Supreme Court Limits Test for Establishment Clause Violation

In a recent decision with significance for public schools, the United States Supreme Court ruled that certain longstanding community monuments, symbols, and practices may have a presumption of constitutionality, even if they include some religious symbolism. *American Legion v American Humanist Ass’n*, No. 17-1717 (June 20, 2019). The American Humanist Association challenged the display of a 32-foot Latin cross erected by private citizens in 1925 to honor World War I veterans. The cross now sits in the middle of an intersection, and since 1961 has been owned and maintained by the local park and planning commission. The lawsuit alleged that the local commission paying for the cross’s display, maintenance, and repair violated the U.S. Constitution’s Establishment Clause.

Since 1971, courts have used the “Lemon test” to determine whether a religious display violates the Establishment Clause by considering whether a display: (1) has a legitimate secular purpose; (2) has the primary effect of advancing or inhibiting religion; and (3) fosters an excessive entanglement of government and religion. Over the last few years, however, the Supreme Court has limited the Lemon test.

Rather than relying on the Lemon test, the Court in *American Legion* established for the first time a presumption of constitutionality for longstanding historical monuments, symbols, or practices. In establishing this presumption, the Court noted that:

1. identifying the original purpose of a historical monument, symbol, or practice is difficult, and courts should not compel the removal of those monuments based only on supposition;
2. an established monument, symbol, or practice can amass multiple purposes over the years, and a community may preserve monuments, symbols, and practices for their historical significance or place in common cultural heritage;
3. the message conveyed by a monument, symbol, or practice may also evolve over time and even religiously expressive monuments, symbols, and practices can become embedded features of a community’s landscape and identity; and
4. when a local community has implied a particular meaning to a monument, symbol, or practice, removing it may not appear neutral and, instead, give the appearance that the government is acting “aggressively hostile to religion.”

The Court distinguished between retaining established religiously expressive monuments, symbols, and practices and building or adopting new ones.
Applying the above considerations, the Court ruled that the local government’s display, maintenance, and repair of the cross did not violate the Establishment Clause. Based on the cross’s secular inscriptions, location in an area with a number of other war memorials, and its use to memorialize local veterans, the Court found that the cross had a distinctly secular purpose connected with World War I.

Although this decision provides further insight into how courts may analyze historical monuments, symbols, and practices that include religious symbols, decisions in Establishment Clause cases are always highly nuanced and fact-based. It remains to be seen how this decision will affect school displays or practices that include religious elements.

To date, the U.S. Supreme Court has not squarely addressed the issue of religiously themed holiday displays or programs in a public school. Lower court decisions suggest, however, that a public school’s use of religious symbols in holiday displays is highly suspect. The Supreme Court has held that displaying explicitly religious symbols (e.g., the Ten Commandments) on a public school classroom wall is unconstitutional. The Supreme Court also has emphasized that students are a particularly impressionable audience. These considerations often lead to a stricter interpretation of the Establishment Clause in school cases.

School officials should continue to exercise caution with any school display, practice, symbol, or monument that appears to endorse religion or religious viewpoints, excessively entangles the school with religion, or coerces religious behavior, like prayer.

Schools of Choice Refresher

It may seem like summer vacation just started, but districts that elect to participate in schools of choice for the 2019-2020 school year should ensure they are ready for the application period to begin.

The State School Aid Act allows an enrolling district to count nonresident students in membership without resident district approval only under specific circumstances. Schools of choice participation is voluntary, and the district must “opt in.”

The State School Aid Act recognizes two types of choice: (1) enrollment of non-resident students who reside in the same ISD (Section 105); and (2) enrollment of non-resident students who reside in a contiguous ISD (Section 105c). A district may participate in either Section 105 or 105c choice, both, or neither. If your district participates in schools of choice, it must comply with all aspects of the law or risk forfeiting 5% of its total state aid allocation.

Limited Openings

If a district sets a limited number of openings for student enrollment, it must publish the grades, schools, and special programs that are available and notify the public that it is accepting applications. The notice must include when and how to apply and be published by the second Friday in August (August 9, 2019). The application period must be between 15 and 30 calendar days.

Within 15 calendar days of the application period closing, the district must determine who will be allowed to enroll. Students not selected must be placed on a waiting list. The district must notify parents of a student’s acceptance and any enrollment procedures, including the enrollment deadline, which must be no later than the end of the first week of school.

If openings remain between the third Monday in August (August 19, 2019) and the end of the first week of school, the district may enroll students from the waiting list. Districts may not enroll choice students after the first week of school.

Unlimited Openings

Some districts choose to have unlimited openings for their schools of choice program. If your district sets unlimited openings, it can accept applications until the end of the first week of school.

The district must notify the public of the place and manner for submitting the applications. The application period must be at least 15 calendar days.

Non-Discriminatory Selection

When selecting students to enroll, a district may not base enrollment on a student’s:

- intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof;
- mental or physical disabilities, if the student otherwise meets eligibility criteria;
- age, if the student is age-appropriate for the program; or
- religion, race, color, national origin, sex, height, weight, marital status, athletic ability, or other legally protected status.

A district may deny enrollment if a student is or has been suspended by another school during the previous two years, has ever been expelled from another school, or has been convicted of a felony. District officials should contact a student’s previous school(s) to determine the student’s disciplinary history. If your district has already counted the student in membership, however, it may not disenroll a student, regardless of whether a parent or school failed to disclose the previous discipline before enrollment.
Right to Continued Enrollment and Sibling Preference

Once enrolled, a district must allow a student to continue to enroll in the district until the student graduates from high school or is expelled. Students who live in the same household as a student already enrolled in a district as a schools of choice student must be given enrollment priority.

Special Education Considerations

If a student is enrolled under Section 105 (within the same ISD) and is eligible for special education programs and services, that student is considered a resident of the enrolling district for purposes of providing the student a free appropriate public education (FAPE).

Section 105c creates additional requirements if a student who resides in a contiguous ISD is eligible for special education programs and services. To enroll a nonresident special education student under Section 105c, the enrolling district must have a written agreement with the student's resident district addressing payment of the added costs of special education and how the agreement will be amended if there is a significant change in the costs or level of special education that the student requires. The statute is silent, however, as to which district must pay for the student's special education programs and services. If the enrolling and resident districts do not reach an agreement before the student's initial enrollment, the student cannot be enrolled.

If a student is initially enrolled as a general education student but becomes eligible for special education services later, the enrolling district then must enter into a written agreement with the student's resident district. The enrolling district may not return the student to the resident district. Sending the student back or failing to reach an agreement may result in a 5% state aid penalty.

Schools of choice law is complex and has significant implications for noncompliance. If you have any questions about schools of choice or Section 105c agreements, please contact Thrun Law Firm.

Where's My Tax Revenue?

For school districts with a July tax levy, local tax collecting units recently sent summer tax bills to school district taxpayers. The municipalities will collect school taxes on behalf of those districts. Every year, however, some Thrun clients report belated disbursement of collected school tax revenue, causing unexpected cash flow problems. School officials should be aware that tax collecting units are statutorily required to timely transfer school tax revenues.

Generally, township and city treasurers are responsible for tax collections. While a school district may contract with a township or city to set a different collection schedule, General Property Tax Act Section 43 establishes the default collection schedule. Township and city treasurers must: (1) remit all school taxes in their possession on the 1st and 15th day of each month; (2) account for and remit 90% of school tax collections in their possession by the last day of February; and (3) transfer all school taxes on hand by April 1.

Unfortunately, the February and April deadlines clearly contemplate a December, rather than a July, tax levy. Michigan law does not establish a comparable default collection schedule for July tax levies.

Revised School Code Section 1613, however, requires a contract with a tax collecting unit before that unit may collect summer taxes on behalf of a school district. That contract provides the opportunity to craft a summer-specific collection schedule that does not rely on the statutory dates. Nevertheless, even for a July 1 tax levy, collecting units must distribute tax dollars in their possession to schools on the 1st and 15th day of each month. Townships and cities that fail to do so are likely violating the General Property Tax Act by unlawfully retaining school property taxes.

Tax collecting officials may be subject to civil and criminal penalties for failing to timely remit collected school taxes. A municipal official who willfully neglects or refuses to perform his or her duties under the General Property Tax Act is guilty of a misdemeanor and potentially liable for damages.

If your district is not timely receiving tax revenue, we recommend contacting the collecting unit's treasurer or assessor to inquire about the delay and, if necessary, bringing the statutory or contractual requirements to the appropriate official's attention. If the delay persists, we suggest contacting your school's finance attorney.

Tenure Commission Upholds Discharge for Academic Dishonesty

The Tenure Commission recently upheld the discharge of a tenured teacher for her unethical and dishonest academic practices in manipulating student assessments. ReVoir v Ann Arbor Pub Schs, STC 18-5.

Amy ReVoir had been employed by the district since 2000 and most recently served as a 7th and 8th grade social studies and language arts teacher. After receiving a minimally effective rating on her year-end performance evaluation for the 2016-2017 school year, ReVoir was placed on an individual development plan...
and assigned to teach 8th grade social studies and language arts.

The district annually administered standard common student assessments to calculate the student growth component in teacher evaluations. The district’s common assessment process requires teachers to administer a pre-test to students before covering the material and an identical post-test after teaching the material.

In the 2017-2018 school year, ReVoir selected the social studies common assessment to calculate the student growth component of her evaluation. After administering the pre-test at the beginning of the 2017-2018 school year, ReVoir made copies of the 35 pre-test questions and answers and provided her students with study guides that included the pre-test questions and the correct answers. On multiple occasions between the pre-test and post-test, she reviewed the pre-test questions and answers in class. In December 2017, ReVoir had the pre-test administered a second time to students, but this time with the correct answers projected on the overhead projector for the class to see during the assessment. Students were allowed to keep the test as a study guide.

ReVoir engaged in similar conduct when administering the language arts common assessment, although it was not part of her performance evaluation. She gave students study guides containing the exact pre-test questions and said “[T]hese are questions you might see again.”

In January 2018, one of ReVoir’s students, fearing that she may have cheated, reported to another social studies teacher that students had seen the exact post-test questions on the study guides prepared by ReVoir.

ReVoir was placed on administrative leave, and the district brought tenure charges against her based, in part, upon her academic dishonesty related to the social studies and language arts common assessments.

ReVoir claimed that she was unaware that the pre-test and post-test assessments were identical and, therefore, did not know that use of the pre-test as a study guide would be unethical. The district, however, provided evidence that its procedures for the common assessments always involved an identical pre-test and post-test and that ReVoir had previously administered the tests. Both the Administrative Law Judge and the Tenure Commission held that the district produced overwhelming evidence that ReVoir’s preparation of her students for the common assessments was unethical and dishonest and supported her discharge.

ReVoir also argued that the district was required to prove that she intentionally engaged in unethical and dishonest conduct when preparing her students for the common assessments. The Tenure Commission determined, however, that the district was not required to prove ReVoir’s specific intent when engaging in fraudulent and dishonest conduct related to academics. It was sufficient that ReVoir acted deliberately and that she could not reasonably claim that her conduct was a mistake.

The Tenure Commission also determined that the district did not have to prove that ReVoir’s conduct had an adverse effect on students, staff, or the school community because her conduct was obviously inappropriate, occurred on school grounds during work hours, and involved students. Nevertheless, the district did prove that ReVoir’s conduct had an adverse impact on the students relative to their ability to learn the subject matter and improve their test-taking abilities.

This decision reaffirms the Tenure Commission’s strict stance on academic fraud and dishonesty. If school officials suspect or observe similar conduct, it is critical that they promptly investigate. The decision also reaffirms the Tenure Commission’s previous holdings that if a district proves that misconduct occurred and that the discipline issued was the result of a deliberate, principled, reasoned process supported by evidence, the Tenure Commission will not review the level of discipline issued.

OSEP Provides New Special Education Guidance

The United States Department of Education’s Office of Special Education Programs (OSEP) recently issued informal guidance on a variety of special education issues in response to inquiries from schools. This guidance is summarized below.

IEP Team Meeting Participants

While the Individuals with Disabilities Education Act (IDEA) does not prohibit schools from inviting administrators to IEP Team meetings simply to observe, OSEP discourages the practice. Letter to Haller (OSEP, 5/2/19). School officials should be mindful of the confidential and often sensitive nature of IEP Team meeting discussions and should generally limit IEP meeting invitations to people who will "contribute to decisions about the appropriate services to be included in the IEP." Therefore, absent parent consent, administrators generally should not attend IEP Team meetings unless they have knowledge or special expertise about a student or have been designated as the public agency representative to the IEP Team.

State Complaints for Disciplinary Challenges

Parents can use options other than the IDEA’s due process procedures to address alleged violations of the
IDEA’s disciplinary provisions, such as the state complaint process. Letter to Zirkel (OSEP, 5/13/19). OSEP reminds school officials that the state complaint process is available to address any alleged IDEA violation, even those matters that parents typically address through a due process complaint (e.g., manifestation determination review challenges). Additionally, both the state educational agency and hearing officers have broad authority when determining the appropriate remedy for an IDEA violation, including ordering compensatory education to remedy a student’s lost instructional time.

Independent Educational Evaluations (IEE)

The parents of a child with a disability have a right to an IEE if they disagree with an evaluation obtained by the school. For a child who has been found ineligible for special education and, therefore, is not a “child with a disability,” a parent is still entitled to an IEE at public expense if the parent disagrees with the school’s initial evaluation. Letter to Zirkel (OSEP, 5/2/19). If the parent obtains an independent evaluation at the parent’s expense and shares that evaluation result with the school, the school must convene an IEP Team meeting to consider the evaluation if it meets district criteria.

Evaluation Requests and Prior Written Notice

The IDEA requires schools to provide parents prior written notice any time a school:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student; or

2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student.

If a parent requests a special education evaluation and the school either grants or denies the evaluation, prior written notice must be given to the parent. Letter to Mills (OSEP, 5/2/19). The notice must include, among other things, an explanation of why the school either proposes or refuses to evaluate the student.

While a school may want to conduct a screening for the student in lieu of a formal special education evaluation, OSEP reminds school officials that screenings may not be used to delay or deny a necessary evaluation. If a student is referred for a screening after a parent request for evaluation has been made, the screening does not replace the evaluation and does not alleviate the school’s responsibility to issue a prior written notice.

Parent Communication Protocols

Not a FAPE Violation

A federal court in Oregon ruled that a school’s communication protocol, which limited emails to staff from the parent of a student with ADHD and autism, did not violate the Individuals with Disabilities Education Act. Forest Grove Sch Dist v Student, 3:14-cv-00444-AC (D Or, 2018). Although not binding in Michigan, this decision suggests that schools may set reasonable limits on parent communications so long as the restrictions do not interfere with parents’ ability to meaningfully participate in their student’s IEP process.

In Forest Grove, a parent frequently communicated with various school staff via email, often sending multiple emails a day. The communications ranged from discussing IEP supports to mundane daily reminders and concerns. The school’s special education coordinator informed the parent that the email volume made it difficult for school personnel to determine which requests were necessary as part of the ongoing IEP process.

The coordinator implemented a communication protocol restricting the parent’s communication to staff. The protocol required that the parent summarize her concerns in a single email sent each Friday. On Friday afternoon, the student’s case manager would respond only to the most recent email from the parent. At all times, the parent was able to call the school for any health-related emergency or about the student’s daily needs and could appear in person at the school building.

Refusing to follow this protocol, the parent continued to send numerous emails to school staff. This prompted the school to route all parent communications through the special education coordinator. After a due process hearing was initiated by the parent, the parent’s communications were routed through the school’s attorney.

The parent’s federal court complaint alleged, among other things, that the district’s communication protocol prevented her from meaningfully participating in her student’s IEP process, resulting in an IDEA violation.

Under the IDEA, parents must have the opportunity to meaningfully participate in their student’s IEP process. Meaningful participation includes considering parental concerns and suggestions, discussing placement decisions, and answering parent questions. Parents are not, however, entitled to unlimited communication, nor are schools required to involve parents in conversations about issues not addressed in a student’s IEP (e.g., teaching methodology, lesson plans, or coordination of service provisions).
In *Forest Grove*, the court ruled that the communication protocol did not violate the IDEA. The communication protocol was adopted as a response to the parent’s excessive emails to school personnel and was necessary to determine which concerns required a response. Even when adhering to the protocol, the parent still participated in every IEP meeting and regularly spoke to school staff via telephone. The court noted that the “parent had no difficulty advocating for [the] student despite the email protocol.” Ultimately, the court found that the protocol did not significantly restrict parental participation or result in a loss of educational opportunity for the student.

Although not binding in Michigan, this decision provides helpful ideas about developing permissible communication protocols in light of excessive parent communication. If your school is considering implementing a communication protocol due to excessive communications from a parent, it should ensure that the parent still has the opportunity to meaningfully participate in the student’s IEP process and the means to make emergency or urgent unscheduled communications.

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**Watch Out for Summer FOIA Requests**

Summer vacation unfortunately does not mean a break from Freedom of Information Act requests. Requests from individuals, corporations, and the press continue to pour in, even after many school staff have left for the summer. To prevent a FOIA request from ruining your summer vacation, below is a refresher on important timelines and applicable law.

As a public body, a school is required to respond to all written FOIA requests within 5 business days after receiving the request by granting or denying the request, in whole or in part, or issuing a notice extending the response deadline up to 10 business days. A business day is any day of the year, Monday through Friday, excluding only Saturdays, Sundays, and legal holidays (e.g., New Year’s Day, Christmas Day, Martin Luther King Day, Memorial Day). Any weekday, other than a legal holiday, is a business day, regardless of whether a public body or building is open for business. Failing to respond to a FOIA request within the required timeframe is considered a denial of the request. School officials should ensure coverage of email and mail during the summer so that FOIA requests can be processed in a timely manner.

School officials must respond to all requests unless the requester is incarcerated in a state or local correctional facility or the request was submitted without the requester’s contact information. Under Michigan law, FOIA requests must contain the requester’s full name, mailing address, and phone number or email address. Anonymous FOIA requests or requests made by a requester providing only a first name are not valid. Only people who qualify as indigent under FOIA are exempt from this requirement.

FOIA requests sent electronically are not considered “received” until the next business day. But a FOIA request is not nullified just because it was captured in a school’s spam or junk mail folder. If an emailed FOIA request lands in a school’s spam or junk folder, a request is not considered “received” until one business day after the school first “becomes aware” of the request. A school’s FOIA procedures and guidelines should indicate how often a school’s FOIA Coordinator will review the school’s spam and junk mail folder(s).

**Fees**

A school’s response to a FOIA request also may include an assessment of fees for responding to the request, but only if its FOIA procedures and guidelines (including the itemized fee form) are posted on the school’s website. If the total fee estimate (based on a “good-faith calculation” of the fee using the school’s cost itemization form) exceeds $50.00, a school may require a good faith deposit of not more than half of the total estimated fee before the school provides the responsive records. A response requiring a deposit must provide a “best efforts” estimate of the time it will take the school to produce the requested records, which is nonbinding.

Schools may impose a 48-day deadline to pay the deposit. The deadline begins when the school provides written notice to the requester of the deposit requirement, amount, and deadline. Then, unless the requester appeals the amount, a failure to appeal or pay the deposit by the deadline renders the FOIA request abandoned and the school is not required to fulfill the request. Without proper notice, the deadline does not apply.

**Noncompliance**

Finally, school officials should be aware that Michigan’s FOIA allows the imposition of hefty fines for intentional violations of the Act or acting in bad faith when dealing with a FOIA request. An improper denial of a FOIA request could result in a lawsuit, fines, attorney fee liability, and the assessment of punitive damages against the school.

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**Reminder: Annual Notices for 2019-2020 School Year**

Schools are required by law to provide annual notice of certain practices, procedures, and information to students, parents, and the general public. Failure to
provide these notices could jeopardize state or federal funding or create legal exposure.

Below are some examples of notices required for the 2019-2020 school year. This list is not exhaustive, and additional notices may be required by state or federal law or board policy (e.g., acceptable use of school technology, student code of conduct, harassment and bullying policies).

**Family Educational Rights and Privacy Act (FERPA) and Michigan Student Privacy Law**

Schools are required to annually notify parents and eligible students of their rights under FERPA, including the right to inspect and review education records, request an amendment or correction to an education record, and consent before disclosure of a student’s personally identifiable information to a third party. The definitions of a “school official” and a “legitimate educational interest” must be included in the school’s annual FERPA notice. These definitions apply when a school wants to disclose a student’s personally identifiable information to school officials with a legitimate educational interest in the information without parental consent.

Schools also may disclose student “directory information” without consent if they have provided public notice of: (1) the types of information designated as “directory information”; (2) the parent’s or eligible student’s right to restrict the disclosure of directory information; and (3) the period of time within which parents or eligible students must notify the school in writing that they do not want any or all of the designated types of “directory information” to be disclosed without consent.

Michigan’s Revised School Code Section 1136 adds additional requirements. Schools must create a list of the uses for which the school will typically disclose a student’s directory information and distribute a form that allows parents to opt out of the disclosure of their student’s directory information for one or more of those uses. Schools must present this opt-out form to parents or eligible students within the first 30 days of the school year.

**Concussion Awareness**

A student cannot participate in a school-sponsored or operated athletic activity until the student and a parent each have received the concussion fact sheet for students and the concussion fact sheet for parents, respectively. Both the student and the parent must sign and return a form acknowledging receipt of the fact sheet or other concussion awareness educational material. At a minimum, schools must keep these acknowledgement forms in a permanent file as long as the student participates in a school-sponsored athletic activity.

**Student Nutrition Programs**

For schools participating in the National School Lunch Program, the School Breakfast Program, or the Special Milk Program, information about the programs—including the eligibility criteria and how to apply for the benefits—must be distributed to parents before or at the beginning of the school year.

**Locker Searches**

Revised School Code Section 1306 requires schools to have a board policy addressing locker searches, if lockers are provided to students. This policy must be provided to each student in the school and the student’s parents and can be provided in the student handbooks issued at the beginning of each year.

**Pesticide Application**

Michigan law requires schools to inform parents at the beginning of the school year that if the school intends to apply pesticide on school grounds during the school year, the school will notify parents at least 48 hours before each application occurs. This information must be provided to parents in writing and must apprise them of the method(s) by which the 48-hour notice will be given (e.g., email, posting in a public area of the school, posting on the school’s website).

**Asbestos**

The Asbestos Hazard Emergency Response Act (AHERA) requires notice to students, parents, and staff of the availability of the school’s asbestos management plan and any asbestos-related activities performed in the past year, such as response actions and inspections. The AHERA also requires inspection and notification of materials containing asbestos in school buildings.

**Protection of Pupil Rights Amendment (PPRA)**

The PPRA requires schools to notify parents and eligible students of any school survey, analysis, or evaluation that involves:

1. the student or student’s parents’ political affiliations or beliefs;
2. the student or student’s family’s mental or psychological problems;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating, or demeaning behavior;
5. critical appraisals of others with whom the student has close family relationships;
6. legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
7. the student or student’s parents’ religious practices, affiliations, or beliefs; or
8. income, other than as required by law to determine program eligibility.
Schools must obtain parental consent for a student to participate in any federally-funded survey, analysis, or evaluation that meets any of these criteria.

**McKinney-Vento Homeless Assistance Act**

All schools must have a “homeless student liaison” and provide public notice of a homeless student’s education rights. This notice must be distributed where homeless students receive services under McKinney-Vento and be understandable to homeless students and their parents. Making the notice understandable may include providing the notice in the native language of a student, parent, or legal guardian.

**Nondiscrimination**

Schools must notify students, parents, employees, and the public that they do not discriminate in admissions or employment on the basis of any legally protected characteristic (e.g., race, age, disability, sex). Many board policies on nondiscrimination, anti-harassment, and equal employment opportunity include nondiscrimination statements, as do many student handbooks. These notices also must provide the contact information for the staff member(s) designated to handle complaints brought under Title IX, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Age Discrimination in Employment Act.

Schools also are required to include a nondiscrimination statement in any bulletin, announcement, publication, catalog, application form, or other recruitment material made available to students, applicants, participants, or employees.

**Personal Curriculum**

Schools must provide annual notice about the availability of a personal curriculum to each of its students and their parents or guardians. This notice must be sent to each student’s home and may be included in a newsletter, student handbook, or “similar communication.” Schools also must post the notice on their websites. This notice must explain what a personal curriculum is and state that all students are entitled to a personal curriculum upon request.

**English Language Learner (ELL) Students and Limited English Proficient Parents**

Schools receiving federal funds to provide a language instruction education program to ELL students are required to provide ELL students’ parents with a great deal of information including, but not limited to, why the student was placed in the program and the parents’ right to remove the student from the program upon request. This notice also must be provided in a language that the parents can understand.

**Individuals with Disabilities Education Act (IDEA)**

The IDEA requires schools to provide notice of the IDEA’s procedural safeguards to the parents of a child with a disability once per year and in certain circumstances (e.g., upon parents’ request or after a child has been referred for an evaluation). This notice also may be posted on the school’s website and must explain the safeguards in an understandable manner.

**Freedom of Information Act (FOIA)**

Any school that “maintains an official internet presence” is required to post its legally compliant FOIA procedures and guidelines on its website. If a school does not post its FOIA procedures and guidelines, including the fee itemization form, on its website or otherwise make the procedures and guidelines publicly available, the school is not permitted to charge a fee to respond to any FOIA request, no matter how large.

School officials should review student handbooks and other information provided to parents at the beginning of the school year, as well as any annual notices posted on the school’s website, to ensure that all notices are up-to-date, understandable, and properly communicated to parents and students.
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<td>West Shore ESD</td>
<td>Lisa L. Swem</td>
<td>School Law Update</td>
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<td>August 19, 2019</td>
<td>Berrien Springs Public Schools</td>
<td>Philip G. Clark</td>
<td>School Law for Building Secretaries</td>
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<td>Muskegon ISD</td>
<td>Michele R. Eaddy</td>
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<td>Tekonsha Community Schools</td>
<td>Roy H. Henley</td>
<td>Title IX/Workplace Harassment</td>
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<td>Howell Public Schools</td>
<td>Lisa L. Swem, Roy H. Henley</td>
<td>Section 504/IEPs</td>
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<td>September 18, 2019</td>
<td>Midland Public Schools</td>
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<td>Student Discipline</td>
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<td>September 19, 2019</td>
<td>MASA Fall Conference</td>
<td>Lisa L. Swem</td>
<td>Walking a Tight Rope Across a Deep Canyon:</td>
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<td>September 25, 2019</td>
<td>Metro Bureau</td>
<td>Kari K. Shay</td>
<td>Student “Speech” Rights</td>
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<td>October 7, 2019</td>
<td>MSBO Facilities Conference</td>
<td>Christopher J. Iamarino</td>
<td>Construction and Renovation</td>
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<td>Michigan Negotiators Association</td>
<td>Lisa L. Swem</td>
<td>Top 10 Items to Keep Out of a Contract</td>
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<td>November 2, 2019</td>
<td>Grand Valley State University</td>
<td>Timothy T. Gardner, Jr.</td>
<td>Title IX Investigations</td>
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<td>December 5, 2019</td>
<td>MASPA</td>
<td>Katherine Broaddus, Lisa L. Swem</td>
<td>Legal Update, Employee Free Speech</td>
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<td>December 6, 2019</td>
<td>MASPA</td>
<td>Roy H. Henley</td>
<td>ADA and FMLA</td>
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