

# SCHOOL LAW NEWSLETTER

## Administrative Contracts, Evaluations, and Sunshine ... Oh, My!

In the case of *State ex rel. Jones v. Sandusky City Schools* (Jan. 20, 2006), 2006-Ohio-188, an assistant superintendent provided an administrator with a positive final evaluation but the final evaluation did not express any indication as to the superintendent's intended recommendation to the school board regarding reemployment as required by R.C. 3319.02(D)(2)(c)(2)(ii). The Ohio Sixth District Court of Appeals rejected the administrator's assertion that the final evaluation's deficiency resulted in automatic reemployment because the only time that an administrator is reemployed by operation of law occurs when a school board fails to give the administrator timely written notice of its intention not to renew the administrator's contract as required by R.C. 3319.02(C).

The law firm of McGown & Markling Co., L.P.A. has been cautioning school boards that the recent trend in school litigation is for employees to attack the manner in which a school board enters into executive session in order to nullify subsequent nonrenewal, termination, and layoff decisions. And that is exactly what the administrator did in *Jones*. Fortunately, the Sixth District found that the school board properly entered into executive session for an acceptable purpose under R.C. 121.22(G)(1) and, most important, that there was no evidence of nonpublic deliberations.

For your complimentary copy of the *2005-2006 McGown & Markling Co., L.P.A. Public Records and Open Meetings Manual*, please contact us at **1.888.OHEDLAW** or email us at [info@servingohioschools.com](mailto:info@servingohioschools.com).

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## Parma Parents Seek United States Supreme Court Appeal

In November of 2005, the United States Court of Appeals for the Sixth Circuit ruled that non-lawyer Parma parents could not represent a minor child in an IDEA action in federal court. The Parma parents subsequently appealed that decision to the United States Supreme Court. To date, no decision has been made by the Supreme Court regarding whether to hear the appeal. Stay tuned!



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"Man is still the most  
extraordinary computer of all."

John F. Kennedy

## Erie-Huron-Ottawa ESC Legal Hotline

The law firm of McGown & Markling Co., L.P.A. is proud to serve as legal hotline counsel for the Erie-Huron-Ottawa Educational Service Center.

For more information as to how we can serve your ESC better through legal hotline services, please contact us at **1.888.OHEDLAW** or visit our website, [www.servingohioschools.com](http://www.servingohioschools.com).

## New Addition

Our Firm is not the only growing team. On January 9, 2006, at 7:46 p.m., the Markling Family welcomed Nevan Victor into the world.

## Give Us Your Opinion

If you have an issue or question that you feel should be addressed in a future *School Law Newsletter* edition or want information on our school law practice, please contact us at **1.888.OHEDLAW** or visit our website, [www.servingohioschools.com](http://www.servingohioschools.com).

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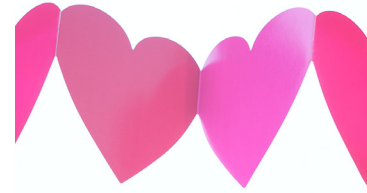
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“Love looks not with the eyes, but with the mind,  
And therefore is winged Cupid painted blind.”

William Shakespeare, *Mid-Summer Night's Dream*, 1595



## More Legal Briefs

In the case of *Unroe v. Board of Edn. Rock Hill Local School Dist.* (S.D. Ohio Jan. 4, 2006), S.D. Ohio Case No. 1:04-CV-00181, two Caucasian parents adopted two disabled children (one of whom is African-American) and enrolled the children into a school district with virtually no African-American students. The father was also a teacher in the school district.

During the father-teacher's employment, the mother began making written concerns to the district regarding the treatment of her disabled, African-American child. The mother provided copies of these documents to the NAACP.

During the father-teacher's employment, fellow employees complained that the father-teacher was abusing students in the classroom. After the father-teacher refused to accept a voluntary, unpaid suspension, the Superintendent both provided the father-teacher with a *Loudermill* letter and reported the father-teacher to children services for child abuse. Upon conclusion of the *Loudermill* process, the father-teacher's contract was ultimately terminated. Upon conclusion of the child abuse investigation, the complaint was found to be unsubstantiated.

In response to an article wherein the NAACP asserted that the father-teacher was terminated because of the race of his children, the Superintendent made several press releases and/or statements to the press stating that the father-teacher was terminated because he admitted to abusing students.

After the father-teacher's termination, the mother made a formal request for an impartial due process hearing with respect to her disabled, African-American child. It is alleged that, when the Ohio Department of Education contacted the Superintendent to discuss mediation, the Superintendent responded by stating that “You know, I don't want them kind here anyway. You know what I mean? ... I'll tell you what, they don't drop this ... I'm going to nail them.”

After the father-teacher's termination and due process initiation, the Superintendent again reported the father-teacher to children services, this time for abusing the father-teacher's own children.

The United States District Court for the Southern District of Ohio determined that, based upon the above-allegations, a jury will need to determine whether the Superintendent is liable for defamation and/or invasion of privacy. The Southern District further concluded that a jury will need to determine whether the Board and individual defendants, including the Superintendent, as to all federal discrimination claims asserted against them (i.e., 42 U.S.C. §§ 1983, 1981 and 2000d). A ten-day jury trial is scheduled to begin June 6, 2006.

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