

# McGown & Markling Co.

A LEGAL PROFESSIONAL ASSOCIATION

Serving Ohio Schools

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## SCHOOL LAW NEWSLETTER

### A Note on Special Education and Graduation

Graduation is a time to celebrate student achievements. For those IDEA eligible students who (1) do not meet all state graduation minimums, (2) do not meet all district graduation minimums, and (3) do not meet all IEP goals and objectives, social graduation is an option that must be "considered" by an IEP team if the issue is raised at an IEP meeting. Social graduation is an opportunity for a student who is not eligible for a regular education diploma to participate in commencement ceremonies. Social graduation is not a mechanism whereby a student who is eligible to receive a regular education diploma may receive additional years of special education and related services at school district expense.



To request your free copy  
of our 2004 Residency Material, please  
e-mail us at [info@mcgownmarkling.com](mailto:info@mcgownmarkling.com).

### Spring Cleaning Considerations

Download the 2004 Residency Manual and discard the old versions.

Update Student Handbook and Codes of Conduct

Review 504 Policy and Guidelines

Review Anti-Hazing and Discrimination Policies

Review HIPAA compliance

Prepare FERPA and Social Security Notices

Distribute IEPs and 504 Plans to School Members and Providers

Please route this newsletter to:

- Principals
- Pupil Services
- Special Education
- Board Members
- Other Administrators

To subscribe to this newsletter,  
please e-mail us at  
[subscribe@mcgownmarkling.com](mailto:subscribe@mcgownmarkling.com).

### Volume I, Issue I, May 2004



### April 2004 Ohio School Case Briefs

In *Dutch v. Canton City Schools*, 2004-Ohio-2173, the school law firm of McGown & Markling Co., L.P.A. successfully defended the Canton City School District Board of Education and its officials against a hazing claim. The student alleged that he was "hazed" because a group of upper-class students assaulted him for being a freshman. The student argued that matriculation into the freshman class constituted membership in a "student organization." The Fifth District Court of Appeals disagreed and found that:

"The concept of a student organization, in this context, does not mean simply attending a given high school and therefore being a member of the student body. We find initiation into an organization implies membership in the organization is voluntary, and that the victim has, through his or her actions or otherwise, consented to the hazing. This is the reason why the legislature chose to include language finding negligence, consent, and assumption of the risk by the plaintiff are not defenses."

[More Case Briefs on Page 2](#)

### Sean P. Ruffin



The school law firm of McGown & Markling Co., L.P.A. is proud to announce that Sean P. Ruffin has accepted our invitation to join the Firm. For a brief biography for Sean, please visit us at [www.mcgownmarkling.com](http://www.mcgownmarkling.com).

To unsubscribe, please e-mail us at [remove@mcgownmarkling.com](mailto:remove@mcgownmarkling.com).

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### April 2004 Ohio School Case Briefs

In *Sebest v. Campbell City School Dist. Bd. of Edn.* (C.A.6, April 8, 2004), 2004 U.S. App. LEXIS 7173, the United States Circuit Court for the Sixth Circuit held that an employee could not prevail upon a disability discrimination claim when the employee failed to present evidence that the school board (the decision-maker) itself made the employment decision based on disability.

In *Moss v. Columbus Bd. of Edn.* (C.A.6, Apr. 8, 2004), 2004 U.S. App. LEXIS 7174, the United States Circuit Court for the Sixth Circuit held that a board member and 25 other individuals failed to plead a civil rights action against the school district for alleging maintaining racially segregated schools.

In *Residents of the Village of County Hills v. Oak Hills Local School Dist. Bd. of Edn.*, 2004-Ohio-1697, the Court of Appeals for Hamilton County held that under R.C. 3311.24, the board of education of a receiving school district has unlimited discretion to reject the transfer of territory after a proposal to transfer the territory has been approved by the State Board of Education.

To request a free copy of an entire decision, please e-mail us at [info@mcgownmarkling.com](mailto:info@mcgownmarkling.com).

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