

## HOT TOPIC Self-Audit Checklists

### Avoiding Discrimination, Harassment and Retaliation Suits in connection with Employee Terminations

When adjusting staffing needs, schools need to be careful so as not to create unwanted employment liability. Use this checklist located in the newsroom to make sure your changes are legal.



## Will A Substitute Teacher Give Your District A Crash Course On Fair Labor Standards Act (FLSA) Liability?

### Not Tracking The Credentials Of Substitute Teachers Can Cost Your District Money

As SLRMA previously reported, enforcement actions under the FLSA have continued to rise. As school districts review their employment practices and wages to comply with the FLSA, school districts can easily overlook its use of substitute teachers and their compensation.

There are approximately 400,000 substitute teachers nationally. In addition, 5 million students nationwide in approximately 274,000 classrooms have a substitute teacher on any given school day. In fact, about one full year of a student's K-12 education is spent with a substitute teacher. Over \$2 billion dollars are spent annually on substitute teachers. Despite these numbers, a school can easily overlook the obligations under FLSA as it applies to substitute teachers.

Since the use of substitute teachers can be irregular, schools must be diligent in tracking the work and qualifications of its substitute teachers to determine their responsibilities under the FLSA. Thus, SLRMA is proud to make available the FLSA Self-Audit Checklist for Substitute Teachers for immediate download at SLRMA.ORG. Inside this newsletter, you will find a small excerpt of the checklist which, along with the recently updated 2011 FLSA Self-Audit Checklist, will be the guide to help your school district avoid FLSA violations in the use of substitute teachers.

**Sample checklist inside>>>**

## Fair Labor Standards Act: Pay Violations Self-Audit Checklist for Substitute Teachers

**A teaching certificate is one clear method of identifying employees who may qualify for the teacher exemption. If a substitute teacher's primary duty is teaching and he or she possesses a teaching certificate, then the substitute teacher may qualify for the teacher exemption under the FLSA.**

	Yes	No
Does the substitute teacher have a teaching certificate?	<input type="checkbox"/>	<input type="checkbox"/>
Is a teaching certificate required for regular teachers at the school?	<input type="checkbox"/>	<input type="checkbox"/>

**In an Opinion Letter, the U.S. Department of Labor found that substitutes who performed certain specific duties were exempt under the FLSA.**

Does the substitute teacher engage in the following activities?	Yes	No
Attending faculty meetings	<input type="checkbox"/>	<input type="checkbox"/>
Grading work given to students during the day	<input type="checkbox"/>	<input type="checkbox"/>
Special assignments given by the regular teacher or principal	<input type="checkbox"/>	<input type="checkbox"/>
Teaching the same subjects as the everyday teacher for whom the substitute teacher is substituting	<input type="checkbox"/>	<input type="checkbox"/>

**This is a small sample of the updated FLSA: Pay Violations Self-Audit Checklist for Substitute Teachers. Log In to SLRMA.org and Download the Self-Audit Checklist in its entirety to use throughout your school district.**



## Is Your District Prepared For Claims Of Bullying?

In August, 2011, Oregon parents sued the Sherwood School District seeking over \$275,000 in damages alleging the school failed to take action against a bully who harassed their son and subsequently knocked out his front teeth. A lawsuit filed that same month against the largest school district in Minnesota seeks damages for the pervasive bullying of lesbian and gay students in the school district and the failure of the school to have the policy and procedures in place to prevent such bullying. In June, the parents of a student who committed suicide filed suit against the son's school and administrators for their alleged failure to acknowledge and prevent the alleged bullying the son received from other students. The lawsuit, filed in the Federal Court for Texas, is seeking millions of dollars in damages.

With the number of lawsuits being filed as a result of bullying and harassment claims, don't let your district get beat up. Download SLRMA's checklist for this issue: *Addressing Bullying And Harassment: A District Self-Audit Guide*.

# Recent Dispatches in the Newsroom



Content provided by:

# FLIC

## Federal Legislation Insurance Committee

Log In and Download The Recent Case Summaries That Impact Your School District And Find Out What You May Be Missing

### **Fort Osage R-1 School District v. Sims (8th Cir. 2011)**

**06/17/2011** - Does your school district follow the procedural and substantive requirements under the IDEA in terms of when it must formulate an Individual Education Plan? The 8th Circuit Court of Appeals for the Central U.S. in this recent case outlines the elements of a such a plan for compliance with IDEA.

### **Patel v. Kent School District, 2011 WL 2684939 (9th Cir. 2011)**

**07/11/2011** - Does your school's assumption of duties under the IDEA subject your school to due process liability under the U.S. Constitution's 14th Amendment? The Federal Court for the 9th Circuit covering the Western United States analyzes a school's liability for the protection of a mentally disabled student under the U.S. Constitution and determines that such liability is governed by state law and not the U.S. Constitution.

### **Kowalski v. Berkeley County Schools, 2011 WL 3132523 (C.A.4 - W. Vir.)**

**07/27/2011** - Does your student body have the First Amendment Right to use off-campus social media to bully or harass another student? In this pointed decision, the Federal Appellate Court for 4th Circuit Court covering the south and United States states determined that schools may still punish for such off-campus speech without violating a student's First Amendment Rights.

### **District of Columbia v. Ijeabunwu, 2011 WL 2535931 (D.C. App. 2011)**

**06/28/2011** - When is your school district a "prevailing party" entitled to fees when successfully defeating a claim under the IDEA? In this decision, District of Columbia Court Appeals determined it was not a "prevailing party" despite it successfully defeating an IDEA Claim.



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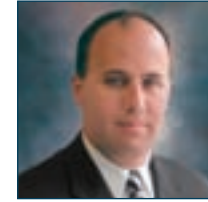
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## Does your school district provide legally sufficient equal opportunities for girls to participate in school sponsored athletics?

In the past year, the U.S. Department of Education's Office for Civil Rights have been filing administrative class action complaints against several school districts over the past year for those schools alleged violation of Title IX as it applies to athletics. In the 4th Quarter Newsletter, SLRMA will highlight for its members a Self-Audit Checklist to help your school's athletic programs for compliance with Title IX that will be available on the SLRMA website. **Watch For It!**