



Illinois' Moment of Silence Law Upheld by Federal Appellate Court--The Illinois statute mandating a period of silence at the beginning of every school day has been ruled constitutional by the U.S. Court of Appeals for the Seventh Circuit which covers all Illinois school districts.

The law requires all Illinois public school classroom teachers to observe a "brief period of silence" with students at the opening of every school day. According to the statute, the time is an opportunity "for silent prayer or for silent reflection on the anticipated activities of the day." 105 ILCS 20/1.

In *Sherman v. Koch* 2010 WL 4026812 (7th Cir. 2010) the court of appeals unanimously reversed the decision of the district court, which had held the law unconstitutional and had entered a permanent injunction enjoining school districts from implementing or enforcing the law.

The court of appeals also remanded the case back to the district court with instructions for the lower court to enter judgment in favor of the defendant. The court of appeals did not, however, immediately lift the injunction. Thus, the injunction currently remains in effect. **Contact Nancy Krent with questions or your First Amendment inquiries.**

HLERK Programs/Activities at the Joint Conference--HLERK will be deeply involved in this year's IASB/IASA/IASBO Joint Conference as part of our service to the school community. This year we are pleased to invite you to join our attorneys at the following programs:

Rob Swain and Heather Brickman at *Poetic Justice: The Law of Board Member Conflict of Interest and Liability, in Rhyme* at the Hyatt Regency Ballroom "D" on Saturday, November 20th at 10:30 a.m.

Stephanie Jones at *Happy Anniversary! One Year Under the Amended FOIA and OMA-Now What?* on Saturday, November 20th at 1:30 at the Swissotel, Alpine Ballroom.

Stan Eisenhammer joins IASA General Counsel Sara Boucek on *Superintendent Employment Contracts* on Saturday, November 20th at 3:30 p.m. at the Sheraton in the "Chicago 6" room.

Heather Brickman joins an early rising group of HLERK all-stars at *Legally Stumped?* on Sunday, November 21st at 8:00 (yes, eight) a.m. at the Hyatt, Columbus Room ES.

In addition we are pleased to announce that **Jay Kraning** will present at the Illinois Council of School Attorneys program held in conjunction with the Joint

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Consumer Price Index

Percent change for the month of **September 2010**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.3	0.3
12 Mth	0.9	1.3
St. Louis-6 Mth	1.1	1.2
12 Mth	2.3	2.8
U.S. Mthly	0.1	0.0
12 Mth	1.1	1.4

October CPI figures will be released November 18, 2010. For the most recent CPI, visit our website at: www.hlerk.com

The Extra Mile is intended solely to provide information to the school community. It is neither legal advice nor a substitute for legal counsel. The Extra Mile is intended as advertising but not as a solicitation of an attorney/client relationship.

Reminders & Notes

- Join **Nancy Krent** and **Bennett Rodick** at the administrator academy program on *Legal Issues in Special Education* sponsored by the Lake County ROE on December 14th at the University Center of Lake County in Grayslake. Only 12 seats remain available for this key program to manage the complexities of special education, so register today by visiting www.lake.k12.il.us or www.hlerk.com.
- **Jennifer Deutch** has published a seminal article on *Charter Schools and Students with Disabilities* in the October issue of the NSBA publication *Inquiry and Analysis*. You can view the article by visiting www.hlerk.com.

HLERK/IASA Fall Conferences--Our thanks to the record number of attendees (Oak Brook and Peoria having been sold out) at the IASA programs, *The Year in Review: The Highlights and Lowlights of Illinois School Law 2010*.

The newly updated *Conference Handbook* summariz-

ing the year's legal developments is now available for purchase.

The *Handbook* is a key resource for school districts seeking to limit their legal liability in a time of financial crisis. **Purchase your copy of the Handbook today by sending in the attached order form!**

Illinois Appellate Court Finds “Confidentiality Provision” in Settlement Separation Agreement with Former Employee Unenforceable-- In *The Town of Cicero v. Wayne A. Johnson, Town of Cicero v. Wayne A. Johnson*, No. 1-09-3132 (Ill. App. Ct. 1st Dist., September 28, 2010) (unpublished), the Illinois Appellate Court, First District, has held that a confidentiality provision in a settlement agreement was so burdensome that the entire provision was unenforceable.

Wayne A. Johnson was the Inspector General and Superintendent of Police for the Town of Cicero, Illinois, from February 2003 to April 2005. In April 2005, Johnson and Cicero entered into a separation agreement and general release. Under the confidentiality provision of that Agreement, Johnson agreed that, in addition to keeping the terms of the agreement confidential, he would not “disclose anything relating to his employment” to remaining employees of Cicero, former or prospective employees of Cicero, people doing business with Cicero, and to the media.

After Johnson made statements to newspaper reporters about the police department and his employment, Cicero sued him for breaching the confidentiality pro-

vision of his separation agreement. Johnson argued that the confidentiality provision was overbroad and, thus, unenforceable.

The Appellate Court held that while Cicero was free to prohibit Johnson from disclosing the terms of the separation agreement, the town could not prevent Johnson from disclosing “anything” related to his employment. According to the court, such a broad prohibition contradicted public policy that favors public disclosure.

The court found that enforcing “the confidentiality provision would cause injury to the public because it would prevent the public from knowing what activities Cicero, as a governmental entity, or its employees, engaged in during Johnson’s tenure.”

The court also found that enforcing the confidentiality provision would cause an undue hardship on Johnson during his future job-seeking efforts.

Contact Cindi DeCola regarding the impact of this decision on your settlement agreements or pending personnel matters.

Joint Conference Cont.

Conference on *Finding 'A Place in the Sun' for Special Education Students* on Friday, November 19th at 2:30 at the Hyatt Regency Crystal Ballroom B.

Heather and **Stan** are past Chairs of the Council of School Attorneys.

Finally, HLERK clients have already received their

invitations to a special event on Friday evening, November 19th.

It is HLERK's privilege to serve the Illinois school community at your annual gathering. All of us enjoy the opportunity to visit with you in Chicago at the start of this year's Holiday Season.