

Maintaining SAFE SCHOOLS

Incorporating *Inside School Safety*

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QUICK TIPS

TROUBLED STUDENTS

Explore community resources. Ask school counselors and nurses to prepare a list of mental health, juvenile justice, and social service resources as local references for struggling students and parents.

FIRE PREVENTION

Prepare for arson awareness month in May. Find resources from the U.S. Fire Administration on how schools can partner with local groups and firefighters to reduce arson at campus and community facilities at www.usfa.fema.gov/fireservice/subjects/arson/arson_awareness.shtm.

LEGAL UPDATES

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Student's testimony proves injuries not caused by district negligence. **Page 12**

Student's behavior plan predicts misconduct; expulsion still appropriate. **Page 12**

COVER STORY

Prepare staff to work in concert with local crisis responders

School staffs must be trained to assist local responders in an emergency. A key to reducing the confusion that accompanies every crisis is to establish a standard authority structure that your staff and local responders can rely on. A Los Angeles Unified School District emergency management expert explains practical applications for the Incident Command System in schools and the five key crisis response roles. **Full story, page 5.**

Curb campus violence

Brief teachers on safety tips for working with gang members. **See page 5.**

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Is SRO liable for death of student shot with play prop?

A high school drama coach wanted to have realistic sound effects in an upcoming production of "Oklahoma!" For that reason, he asked the school resource officer what rules he should follow if the school allowed him to use a real gun loaded with blanks in the play. The SRO said only a parent should be allowed to handle and shoot the gun, and that the gun should be kept in a locked box to which no one else had access. The SRO failed to ensure that his rules were followed. He assumed the drama coach would do that.

One of the actor's parents agreed to supply and shoot the gun — a .38-caliber revolver. However, the parent sometimes allowed a student who handled lighting to shoot it, and provided him the combination to the box. One night, that student, left alone with the box in the production booth, shot himself in the head with a blank and died.

The deceased student's parent sued the SRO under a "state-created danger" theory for violating the student's substantive due process rights. The SRO moved for summary judgment in the Section 1983 action, arguing that state actors can only be liable for the acts of third parties where the state actor had either actual wrongful intent or recklessness that is sufficiently egregious to shock the conscience.

Did parent state a viable state-created danger claim?

A. Yes. The SRO created the danger by allowing the gun to be used.

B. No. The parent failed to establish conscience-shocking behavior.

C. Yes. The SRO acted recklessly by not following up to make sure the rules were being followed.

How the court ruled: B.

The parent failed to show that the SRO acted with the necessary degree of recklessness. *Thayer v. Washington County Sch. Dist.*, 112 LRP 6772 (D. Utah 02/02/12).

To sue based on a state-created danger, the victim must show that a state actor placed him in harm's way and exhibited recklessness that is sufficiently egregious to "shock the conscience."

First, the court pointed out that the officer did not make the actual decision to allow the gun on campus. Instead, he recommended rules for the gun if the drama department was allowed to use it to shoot blanks during the play. Someone else made the decision to permit the gun to be used in the production, the court noted. The SRO "not only did not create the danger, rather, his efforts were devoted to eliminating any danger," U.S. District Judge Dee Benson wrote. The SRO recognized potential dangers, but made efforts to reduce or eliminate them by recommending how the gun would be treated, and who would have access to it. Such conduct was not the type of behavior that "shocks the conscience," the court held.

Answer A is incorrect. There was no evidence that the SRO had authority to determine whether to allow the gun on campus.

Answer C is incorrect. There was no clear evidence that he was aware the rules were not being followed.

Editor's note: This feature is not intended as instructional material or to replace legal advice. ■

MAINTAINING SAFE SCHOOLS

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Overcome challenges in educating violence-prone students

Staff who take on a project to improve school safety by working with failing or violence-prone students can benefit from knowing what to expect — and how other districts approached similar challenges.

Key points

- Failing, violence-prone students present safety problems.
- Help students overcome poor home, background, environment.
- Walk kids through job training so they see how school benefits their future. ■

James Koleas worked with students as project manager of The Futures First Initiative in Milwaukee Public Schools from 2007 to 2011. “This was a tough group of kids, but we were able to do some interesting things,” Koleas said. Some students who were part of the project “went from a zero

grade point average to a 3.5 average,” he said.

As a member of the Milwaukee Homicide Review Commission, Koleas said that schools can often find collaborative opportunities with community groups who want to reduce local crime caused by failing students.

“These kids were already two years behind in reading and math,” Koleas said. “At high school age, many had already been incarcerated or were returning after expulsion for behaviors such as getting into fights.” Staff who work with these kids can expect characteristic barriers as they try to turn students around, he said.

Koleas shared the following strategies he used to help turn around tough students in Milwaukee:

■ **Walk students through small steps to success.** Most violence-prone kids are accustomed to failing at school and work, Koleas said. Project staff retrained students socially to succeed by walking them through small successes toward bigger ones.

“We tell students to be on time for work, how to dress, and that they can’t yell at people on the job,” Koleas said. “It may seem like a lot of hand-holding is going on, but it leads to self-reliance,” he said.

■ **Teach students to deal with anger.** “These kids had trouble keeping their temper in a work or program environment,” Koleas said. So, they placed a supervisor at each site where the kids worked, he said. If a student had trouble keeping his temper, a

site supervisor quickly intervened and worked with the student, rather than having him be terminated, he said.

■ **Link kids to jobs to prove that school makes sense.** Project staff scheduled students to complete job training and enter subsidized employment in a trial work environment, Koleas said. For example, one partner, a YWCA branch, hired kids to assist with administrative duties and clerical jobs, he said. When a student succeeded in a subsidized job, staff moved him into private sector employment, Koleas said. “That student feels a new confidence,” he said. At first, kids “have their minds on immediate gratification,” but then they begin to develop a vision for their future and see how school makes sense, he said.

■ **Move students out of bad environment.** The strategy with students from poor homes or neighborhoods was to “get them out of their environment,” Koleas said. They planned novel interventions and activities, such as an adventure therapy project, where they took students camping and on other local trips, he said. Longer trips followed successful short excursions. “The outfit we hired for this was staffed by good counselors, alcohol and recovery counselors, not just nice people — they were licensed,” Koleas said. Students were always supervised. Also, outings provided a way for students to release tension in positive ways, he added.

■ **Involve students in project planning activities.** To link students to pro-social adults and structures, project staff actively included the kids in planning activities, Koleas said. For example, one student was named assistant trip planner and was responsible for working with a coordinator to organize an event. The job directly impacted his classmates and connected students to peers, the project, and school, he said.

■ **Assist students with personal challenges.** Students had few recreational opportunities after school, which contributed to involvement in crime and confrontations in school, Koleas said. Other students said that neighborhood gunfire kept them awake at night. One student said he “was sleeping in a lead-lined bathtub to avoid gunshot rounds that would come through the house,” Koleas said. Homeless kids had trouble completing homework when they had no place to stay at night. Project staff contacted social workers to help students find pro-social afterschool activities, protective shelter, and food.

Email James Koleas at jkoleas@wi.rr.com. ■

Brief teachers on safety tips for working with gang members

Districts can improve safety for staff and students by training instructors to reduce conflicts with gang members they teach in class.

Key points

- Educate staff about gang culture to reduce classroom dangers.
- Train school personnel to work effectively with students, including those with gang ties.
- Have a schoolwide plan in the event of gang-related violence. ■

“Gang awareness is important for school staff,” said Michelle Arciaga, senior research associate of the National Gang Center in Tallahassee, Fla. She also says that teachers need to be able to identify signs of local gang membership so that they can address it effectively in the classroom.

Teachers can encounter safety issues with gang members at schools who may be “carrying weapons, threatening others, or feuding with rivals,” she said.

Arciaga shared the following suggestions:

■ **Identify gang affiliations.** Students who are gang members may flaunt their affiliation via clothing, jewelry, tattoos, verbally or use hand gestures and signals. They may write graffiti or gang symbols on papers, notebooks, textbooks, on desks, in lockers, and in other locations in the school. Schools should work with local law enforcement to get current information about gang trends in their area, and provide regular training for all personnel.

■ **Ensure school policies on gangs are up to date.** Arciaga noted that there have been many legal challenges to schools’ gang policies in recent years, and many of these policies have been overturned for lack of specificity. Schools should seek guidance from local law enforcement partners before creating these policies, and they should be regularly revised (Find a sample policy at www.aclu.org/files/assets/DeSoto_County_School_Districts_New_Gang_Policy.pdf).

■ **Avoid calling gang members out in front of their peers.** Avoid engaging in actions that may embarrass a gang member. For instance, calling a gang member a ‘wannabe’ can be perceived as disrespectful and may put that student in a position where he feels he has to show you,” she advised. School personnel should understand that “respect is a very big deal in gang culture,” Arciaga said. “A

gang member who is shown disrespect on the street may feel he needs to react aggressively or he will lose face. You do not want to provoke that sort of response in your classroom. Instead, treat students the way that you would want to be treated. Talk to a student after class, one on one, and specifically address the behavior that you would like to see changed in a respectful way.”

■ **Don’t try to mimic gang culture.** Staff members should avoid using gang slang, dress, or hand signs in an attempt to be cool or to communicate with a gang member, Arciaga said.

■ **Build rapport with your students.** Arciaga noted that teachers and other school personnel are on the front lines of gang prevention. Building rapport with students increases their attachment to the school and can also increase their success at school, she said, noting that “building relationships with students is just as important as delivering curriculum.” Teachers should never underestimate the significance of the work that they do with individual students.

■ **School personnel should be aware of warning signs of potential gang violence.** Common warning signs of impending violence can include what’s known as:

• **Mad-dogging.** This occurs when two gang members give each other “hard” angry looks, and is a sign that they may fight, Arciaga said.

• **Squaring off.** Gang members physically repositioning opposite of each other, the way cowboys face off in Westerns.

• **Show-by.** This happens when a gang member shows a concealed weapon, but does not actually shoot it, Arciaga said, and is a threat of violence. A gang member may also flash his colors or make hand signs at a rival to provoke a confrontation.

■ **Schools should plan ahead to respond to gang violence.** Schools are not immune to gang violence occurring in the local community, and gang members may even see schools as a location where they can find rivals to perpetrate an act of violence, Arciaga cautions. School administrators should have a plan in place to deal with a violent incident in the community, which may include addressing grief or fear issues with students and mediating possible conflicts with gang members who attend the school before they escalate.

Visit the National Gang Center at www.nationalgangcenter.gov. You can find farther resources and request technical assistance and/or training. ■

School staff must be in sync with local crisis responders

As in the recent school shooting in Chardon, Ohio, school staff typically are the first to respond to a campus crisis. Once law enforcement arrives, schools must be prepared to cooperate with outside agencies.

Key points

- Standard authority structure can reduce confusion between agencies in a crisis.
- Incident Command System breaks down tasks, roles to address urgent needs.
- Plan how you will assist local responders in campus emergency. ■

By planning ahead, districts can train staff to be familiar with protocol used by local community emergency responders so everyone works seamlessly to mitigate injuries and damages. A quick, coordinated response can stop an instigator and

ensure that the emergency is not prolonged.

“We need to all be on the same sheet of music with a core set of comprehensive procedures that allow schools to manage an emergency with first responders,” said Bob Spears, director of emergency services, Los Angeles Unified School District. “For example, if your school is impacted in a crisis like in Ohio, a school authority will have to assist the command post.”

Spears recently spoke to educators in a webinar, *The Role of the National Incident Management System and the Incident Command System in School Preparedness*. ED’s Office of Safe and Healthy Students and the Readiness and Emergency Management for Schools Technical Assistance Center sponsored the session.

Spears explained five key crisis response roles to introduce standard ICS protocol.

1. Incident commander. While this person can change during different stages of a school emergency, everyone must recognize who is responsible and in charge at those stages, Spears said. If a student reports to a teacher that he witnessed a classmate carrying a weapon, that teacher is the one person who can manage the incident at that point, he said. When the principal receives the teacher’s report, the principal becomes the incident commander who evaluates the crisis. He decides whether to lockdown the school and call 911, school police, and the district office. When law enforcement arrives, they take incident command. Then, a school official with the authority

to make decisions works in an assisting capacity with lead law enforcement to help officers understand the needs of students during the emergency, Spears explained. The incident commander has a bird’s eye view to oversee operations, planning and intelligence, logistics and finances teams. He issues directives to team managers who explain to staff how to accomplish those directives.

2. Operations. This team manager prioritizes jobs and resources laid out by the incident commander. He organizes work for operations team members, such as school staff at a first-aid station or a parent-reunion gate. As staff complete one task, he assigns them to start another to maintain efficiency and so leaders know exactly what everyone is doing.

3. Planning and intelligence. This team manager evaluates information to predict upcoming needs. For example, in the event of a natural disaster, a principal may hand a trusted staff member a transistor radio and tell her to find news about how bad a storm or earthquake is or to look at each campus building to see whether any are leaning over or if smoke is coming from them, Spears said. She helps the incident commander plan differently depending on how a disaster impacted the campus and community.

Planning and intelligence staff determine who and what is affected by the crisis and what will be needed in the next hour, day, or week to address the emergency. While operations can pull teams together to get food to students, planning and intelligence staff use maps, rosters, briefings, and news reports to let everyone know what to prepare for.

4. Logistics. The logistics team locates and distributes resources. A nurse who is running the first aid station cannot step aside to look for backboards if she needs more supplies. She calls for the logistics team to bring them. Logistics relays equipment, supplies, and services to the right places to address the school emergency.

5. Finance, administration. This team monitors costs during the crisis so the district can be reimbursed later. Agencies, like the Federal Emergency Management Administration, need documentation, proof, and receipts to fill reimbursement requests. It’s easier to gather documentation early on instead of going back to create a receipt trail later, Spears said.

View the full power point at http://rems.ed.gov/docs/webinars/2012NIMS-ICS_Slides.pdf. ■

Use song to get anti-bully messages to youngsters

While early intervention is best when it comes to addressing bullying, it's not always easy to get anti-bullying messages across to elementary students.

Key points

- Children remember anti-bullying messages in song lyrics.
- Lively actions with songs help messages sink in.
- Learning by singing changes kids' thinking, conduct. ■

Educators can use creative interactive music to translate bullying prevention themes into short simple songs that youngsters find easy to recall and use.

Leonardo Biciunas of Chicago started presenting anti-bullying messages in song at schools after he discovered that he could use music to

communicate with his younger brother who is autistic and has Down syndrome.

Today, Leonardo and the Makin' Waves Band play familiar rock tunes laced with bullying prevention themes in schools to help districts reduce bullying. Biciunas researches the latest bullying prevention resources so his words emphasize key advice. Simplicity and repetition in the jingles stick with students, Biciunas said. "We learn our ABCs through music — so why can't we learn to teach students to respect each other that way?" he asked. Acting out motions while singing helps reinforce the messages for kids in fun ways, he added.

Biciunas shares the following bullying prevention tips in songs.

■ Promote school loyalty in diverse settings.

In the song *B True 2 Your School* Biciunas nurtures school spirit in students to help kids feel connected to school and care about their classmates, even those who differ from them, he said. Students need to feel part of something bigger than themselves so they want to protect their school and friends, he explained. This song promotes accepting others from diverse backgrounds "because one of the main tenets of bullying prevention is to avoid excluding someone because they are a different race, color, creed, or because they have a disability," he said.

■ **Make bullying unpopular.** The song *That's A Bully*, exposes "the myth that bullying is the

dominant," normal behavior of students, or an acceptable way "to get what you want," Biciunas said. The songs make it clear that "when youngsters use verbal tools to say, I'm picking a fight with someone, that's bullying, and that is not cool," he said.

■ **Issue students a call to action.** It's often up to one student in a bullying incident to stand up for what is right, Biciunas said. The song *Makin' Waves* references historical figures who stood up to others, he said.

"I'm hoping that educators run with it and apply historical references in classes to emphasize anti-bullying messages," he added.

The song reminds students that while it's not easy, they can be like a famous person who stands up and helps out. The song shares a progressive set of instructions such as: speak up, befriend the victim, and influence others as a leader at school. Also, another song, *Tell Somebody*, urges kids to report bullying to an adult at school who can help them, he said.

■ Instill hope for success so students focus on positive behavior.

The song *No More Bullies* teaches students the golden rule and promotes respect for others, Biciunas said. Students are less likely to bully classmates when they have a dream to follow and friends that support their dream, he said. In the song, *Ready for Success*, we ask students to spend more time thinking about how to reach their dream than how to behave in ways that interfere with that dream, he said. When a student is targeted by a bully, he needs to see it in perspective instead of giving in to despair, Biciunas said. So the song, *Trouble*, reminds students that things that go bad often improve tomorrow. The song *Nothin' Gonna Bring Me Down*, another early suicide prevention effort, says we all have something to live for and to give, Biciunas said.

■ **Discourage cyberbullying.** A song called *Don't Send It* makes students aware of how cyber-messages impact others for good or bad, he said. It reminds students that their words can be very powerful, so they shouldn't send or relay hurtful messages, he said.

Visit Leonardo Biciunas at leonardomusic.com. Find out more about Target Corporations' Arts in Schools program and grants at <http://sites.target.com/site/en/company/page.jsp?contentId=WCMP04-031819>. ■

Train educators to identify, report staff-to-student sexual abuse

Schools need to improve staff accountability for staff-to-student sexual misconduct, according to recommendations in the report *Educator Sexual Misconduct: A Synthesis of Existing Literature*. Charol Shakeshaft, professor and department chair of educational leadership at Virginia Commonwealth University, prepared the report for the Education Department with Interactive, Inc., N.Y., while she was at Hofstra University.

Key points

- Sexual abuse in schools often goes unreported.
- Improve staff accountability for staff-to-student sexual abuse.
- Single committees should investigate allegations. ■

Shakeshaft says that by training staff on how to recognize signs of staff-to-student sexual abuse, districts can improve supervision and increase reports of abuse.

Shakeshaft shared the following advice on how to improve

student safety:

■ **Alert staff to potential for staff-to-student abuse.** Inform your staff that personnel inside the school could sexually abuse a student. Caution staff not to discount a popular school employee or volunteer, the report said. An adult who abuses children is often professionally accomplished, even celebrated, holding a disproportionate amount of awards compared with colleagues. This popularity can prompt others to ignore suspicions of abuse, Shakeshaft said. Staff who have access to students before or after school or in private situations, such as coaches and music teachers, are more likely to sexually abuse students.

■ **Train personnel on expectations for staff-to-student conduct.** Describe prohibited behavior in writing so there is no ambiguity about unacceptable activities. Include descriptions of educationally appropriate touching and limits on closed-door and after-hours activities with only one student. Review mandatory reporting requirements and investigatory rights without a formal complaint. Require staff to report any criminal investigation or conviction after being hired. Require at least one male and one female chaperone on off-campus excursions. List deadlines for reporting any allegations and include exceptions or options for waiving the time limit.

■ **Inform staff about suspect behaviors in adults.** Adults who molest children form close personal ties with them and find excuses to spend time alone with students before or after school in private spaces. They may exhibit flirtatious behavior with students or make off-color remarks in class. Educators who target elementary children plan the abuse. Abuse at or above the middle school level is usually more a spontaneous crime of opportunity that stems from a misplaced sense of privilege or poor judgment, the report said.

■ **Educate staff about signs of student sexual abuse.** Educate staff to recognize physical signs of sexual abuse, such as a student who has difficulty walking or sitting, or who has torn clothing. Other signs can include reports of pain, diseases, changes in weight, or pregnancy. Behavioral indicators can include age inappropriate sexual behavior, late arrival to class, changes in personality, and increasing time at school with one adult, the report said.

■ **Make it easier for staff to receive student reports of abuse.** Encourage students to report sexual abuse. Students need to understand boundaries that educators should not cross. This applies for students who might be targeted, or those who witness or know of student sexual abuse. Students need to know who they can go to and that they will be believed, protected from retaliation, and have their report investigated.

■ **Route all reports of staff misconduct by single committee.** Assign a small team of case coordinators to handle all incidents of staff sexual abuse. This team may be outside district control, but it should be granted regulatory authority within the district. Uncorroborated patterns of misconduct can slip through the cracks undetected when all rumors, allegations, and complaints are not channeled through a single review panel. Assigning several team coordinators can circumvent a scenario where a single point person is sexually abusing students.

■ **Establish investigative oversight for staff sexual abuse.** Ensure that investigations are completed within 48 hours with reports presented to school authorities, students, and parents. Define roles for investigators, including notification responsibilities. Do not terminate an investigation of reported abuse if a staff member resigns, said the report. Complete the investigation and file the report internally and with criminal justice authorities and state licensing entities.

■ **Report allegations.** Require that allegations be reported to the police and child protection agencies.

Find the report at www2.ed.gov/rschstat/research/pubs/misconductreview/report.doc. ■

Wade carefully through IAES rules for weapons violations

By Mary S. Gerbig*

The Individuals with Disabilities Education Act identifies three specific instances of conduct that may trigger unilateral placement of a student with a disability in an interim alternative educational setting, without regard to whether the behavior is determined to be a manifestation of the child's disability.

School personnel may put a student in an IAES for not more than 45 school days in cases where a child, at school, on school premises, or at a school function:

- Possesses a weapon.
- Knowingly possesses, uses, or sells illegal drugs.
- Inflicts serious injury upon another person.

It is in reacting to situations involving weapons where administrators are most prone to mistakes. So you'll need to wade carefully through the muddy waters of the IAES placement in these situations. Here's how:

■ **Know how IDEA defines weapon.** Weapon, under the IDEA regulations, has the meaning given to the term "dangerous weapon" under the U.S. Federal Criminal Code. 34 CFR 300.530(i)(4). Dangerous weapon is defined as a "weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length." This definition covers such things as scissors or pencils when they are used to inflict or potentially inflict serious bodily injury.

So consider whether common items count as weapons on case-by-case basis. It is possible that a student, when angry, may impulsively use a common item, such as scissors or a pencil, to stab or attempt to stab another individual and inflict harm. However, whether a 45-day unilateral placement is proper is highly dependent upon the individual situation.

In *California Montessori Project*, 56 IDELR 308 (SEA CA 2011), the administrative law judge concluded that the scissors a student waived at another student did not constitute a "dangerous weapon" because the inner blade of the scissors was less than 2 inches and the blunt ends of the scissors were not capable of causing serious bodily injury or death. Ultimately, the ALJ concluded that even if the student had made contact with his classmate's body using the scissors, the scissors were capable of only causing cuts or some physical pain. The ALJ concluded that the possible damage that could be inflicted by the scissors fell well below the "serious bodily injury" threshold.

■ **Analyze facts of each case.** The IAES regulations and the definitions they rely upon were designed to cover a broad set of safety concerns. In order to keep students and staff safe but also keep kids in the least restrictive setting, the IAES placement rules were written in a way that requires a "case-by-case" analysis.

Answering the "who, what, where, when, why, and how" questions will assist in determining whether a unilateral placement will apply.

The "who" and "where" may be easy. Some of the other questions to ask may include, for example: How did the student use the item as a weapon? What did the student do to inflict or try to inflict serious bodily injury? What were the words and actions of the student? What is the construction of the scissors? What is the length and type of blade on the scissors?

■ **Know how to address student threats without possession of "weapon."** The problem with IDEA's language on unilateral 45-day placements for weapons is that it doesn't cover student threats.

When determining whether student is a threat, review all the facts and circumstances in light of what is reasonably foreseeable. This includes factors related to the student's age, size, abilities, and disabilities. Also consider the student's educational placement, the effectiveness of your behavior intervention strategies, your staff training efforts to thwart problem behavior, and the ability of teachers to effectively redirect the student.

If your district determines that a student is a threat even if he does not possess a "weapon," you may be able to suspend the student — consistent with both federal and state laws; convene an IEP meeting; conduct a manifestation determination; and then determine whether a more restrictive placement is required to provide FAPE and protect everyone's safety. In this case, the placement decision does not need to be limited to 45 school days.

In the case of a threat without the possession of a "weapon," administrators may need to use due process hearing procedures to prove that the student should be in a more restrictive placement for 45 school days. The ALJ or hearing officer must decide whether to grant the district's request.

A district also has the right to proceed to court and request an injunction to remove the student. It is advisable to pursue more amicable solutions via the IEP process first, however, as the party requesting due process generally is required to meet a higher burden of proof.

*Mary S. Gerbig is a school attorney with Davis & Kuelthau in Green Bay, Wis. ■

Bill pushes for easier use of meds in emergencies

Problems can arise when a child who has not yet been diagnosed has their first food allergy attack at school, said Maria Acebal, CEO, The Food Allergy & Anaphylaxis Network, Fairfax, Va. "In the recent death of a Virginia first-grader from a life-threatening food allergy, there was epinephrine in that school that could have saved her life, but it was prescribed for another student, not for her," Acebal said.

New legislation in the Senate could make lifesaving medicine available to school personnel to help all students with potentially life-threatening food allergies — regardless of whether that medicine has been individually prescribed.

The School Access to Emergency Epinephrine Act, S. 1884, would urge states to require schools to allow such students to be given life-saving medications.

S. 1884 would:

- Permit authorized staff to administer epinephrine to any student believed in good faith to be having an anaphylactic reaction, regardless of whether it is prescribed.
- Allow staff to maintain and stock in a secure and easily accessible place a supply of epinephrine for use in a crisis.
- Hold school districts and employees legally harmless related to the administration of epinephrine to any student believed in good faith to be having an anaphylactic reaction, barring cases of willful or wanton conduct.

- Allow physicians nationwide to provide standing orders to furnish schools with epinephrine for injection. The bill notes that several safety organizations support such tenets.

The National Institute of Allergy and Infectious Diseases reports that delays in the administration of epinephrine to students in anaphylaxis can result in rapid decline and death, the bill noted. NIAID recommends that school staff administer epinephrine promptly to treat anaphylaxis, the legislation said.

The American Academy of Allergy, Asthma, and Immunology advises schools to include epinephrine injectors in all emergency medical treatment kits, according to the bill. Also, The American Academy of Pediatrics recommends that each school stock an anaphylaxis kit with medications on campus and make it readily available to trained staff for administration in an emergency, language in the bill noted.

The Food Allergy and Anaphylaxis Network advises that there are no contraindications to the use of epinephrine for a life-threatening reactions.

A companion bill, H.R. 3627: School Access to Emergency Epinephrine Act, would also provide states incentives to require K-12 schools and staff to maintain and administer epinephrine

Track the progress of S. 1884 at www.govtrack.us/congress/bill.xpd?bill=s112-1884 and H.R.3627 at www.govtrack.us/congress/bill.xpd?bill=h112-3627. ■

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Security grant to be announced

Watch for the 2012 COPS Secure Our Schools grant this month. The annual award, which distributed more than \$13 million to school districts last year, is scheduled to open for applications in April and closes in June. Districts can use the Department of Justice funding to establish security programs and to pay for staff training materials and publications.

Check for updates at www.cops.usdoj.gov. ■

Find support for suicide prevention training

Districts can apply through Dec. 31 for funding to help train staff in suicide prevention. QPR Mini-Grants for Community Capacity Building is intended to help districts prevent suicide by strengthening connections within the local community. The gatekeeper training aims to detect and treat at-risk students to lower suicide attempts and completions. The purpose of the grant is to reduce the frequency and base rates of suicide in communities with increasing and high rates of suicide. The grantor is looking to establish sustainable suicide prevention programming and staff infrastructure at the community level through a public-private partnership. Districts may add advanced training for key gatekeepers, such as law enforcement and mental health professionals. For more information contact The QPR Institute at www.qprinstitute.com/grants.html. ■

Improve air quality in schools

Districts can find funding to improve air quality in schools through regional, state, and local government offices within 10 Environmental Protection Agency regions. Officials can use the funding to conduct demonstrations, training, education, and outreach to reduce students' exposure to indoor air contaminants.

The EPA is offering the Reducing Public Exposure to Indoor Pollutants grant through the Office of Radiation & Indoor Air.

EPA Regional program offices will evaluate and select applicants in geographic areas where projects are proposed. Applicants must conduct projects entirely within one region.

Find further information from the EPA at <http://1.usa.gov/xZl7XG>. ■

Nearly 40 percent of first-time suicide attempts precede high school

First-time suicide attempts peak in eighth and ninth grade with nearly 40 percent of these attempts occurring before high school, a recent study said.

University of Washington researchers studied

data on 883 students at a Pacific Northwest school district who were ages 18 to 19 and had attempted suicide. In the study, *An Examination of the Validity of Retrospective Measures of Suicide Attempts in Youth*, researchers found that the earliest suicide attempt occurred at age 9. Suicide attempts rose sharply in sixth grade, the study said.

The research, supported by the National Institutes of Health, was published in the *Journal of Adolescent Health*.

Find further information on the study from JAH at www.jahonline.org/article. ■

NIDA: 1 in 9 high school seniors use synthetic marijuana

Marijuana and synthetic marijuana outdistance other illicit drugs as the most prevalent drugs used by 12th-graders, a recent study said.

In 2011, the University of Michigan's Monitoring the Future study began including questions on synthetic marijuana. Manufactured marijuana is an herbal drug mixture that usually contains synthetic cannabinoids, a class of diverse chemical compounds that activate cannabinoid receptors.

Synthetic marijuana was easily available online and in small retail outlets until March 11, 2011, when the Drug Enforcement Administration banned key ingredients. Before the DEA ban, the MTF poll measured use of synthetic marijuana.

Educators will be able to compare data in this fall 2012 poll with data released in 2011 to see how effective the DEA ban was, or whether manufacturers circumvented the ban and continue to make synthetic marijuana available with alternate ingredients.

According to the most recent 2011 survey:

- 36.4 percent of high school seniors reported using marijuana in the past year.
- 11.4 percent of 12th-graders reported using synthetic marijuana.
- Less than 10 percent of high school seniors reported use of other illicit drugs.

Find NIDA's poll, *Monitoring the Future: National Results on Adolescent Drug Use, 2011* at <http://bit.ly/yFOsIG>. ■

Please contact us

You may have an idea for a school safety article. Maybe you would like to hear from other districts about a particular challenge you are facing. Or, perhaps you have a project that is working well for you that you think would make an excellent article. I would like to hear from you. Please feel free to contact Editor Karen Bagwell at kbagwell@lrp.com. ■

Delaware court rules district owed no duty to suicidal teen

Case name: *Ellerbe v. Christina Sch. Dist.*, N10C-07-060 JRJ (Del. Super. Ct. 2012).

Ruling: The Delaware Superior Court ruled that a district's failure to act upon knowledge of a teen's suicidal tendencies did not support his grandparents' claim for damages under the state's wrongful death statute. The court granted the district's motion to dismiss the suit.

What it means: There's a fine line between moral and legal duties to act. The 1st U.S. Circuit Court of Appeals has held that parents traditionally retain the duty to safeguard their children against the risk of suicide. Thus, even with knowledge of a student's suicidal tendencies, a district may not have a legal duty to take preventative action. Initiating discussion with a high school student about his recent suicide attempt did not establish a duty for the district here to engage in any preemptive response that may have thwarted the student's subsequent suicide.

Summary: A district intervention specialist counseled a high school student after his friend alerted another district official that the student had recently attempted suicide. Although the specialist considered the issue resolved at the end of her discussion with the student, he committed suicide after school the same day. Contending that the district failed to establish a procedure for suicide intervention and that it should have notified them about their grandson's suicidal intent and attempt, the grandparents sued the district under the state's wrongful death statute. The district moved for summary judgment. The Delaware Superior Court pointed out that under state law, a wrongful act presumes an established duty of care. Plus, under Delaware common law, the district's duty to control the student's conduct hinged upon the existence of a special relationship between the parties or on the district undertaking gratuitous actions that created a duty to the student, who was either subsequently harmed by the district's failure to exercise reasonable care or because he relied on the district's undertaking. A relationship, the court explained, becomes "special" based on the degree of control one party exerts over another. This student's suicide occurred outside of school, thus the district was not in a position to control the student's conduct, the court observed. Moreover, in *Hasenfus v. LaJeunesse*, 175 F.3d 68 (1st Cir. 1999), the 1st Circuit held that "Absent a showing that the school affirmatively caused a suicide, the primary responsibility for safeguarding children from this danger, as from most others, is that of their parents; and even they, with direct control and intimate knowledge, are often helpless." Furthermore,

the district did not create a special relationship by rendering unsolicited counseling services to the student. Because the student had attempted suicide before, the district's counseling services could not have instigated his subsequent suicide, said the court. Also, the student did not actively seek help from district officials, thus he hadn't relied on the district's offered services for help with his issues. No special relationship between the student and the district meant that the district had no duty to the student, ruled the court. Thus, the district's failure to act upon its knowledge did not constitute the basis for a wrongful death claim. ■

Compliance with code, lack of notice of problems stymie negligence claim

Case name: *Davis v. Cumberland Cty. Bd. of Educ.*, COA10-1559 (N.C. Ct. App. 2011).

Ruling: The North Carolina Court of Appeals affirmed a trial court's order granting a district summary judgment in a parent's personal injury action involving a 6-year-old boy. The appellate court held that the district proved that it maintained its property in a reasonably safe condition and the parent did not show that a reasonable district would have acted differently under similar circumstances.

What it means: Districts have a duty to maintain their properties in a reasonably safe manner. Compliance with building codes supports a finding, but is not a dispositive showing that a district safely maintained its property. Routine inspections should be conducted and districts should promptly investigate and remedy any problems of which they have notice.

Summary: A North Carolina child and his father sat at the top of some bleachers while attending a football game on a district athletic field. The bleachers were damp, and the child slipped and fell between the 18 to 24-inch gap between the bleacher seats and floorboard. He fractured his skull, requiring a metal plate and screws to be placed in his head. His guardian sued alleging that the district negligently maintained the bleachers. The district moved for summary judgment. A trial court granted the district's motion. The guardian appealed. The appellate court explained that in order to sustain summary judgment, the district had to prove that it exercised the same care that a reasonable district would have exercised with respect to the bleachers under similar circumstances. The district presented evidence that the bleachers were constructed in accordance with the building code and that its athletic director was unaware that anyone had ever fallen through the bleachers or had any other issue with the bleachers. Although the guardian argued that compliance with a building code could not contradict allegations of negligence, the court

pointed out that it had previously held that evidence of compliance with a building code was relevant and admissible. And, while conformance with a building code did not establish due care, the court explained that combined with the district's evidence that there was no notice of prior problems, the guardian had to prove that a genuine issue of material fact existed to go to trial. The guardian asserted that the district could have either warned about the gap in the bleachers or restricted its use based on age or size criteria. However, the court pointed out that it did not matter whether the injuries could have been prevented if the district did something different. What was relevant was whether "a reasonable person in similar circumstances would have done something different." The guardian did not present any evidence that any other districts did anything different in maintaining its bleachers than this district. Moreover, as the court noted, the guardian did not attempt to counter the district's evidence that there had not been any previously noted problems with the bleachers. Evidence limited to the child's fall and injuries was insufficient to withstand summary judgment. ■

Student's testimony proves injuries not caused by district negligence

Case name: *Aviles v. Freeport Sch. Dist.*, 021642/09 (N.Y. Sup. Ct. 2011).

Ruling: Based on a student's testimony, a New York trial court granted a district's motion for summary judgment in the student's negligence suit.

What it means: Pursuant to New York law, a district may seek dismissal of a student's negligence suit if the student is unable to specifically point to the district's negligence as the cause of his injury. A parent's statement claiming otherwise will not suffice to block dismissal of the suit.

Summary: A second-grade student fell on the blacktop of a district playground. His mother filed suit alleging that the district's negligent maintenance of the blacktop resulted in the student's injury. The district moved for summary judgment. The trial court explained that under New York law, a student must be able to identify a district's negligence as the cause of his injury. Without that, the allegations of negligence will be based on nothing more than speculation. Noting the student's testimony that he tripped and fell as the result of a classmate bumping into him, the court deemed the mother's contention to be purely speculative. It explained that without more, the mother's statement that her son fell after his foot got caught in a hole on the playground did not raise an issue of fact. The mother was not present at the time of the incident and could not identify

the location of the alleged defect with specificity, the court pointed out. It also described the accident as not one caused by a defect but "by a collision between two children playing tag on the playground." Consequently, the court granted the district's motion for summary judgment. ■

Student's behavior plan predicts misconduct; expulsion still appropriate

Case name: *Lincoln Unified Sch. Dist.*, 2011090998 (SEA CA 2011).

Ruling: A California ALJ determined that a student's conduct was not a manifestation of his SLD. Therefore, a district appropriately expelled the student.

What it means: While there may be substantial interplay between a student's disability and his behavior plan, districts should only consider the student's disability when deciding if the student's misconduct warrants a change in placement.

Summary: A 17-year-old student, with a SLD based on a reading disorder, threatened physical violence against a librarian when he was asked to remove earphones. The student's behavior escalated to the point where school security was summoned and the district resolved to expel him for the remainder of the school year. The student filed for due process alleging that he was wrongfully expelled. The ALJ noted that the district convened a timely MDR meeting at which it determined that the student's misconduct was not a manifestation of his disability and that the expulsion was, therefore, appropriate. 34 CFR 300.530(e) provides that all relevant information in a student's file, including the student's IEP, teacher observations, and relevant information from parents, must be reviewed to determine whether a student's conduct was caused by his disability or as a result of the district's failure to implement the student's IEP. Here, the student's behavior plan provided, "When [Student] is confronted or redirected in an authoritative manner by school staff members, he will respond back with obscenities and verbalizing physical threats that can escalate into physically aggressive behavior." The plan "all but predicted the occurrence of the conduct that ultimately led to his expulsion," the ALJ observed. However, according to 20 USC 1415(k)(E)(i), a student's misconduct is a manifestation of his disability only if it is either caused by, or has a direct and substantial relationship to, the student's disability. If a student's conduct is not caused by his disability, a district may employ normal school disciplinary procedures. 34 CFR 300.503(c). Thus, the district appropriately expelled this student. ■