ph.D.: Assistant Professor, Central Michigan University, Mount Pleasant, MI

Concurrent Topic Sessions H

Friday, October 23, 2009 | 1:10 P.M. – 2:20 P.M.

H1: First Amendment

◆ location: Secretariat B

Expression, Retaliation & Litigation: An Update of Recent Public School Employee Speech Cases

In this presentation, particular attention is given to several employee speech cases handed down since the U.S. Supreme Court's decision in *Garcetti v. Ceballos* in 2006. Additionally, the presentation will explore the avenues used to pursue First Amendment retaliation claims (e.g., Section 1983 versus federal Whistleblower statutes).

Brenda R. Kallio, Ed.D.: Associate Professor, University of North Dakota, Grand Forks, ND

Richard T. Geisel, J.D., Ph.D.: Assistant Professor, Grand Valley State University, Grand Rapids, MI

Employee Speech Issues in Schools and Universities

An exploration of case law involving employee speech issues in K-12 schools and universities and colleges.

Dave Dagley, J.D., Ph.D.: Professor, The University of Alabama, Tuscaloosa, AL

Ed Nichols, Ed.D.: Assistant Superintendent, Decatur City Schools, Decatur, AL

Presenter: Edwin Darden, J.D.: Appleseed, Washington, D.C.

H2: Higher Education Law, Policy, Issues

◆ location: Broadway C

Section 1983 v. Title IX Claims in Student Sexual Harassment Claims

A discussion of the Supreme Court's ruling in *Fitzgerald v. Barnstable School Committee*, concerning the previous limitations of suits brought in cases of student sexual harassment. The Court found that Title IX does not preempt actions under Section 1983.

Alvin Schilling, J.D., Ph.D.: Attorney, R. Craig Wood & Associates, Gainesville, FL

The Shifting Landscape of Title IX: An Examination of Recent Regulatory Changes and Retaliation Claims Against Colleges and Universities

This presentation explores changes in Title IX implementing regulations, the new retaliation standard established by the Supreme Court in 2005, and costly litigation against colleges and universities.

Kerry Brian Melear, Ph.D.: Associate Professor of Higher Education, University of Mississippi, Oxford, MS

Macey L. Edmondson: Public Services Law Librarian, University of Mississippi School of Law, Oxford, MS

Presenter: Neal H. Hutchens, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

H3: Special Education

◆ location: Broadway A

Providing a Free, Appropriate Public Education (FAPE) to Students with Childhood-Onset Bipolar Disorder

The presentation will focus on special education issues related to students with bipolar (manic-depressive) disorder, including identification and evaluation, eligibility, IEP development, goals and objectives, methods of instruction, FBAs, BIPs, accommodations, transition plans, and collaboration with other health and community service professionals pursuant to IDEA, ADA, and Section 504.

Kelly A. Sherrill, J.D., Ph.D.: Attorney and Ph.D. Candidate, University of Georgia, Athens, GA

Enhancing Programming for Students with Autism: A Legal and a Programmatic Perspective

A step-by-step approach will be outlined for conducting evaluations of programming for students with autism. The importance of research-based, legally defensible programs will be presented.

Janet Butz, Ph.D.: President, CARE, L.L.C., Las Vegas, NV

Christopher Borreca, J.D.: Attorney, Thompson & Horton, Houston, TX

Presenter: Jon E. Anderson, J.D.: Shareholder and Team Leader, Godfrey and Kahn S.C., Madison, WI

H4: Specialized Topics

◆ location: Broadway B

K-12 Education Law Update

This interactive session takes a look at court cases, statutes and regulations from the past year that will have a day-to-day impact on K-12 school districts. During the first half of the session, the presenters will discuss various legal issues and present useful information in implementing new laws and requirements. During the second half of the session the presenters will open the floor for audience participation and questions.

Brian Schwartz, J.D.: Associate Director & General Counsel, Illinois Principals Association, Springfield, IL

Brad Colwell, J.D., Ph.D.: Associate Dean, Southern Illinois University, Carbondale, IL

Presenter: Joseph Matula, Ph.D.: Assistant Professor, Governors State University, Palos Park, IL

H5: Education Policy and Administration | Equal Protection/Civil Rights/Due Process

◆ location: Secretariat A

Balancing Culture, Beliefs, and Human Dignity and Uphold a Disciplined Environment in Schools in South Africa

The paper reports on the role of the judiciary in the advancement of human rights in education in South Africa and the role of the judiciary in supporting schools in balancing culture, beliefs, and human dignity in maintaining a disciplined school environment.

Rika Joubert, Ph.D.: Associate Professor, University of Pretoria, South Africa

Garland ISD Freedom of Choice: Equal Protection or Violation?

Are Freedom of Choice plans, like the Garland Independent School District's, that were written to guarantee students equal protection now being used to violate it?

Wendy L. Brower, M.A.: Student Services Coordinator, Garland ISD, Garland, TX

Theresa N. Williams, Ed.D.: Director of Student Services, Garland ISD, Garland, TX

Concurrent Topic Sessions I

Saturday, October 24, 2009 | 9:55 A.M. – 11:05 A.M.

I1: Beckham Dissertation & Joseph Law Writing Awards

◆ location: Broadway C

George Jay Joseph Education Law Writing Award Winner

The *George Jay Joseph Education Law Writing Award* recipient will present her winning paper: *Affirmative Action in Higher Education: Proposing a Constitutionally Safer Admissions Methodology*

Lauren S. Foley: *Juris Doctor* candidate, Michigan State College of Law, East Lansing, MI

President:

I2: School Reform

◆ location: Broadway B

A Crisis is a Terrible Thing to Waste: How to Use Accountability Laws to Transform Education Practice

Highlighting reforms implemented during the past eight years, this presentation will illustrate how state and federal accountability laws create opportunities for innovation.

Rich Haglund, J.D.: General Counsel, Tennessee State Board of Education, Nashville, TN

President:

I3: Education Policy and Administration

◆ location: Broadway A

A Race to the Bottom? President Obama's Incomplete Strategy for Reforming Education in Struggling Schools and the Perils of Ignoring Poverty

This presentation will address the Race to the Top Fund, a competitive federal grant fund designed to spur educational reform at the individual state level, and how it exposes the major deficit in President Obama's plan for reforming this country's struggling schools: a reluctance to acknowledge explicitly the relationship between struggling schools and poverty.

Monica Teixeira de Sousa, J.D.: Professor, New England Law, Boston, MA

President: Rebecca Schlosser, J.D., Ed.D.: Assistant Professor, Sul Ross State University, Alpine, TX

I4: Education Policy and Administration | Technology

◆ location: Secretariat B

Liability Proof Your School Against Bullying

This presentation will review the most recent cases dealing with children with disabilities being bullied in schools which create a cause of action for money damages against the school (e.g., *Fitzgerald v. Barnstable Sch. Comm.*, LEXIS 592 (U.S. 2009); *Patterson v. Hudson Area Schools.*, LEXIS 25 (6th Cir. 2009)). The presenters will share how school districts should respond to bullying in their schools in order to attempt to liability proof them.

Michael Hazelkorn, Ph.D.: Professor and Chair, University of West Georgia, Carrollton, GA

Exposing the Gap: Educators' Legal Literacy About Cyber Bullying

This session will compare a hypothetical definition of cyber bullying, as defined by state law, and a functional definition, revealed through surveys from K-12 educators.

Amy H. Glass: Doctoral Candidate, Johns Hopkins University, Baltimore, MD

President: Belinda M. Cambre, J.D.: Assistant Professor, University of New Orleans, New Orleans, LA

I5: Equal Protection/Civil Rights/Due Process

◆ location: Secretariat A

Judicial Policymaking and Educational Opportunity

This paper will demonstrate that recent trends in equal protection construction have not contributed to a constitutional mandate for more equal results in educational opportunity.

Paul E. Green, Ph.D.: Associate Professor, University of California, Riverside, CA

Concurrent Topic Sessions J

Saturday, October 24, 2009 | 11:15 A.M. – 12:25 P.M.

J1: Education Policy and Administration

◆ location: Secretariat B

Current Issues for Schools and Religions in Australia

This presentation examines issues of religion in schools through the establishment of religious faith schools in Australia, including legislation and constitutional interpretation.

Joy Cumming, J.D., Ph.D.: Professor, Griffith University, Brisbane, Queensland, Australia

Significant Disproportionality and Coordinated Early Intervening Services: An Examination of State and District Responses to IDEA's Directive

This presentation reports on how state and local educational agencies have responded to the IDEA's requirements regarding the disproportionate representation of students of color in special education. Various state definitions of "significant disproportionality" will be examined as well as data regarding the number of districts in each state that have fallen under state oversight for practices resulting in disproportionality. LEA responses under "Coordinated Early Intervening Services" are also examined

Julie Mead, Ph.D.: Professor, University of Wisconsin – Madison, Madison, WI

Presenter: Brenda R. Kallio, Ed.D.: Associate Professor, University of North Dakota, Grand Forks, ND

J2: Specialized Topics | Higher Education Law, Policy, Issues

◆ location: Broadway A

An Analysis of the Impact of House Bill 536 on Teaching Education Law in North Carolina

Does law have a place in school leader preparation? This presentation establishes the essential role it plays and provides examples of how to prove it.

Kermit Buckner, Ed.D.: Professor, East Carolina University, Greenville, NC

Share Your School Law Teaching Ideas

Professors of school law will share their teaching ideas with other attendees, who will be other professors of school law. There will be no specific presentation but a discussion of effective teaching techniques. The focus will be on teaching and not on content.

Joseph Matula, Ph.D.: Assistant Professor, Governors State University, Palos Park, IL

Presenter: Dave Dagley, J.D., Ph.D.: Professor, The University of Alabama, Tuscaloosa, AL

J3: First Amendment

◆ location: Broadway B

The Rocket's Red Glare: The Largely Errant and Deflected Flight of Tinker

Commemorating the 40th anniversary of the Supreme Court's decision in *Tinker v. Des Moines Community Independent School District*, this session will provide track the trajectory of the holding and dicta of the majority opinion the lower courts and in the subsequent Big Three of student First Amendment expression at the Supreme Court *Frasier*, *Kuhlmeier*, and *Morse*. The conclusion is that the decision contained the seeds of its own undoing and that its overall effect has been symbolic rather than substantial.

Perry A. Zirkel, J.D., Ph.D.: Professor, Lehigh University, Bethlehem, PA

Public Schools as Places of Protest

I seek to use these more recent school protest controversies to explore the constitutional parameters of the public school as a protest site and to discern the nature and limits of school official's authority to restrict protest activities by members of the school community and by outside constituencies.

Josie F. Brown, Ph.D.: Assistant Professor, University of South Carolina, Columbia, SC

Presider:

J4: Fourth Amendment

◆ location: Secretariat A

The War on Drugs vs. Teachers' Fourth Amendment Rights: Are Teachers in Safety Sensitive Positions?

Reviews and analyzes court decisions and news reports on the status of drug testing of teachers and school employees.

Nathan M. Roberts, J.D., Ph.D.: Department Head and Associate Professor, University of Louisiana at Lafayette, Lafayette, LA

Robert LeBlanc, Ed.D.: Dean, School of Education, University of St. Thomas, Houston, TX

Presider:

J5: Golderg Award

◆ location: Broadway C

Title

Presentation description.

Presenter Name:

Presider:

Concurrent Topic Sessions K

Saturday, October 24, 2009 | 1:20 P.M. – 2:30 P.M.

K1: School Reform

◆ location: Broadway C

Responding to Regulation: The Dropout Dilemma

This paper examines factors contributing to low graduation rates and interventions schools are using to respond. It offers recommendations for administrators to address the issue.

Felix Simieou III, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

Bettye Grigsby, Ph.D.: Assistant Professor, University of Houston at Clear Lake, Houston, TX

John Decman, Ed.D.: Associate Professor, University of Houston at Clear Lake, Houston, TX

Presider:

K2: Specialized Topics | Technology

◆ location: Secretariat B

Web 2.0 Technology and Teaching Educational Law

How YouTube, blogs, wikis, podcasts and other Web 2.0 technologies improve instruction in educational law while at the same time improving student's technological literacy.

Justin M. Bathon, J.D., Ph.D.: Assistant Professor, University of Kentucky, Lexington, KY

Teachers and Social Networking Sites

Schools are now grappling with teachers' use of social networking web sites. Its appropriateness, legal, ethics, and policy issues will be discussed.

Michael Tan, Ph.D.: Associate Professor, William Woods University, Fulton, MO

Presider: Janet Decker, Ph.D. (ABD): Indiana University, Bloomington, IN

K3: Education Policy and Administration

◆ location: Broadway B

A Study Applying the Synergistic Leadership Theory to the Legal Profession

A nationwide study that applies the synergistic leadership theory to education attorneys and compares those results to similar SLT studies of business and education leaders.

Rebecca Schlosser, J.D., Ed.D.: Assistant Professor, Sul Ross State University, Alpine, TX

Stacey Edmonson, Ed.D.: Associate Professor, Sam Houston State University, Huntsville, TX

Presenter:

K4: Education Policy and Administration

◆ location: Broadway A

What Educators, Parents, and Attorneys Should Know About Bullying

This section explores what research tells us about the bully and the bullied, with accent on policy development for the prevention and response to bullying behavior of children in K-12 education.

Steve Permut, Ed.D.: Professor, University of South Florida

Jan Urbanski, Ed.D.: Supervisor, Safe and Drug Free Schools Office, Pinellas County Schools, Florida

Presenter:

Concurrent Topic Sessions L

Saturday, October 24, 2009 | 2:40 P.M. – 3:50 P.M.

L1: Higher Education Law, Policy, Issues

◆ location: Secretariat B

Dispositions and Fitness to Teach: A Review of the Court Cases and Policies

This session will review court cases and university policies regarding candidate's dispositions and attitudes appropriate for teaching. Examples of measuring dispositions will also be discussed.

Marilyn J. Bartlett, J.D., Ph.D.: Dean and Professor, Texas A&M University, Kingsville, TX

Presenter:

L2: Equal Protection/Civil Rights/Due Process | Specialized Topics

◆ location: Broadway C

Employment and Labor Law Developments in the Obama Era

The presentation will review developments/changes in employment and labor law over the first eight months of President Obama's term.

Jon E. Anderson, J.D.: Shareholder and Team Leader, Godfrey and Kahn S.C., Madison, WI

Presenter:

L3: First Amendment

◆ location: Broadway B

What I Should Have Said 25 Years Ago

In a sequel to a paper presented at ELA 25 years ago, the presentation reviews the forces behind changes in church-state relationships.

B. Glen Epley, Ph.D.: Professor and Chair, Stetson University, Deland, FL

Presenter: Richard Fossey, J.D., Ed.D.: Professor & Program Coordinator, University of North Texas, Denton, TX

L4: Technology/Higher Education

◆ location: Broadway A

Reauthorization of the Higher Education Opportunity Act (HEOA)

This presentation will focus on the emerging realm of distance/online higher education and the significant and unsettled areas of constitutional law, state--based consumer protection prerogatives, and other legal or regulatory considerations that do not have a corresponding relevance to more traditional dimensions of college and university operations.

Russell Kitchner, Ph.D.: Director of Regulatory and Governmental Relations, American Public University System, Charles Town, WV

Presenter: