

Education Update

To: LWVO
From: Joan Platz
Education Update for June 29, 2009

1) 128th General Assembly: The Ohio House and Senate have scheduled a limited number of committee hearings this week. The House and Senate education committees are not meeting.

Lawmakers are focusing on approving Am. Sub. HB 1 (Sykes), the FY10-11 budget bill, and have scheduled a meeting of the HB 1 Conference Committee, chaired by Representative Sykes, on Monday at 7:00 PM. House and Senate sessions are also scheduled through the week in anticipation of a conference committee report on the budget bill being finalized.

If lawmakers are unable to approve the budget bill by the June 30, 2009 deadline, a temporary spending bill will need to be approved by the Ohio House, Senate, and governor to maintain state government services.

*Ohio Jobs & Growth Committee, chaired by former Cincinnati Mayor Charlie Luken, filed last week 850,000 signatures with the Secretary of State's office to place on the November 2009 ballot a constitutional amendment that would allow casinos in four Ohio cities. The group needs 402,000 valid signatures in order to qualify for the ballot. The Ohio Jobs and Growth Committee is supported by Penn National Gaming and Dan Gilbert, majority owner of the Cleveland Cavaliers.

*The Ohio School Facilities Commission (OSFC), Michael Shoemaker Executive Director, approved on June 23, 2009 the 2009 Ohio School Design Manual. The revised standards for constructing schools in Ohio includes new provisions for energy conservation, including solar energy, passive solar water systems, rainwater harvesting, and envelope air barriers. For information about the new manual, please visit <http://www.osfc.state.oh.us>.

*The Commission on Local Government Reform and Collaboration, co-chaired by Dan Troy and Anita Lopez, announced that a web site has been created to follow the proceedings, research, and documents of the commission. The web site can also be used to submit recommendations to the commission.

The commission was created through 127-HB521 (Wolpert) to develop recommendations on ways to increase the efficiency and effectiveness of local government operations, to achieve cost savings for taxpayers, and to facilitate economic development. The commission is required to issue a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor not later than July 1, 2010. The commission ceases to exist upon submitting its report.

The Commission meets the last Friday of each month at 10:30 am in a meeting room on the 31st floor of the Riffe Building in downtown Columbus, located at 77 S. High Street. All Commission meetings are open to the public. The website is accessible at <http://www.ohioreformandcollaboration.org>.

*The Capitol Square Review and Advisory Board announced a new mailing address for the Statehouse effective July 4, 2009. The new address is Ohio Statehouse, 1 Capitol Square, Columbus, OH 43215.

2) News from the U.S. DOE:

*The U.S. Department of Education, Arne Duncan Secretary of Education, released last week more information about the \$4.3 billion federal "Race to the Top Fund" competitive grants for education.

These grants are part of the American Recovery and Reinvestment Act (ARRA) and will be used to achieve four goals: use data to drive instruction; raise academic content standards; turn around historically low-performing schools; and improve teacher and principal quality. States will be able to submit applications for the funds starting in October 2009. These grants will be awarded to states in two rounds: March 2010 and September 2010.

*Secretary Duncan also announced that the Department of Education would commit up to \$350 million from the "Race to the Top Fund" to support the creation of assessments linked to internationally benchmarked academic content standards and skills in grades K-12.

Forty-six states are working together through the leadership of the National Governor's Association and the Council of Chief State School Officers to develop a set of common standards in English language arts and mathematics.

*On June 25, 2009 Secretary Duncan issued a statement regarding the role of charter schools in school reform. States that have in place policies that support innovative and successful charter schools will have a competitive advantage to receive "Race to the Top" grants.

Secretary Duncan acknowledged, however, that some charter schools are not meeting student needs. "Let me be clear, I am not simply advocating for more charter schools. We need more good charter schools. There needs to be a high bar set for entry during the charter application process, and accountability systems need to link student achievement to instruction."

*Secretary Duncan also announced that another grant for education through the ARRA will provide \$650 million for the "Invest in What Works and Innovation Fund." The money will be awarded to school districts and non-profit groups with strong track records of results.

Guidelines and applications for the competitive funds will be posted on the Federal Register next month.

3) U.S. Supreme Court Decisions on Education: The U.S. Supreme Court issued three decisions last week related to education.

*Forest Grove School District v. T.A.: The U.S. Supreme Court issued a 6-3 decision on June 22, 2009 in the case Forest Grove School District v. T.A. This decision authorizes the reimbursement (under certain circumstances) of private school tuition for special education services, even if the student has not received special education services in the past from a public school.

The federal Individuals with Disabilities Education Act (IDEA) was reauthorized in 1997 and amended to address issues regarding private school placement for students with disabilities. The Forest Grove v. TA decision provides for an opportunity for reimbursement of private school costs, even when a student has not been identified as needing special education services, and has not received special education services through the public school district.

The majority opinion was written by Justice John Paul Stevens, who was joined by Chief Justice John G. Roberts Jr. and Justices Kennedy, Ginsburg, Breyer, and Alito Jr. According to the opinion, "Consistent with our decisions in [School Committee of Burlington v. Department of Education of Massachusetts] and [Florence County School District No. 4 v.] Carter, we conclude that IDEA authorizes reimbursement for the cost of private special-education services when a school district fails to provide a [free, appropriate public education] and the private-school placement is appropriate, regardless of whether the child previously received special education or related services through the public school."

Justice David H. Souter dissented, and was joined by Justices Scalia and Thomas. In the lengthy dissent Justice Souter noted safeguards currently in place to support student access to special education services. "The Act's repeated emphasis on the need for cooperative joint action by school and parent does not, however, leave the school in control if officials should wish to block effective (and

expensive) action for the child's benefit, for if the collaborative approach breaks down, the IDEA provides for quick review in a "due process hearing" of the parents' claim that more services are needed than the school is willing to give.

The decision is available at

<http://www.supremecourtus.gov/opinions/08pdf/08-305.pdf>.

*Safford United School District v. Redding: The U.S. Supreme Court issued an 8 to 1 decision (Justice Thomas dissenting) in this case on June 25, 2009. The Court found that the strip search of an eighth grade student was a violation of the Fourth Amendment: the "right of the people to be secure in their persons . . . against unreasonable searches and seizures".

Writing for the majority was Justice David Souter. "The strip search of Savana Redding was unreasonable and a violation of the Fourth Amendment, but petitioners Wilson, Romero, and Schwallier are nevertheless protected from liability through qualified immunity.

Our conclusions here do not resolve, however, the question of the liability of petitioner Safford Unified School District #1 under *Monell v. New York City Dept. of Social Servs.*, 436 U. S. 658, 694 (1978), a claim the Ninth Circuit did not address. The judgment of the Ninth Circuit is therefore affirmed in part and reversed in part, and this case is remanded for consideration of the *Monell* claim."

**Horne v. Flores*: The U.S. Supreme Court issued a 5 to 4 decision in this seventeen year old case on June 25, 2009. The decision reverses a decision by the 9th U.S. Circuit Court of Appeals in San Francisco issued in 2000. This decision placed the Nogales School District, and later all school districts in Arizona, under court supervision for violating the Equal Educational Opportunities Act regarding instruction for English-language learners.

The Court directed the federal District Court to review an English language learning program in Arizona to determine if it is providing equal opportunities for English language learners. Such a review could lift a court order that requires changes be made in how schools teach children who are learning English as a second language. An Arizona law approved in 2006 is thought by some to address the funding inequities that led to the original lawsuit.

The majority opinion in *Horne v. Flores* was written by Justice Samuel Alito, who was joined by Justices Roberts, Scalia, Kennedy, and Thomas. Justice Breyer wrote the dissenting opinion, and was joined by Justices Stevens, Ginsburg, and Souter.

4) Bills Introduced:

SB142 (Miller, R.) Standards for Privately Run Facilities: Requires that any privately run non-Ohio school, camp, institution, or other facility to which Ohio delinquent children are committed comply with the same standards that are applicable to in-state schools, camps, institutions, or other facilities.