FROM THE COURT HOUSE TO THE SCHOOL HOUSE:
AN INTRODUCTION TO SCHOOL LAW

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I. INTRODUCTION

Public education embodies our shared values, our cherished hopes and our intense commitment to a vibrant democracy. At the same time, the public schools have become the battleground of virulent disputes, cultural clashes and racial animosity.

It is not surprising, then, that the law of public education should represent an ever-increasingly complex and challenging field of study. In order to grasp this practice area’s foundational concepts, this paper will summarize seminal school law cases and statutes for the new practitioner. This article analyzes landmark education law decisions through four key concepts: systems (an entity’s legal responsibilities and constraints); students (an individual’s rights in the public school context), staff (the rights of public school employees), and services (what a school system provides to its students).2

1 The Baltimore County Public Schools is the nation’s 25th largest school system, and educates over 112,139 students in 173 schools, programs, and centers. The school system employs 21,225 persons, including 8,792 classroom teachers. http://www.bcps.org/system/.
2 This article will not address other legal matters that school practitioners increasingly face, such as real estate, contracts, copyright and trademark; nor will it address state law issues. Suffice it to say that as schools become more sophisticated in the delivery of services, other legal matters arise.
II. SYSTEMS

A. Public school segregation is unconstitutional. (Brown)

Prior to 1954, federal case law on education was sparse, at best. However, the United States Supreme Court’s rulings in Brown v. Board of Education of Topeka, 347 U.S. 483 (1954) (Brown I) and Brown v. Board of Education of Topeka, 349 U.S. 294 (1955) (Brown II) heralded an era of unprecedented federal involvement in local educational matters. Between 1955 and 1960, federal judges would hold more than 200 school desegregation hearings.

The Brown I cases originated from Delaware, Kansas, South Carolina, and Virginia. Each of these states mandated or permitted segregated schools. The plaintiff students asserted that their equal protection rights were violated because of the inherent inequality of segregated schools. The Court entertained arguments in two successive

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3 In 1927, the Court ruled that the state of Mississippi had the authority to determine how to educate its students and thus could exclude a girl of Chinese ancestry born in the United States from a “white” or “Caucasian” school because she was “of the Mongolian or yellow race” and therefore eligible only to enter a school for “colored” children. Gong Lum v. Rice, 275 U.S. 78, 80–81, 87 (1927). Cumming v. Board of Education of Richmond County, 175 U.S. 528, 20 S. Ct. 197, 44 L. Ed. 262, Sweatt v. Painter, 339 U.S. 629, 70 S. Ct. 848, 94 L. Ed. 1114 (1950).


7 Indeed, in the Delaware case, the court ordered that black students be admitted to a white school, “because of their superiority to the Negro schools.” 347 U.S. at 488.
terms, seeking additional insight into the adoption of the Fourteenth Amendment and its intended effect upon public education. Upon determining that the history of the Amendment did not provide sufficient guidance, the Court opined upon the significance of a public education:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. 347 U.S. at 493.

Upon this basis, the Court distilled its question as follows: “Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities?” The Court, in quoting the Kansas opinion, found that

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to (retard) the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial(ly) integrated school system. 347 U.S. at 494.
Thus, the court found that “in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”

The Court then proceeded, in Brown II, to outline its expectations about how the constitutional mandate of Brown I should be implemented. Specifically, the Court acknowledged the complexities involved in dismantling segregated schools and determined that

“the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases.”

The Court directed that these mandates be carried out with “all deliberate speed.”

Notwithstanding the “speed” sought by the Brown II court, many local jurisdictions continued to resist efforts to desegregate. See Green v. County Sch. Bd. of New Kent Cnty., Va., 391 U.S. 430 (1968). The local school board in Green had established a “freedom of choice” plan in order to desegregate its schools. Under its plan, no white student had chosen to attend the formerly black school. The Court declared that “delays in elimination of unconstitutional dual system are no longer tolerable.” The Court made its Brown mandate crystal clear: “school boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative
duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.” The Court’s criticism of the local school board’s actions was harsh:

In determining whether respondent School Board met that command by adopting its ‘freedom-of-choice’ plan, it is relevant that this first step did not come until some 11 years after Brown I was decided and 10 years after Brown II directed the making of a ‘prompt and reasonable start.’ This deliberate perpetuation of the unconstitutional dual system can only have compounded the harm of such a system. Such delays are no longer tolerable, for ‘the governing constitutional principles no longer bear the imprint of newly enunciated doctrine.’ [citation omitted] Moreover, a plan that at this late date fails to provide meaningful assurance of prompt and effective disestablishment of a dual system is also intolerable. ‘The time for mere “deliberate speed” has run out’ [citations omitted]. 398 U.S. at 438.

The Court identified five “Green” factors: facilities, staff, faculty, extracurricular activities and transportation, in order to gauge a school system’s compliance with the mandate of Brown. Federal courts would apply these factors to analyses of desegregation plans and determining whether unitary status had been achieved.

B. Parents have the right to determine whether their children receive a public school education. (Yoder)

Wisconsin v. Yoder, 406 U.S. 205 (1972), stands for the proposition that a public education is a right that some persons may lawfully forfeit. Jonas Yoder and Wallace

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8 Advocates sought, and failed to extend the Brown holdings to school finance litigation. The Court has specifically declined to hold that education is a fundamental right guaranteed by the Constitution. See San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1 (1973).

9 Although decided on First Amendment grounds, the author of this article contends that Yoder articulates a foundational principle for those persons who choose alternative methods for educating their children, such as home schooling. See also Pierce v. Society of Sisters of the Holy Names of Jesus and Mary, 268
Miller, members of the Old Amish religion,\textsuperscript{10} were convicted of having violated the state’s compulsory attendance law. Wisconsin mandated that students attend school until age 16. Yoder and fellow plaintiffs declined to send their children to public school after they had completed the eighth grade. The Yoder plaintiffs asserted that their children’s attendance at any high school would be contrary to their religious beliefs. “They believed that by sending their children to high school, they would not only expose themselves to the danger of censure of the church community, but … endanger their own salvation and that of their children.” Moreover, the plaintiffs’ religious tenets involved rejection of modern values. The state did not dispute the plaintiffs’ sincerely held religious beliefs.

Additionally, the plaintiffs’ argument was practical: In Old Order Amish communities, members of the community must make their living as farmers or in related occupations. Thus, an additional two years of secondary education would serve no useful purpose.

The Court weighed the State’s interest in public education against the Plaintiffs’ “deep religious conviction shared by an organized group, and intimately related to daily living.” Although Wisconsin argued that its interest in universal compulsory education outweighed the Plaintiffs’ religious practices, the Court disagreed:

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its

\textsuperscript{10} The remaining plaintiff, Adin Yutzy, was a member of the Conservative Amish Mennonite Church.
children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

406 U.S. at 233 (citation omitted).

III. STUDENTS\textsuperscript{11}

A. Student First Amendment Rights\textsuperscript{12}

1. A public school student possesses First Amendment rights. (Tinker)

In \textit{Tinker v. Des Moines Independent Community School District}, 393 U.S. 503 (1969), the Supreme Court proclaimed that students “do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”\textsuperscript{13}

In \textit{Tinker}, three junior high and high school students were disciplined for having violated the school district’s dress code by wearing black armbands to protest the
Vietnam War.\textsuperscript{14} Prior to the armband protest, principals had instituted a policy requiring any student who wore the black armband to remove it.\textsuperscript{15} The administration did not identify any other political or controversial symbols that would trigger the policy’s prohibition.\textsuperscript{16} If the student refused to remove the armband, the student would be suspended until the student opted not to wear it.\textsuperscript{17}

Ultimately, barely a handful of the district’s 18,000 students wore the armbands, and only five students received suspensions after refusing to remove them.\textsuperscript{18} There was no evidence that the armbands had disrupted “the work of the schools or any class,” nor were there any “threats or acts of violence on school premises.”\textsuperscript{19} The Court described the students’ armband protest as “a silent, passive expression of opinion, unaccompanied by any disorder or disturbance.”\textsuperscript{20}

In this landmark ruling, the Court explained that the rights of free speech existed, and should be honored, in our public schools:

Under our Constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle but not in fact. Freedom of expression would not truly exist if the right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution says that Congress (and the States) may not abridge the right to free speech. This provision means what it says. We properly read it to permit reasonable regulation of speech-connected

\textsuperscript{14} 393 U.S. at 504.
\textsuperscript{15} Id.
\textsuperscript{16} Id.
\textsuperscript{17} Id.
\textsuperscript{18} Id. at 508.
\textsuperscript{19} Id.
\textsuperscript{20} Id.
activities in carefully restricted circumstances. But we do not confine the permissible exercise of First Amendment rights to a telephone booth or the four corners of a pamphlet, or to supervised and ordained discussion in a school classroom.\textsuperscript{21}

Nonetheless, these rights are not without restriction. The Court recognized that a balance should be struck between the First Amendment rights of students and the “comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools.”\textsuperscript{22} The Court concluded that, in order to achieve such a balance, student speech could be suppressed only when school officials could prove that the student’s exercise of her First Amendment rights would “materially and substantially disrupt the work and discipline of the school.”\textsuperscript{23}

2. Public school administrators may discipline students for speech that “materially and substantially” disrupts the school environment. (Bethel)

In Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986), the Court applied the \textit{Tinker} “material and substantial disruption” standard. Matthew Fraser, a high school student delivered a speech during a school assembly that was filled with sexual innuendos.\textsuperscript{24} The school suspended Fraser, citing a violation of a \textit{Tinker}-styled

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\begin{itemize}
\item \textsuperscript{21} Id. at 513.
\item \textsuperscript{22} Id. at 507.
\item \textsuperscript{23} Id. at 513.
\item \textsuperscript{24} 478 U.S. at 677-78. As quoted in Justice Blackmun’s dissent, Matthew Fraser’s speech read: “I know a man who is firm—he’s firm in his pants, he’s firm in his shirt, his character is firm—but most of all, his belief in you, the students of Bethel, is firm. Jeff Kuhlman is a man who takes his point and pounds it in. If necessary, he’ll take an issue and nail it to the wall. He doesn’t attack things in spurts—he drives hard, pushing and pushing until finally—he succeeds. Jeff is a man who will go to the very end—even the climax, for each and every one of you. So vote for Jeff for A.S.B. vice-president—he’ll never come between you and the best our high school can be.”
\end{itemize}
disciplinary rule that prohibited “conduct which materially and substantially interferes with the educational process . . . including the use of obscene, profane language or gestures.”\textsuperscript{25} In determining that the school did not violate the student’s First Amendment rights, the Court held that the school could discipline Fraser for his “offensively lewd and indecent speech.”\textsuperscript{26} It further opined that “[t]he First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as respondents would undermine the school’s basic educational mission.”\textsuperscript{27}

3. Public school administrators may regulate school-sponsored speech, such as speech appearing in a newspaper. (Hazelwood)

In Hazelwood Sch. Dist. v. Kuhlmeier, 484 U.S. 260 (1988), the Court again addressed student speech. In Hazelwood,\textsuperscript{28} staff members of a high school newspaper asserted that their free speech rights had been violated when portions of the newspaper were removed prior to publication. The newspaper was written and edited as part of the journalism class, which was part of the school’s established curriculum.

As part of its regular practice, proofs of the newspaper were provided to the school principal. One article described teen pregnancy, while the other discussed the impact of

\textsuperscript{25} Id. at 678.
\textsuperscript{26} Id. at 685.
\textsuperscript{27} Id.
\textsuperscript{28} The proliferation of social media makes some students less likely to depend upon school-sponsored speech to communicate their ideas. Moreover, some states have provided additional rights to student journalists to counteract the ability of school administrators to control school sponsored speech. \textit{See, e.g.,} Md. EDUC. CODE ANN., §7-121, and North Dakota John Wall New Voices Act, codified at ND ST § 15.1-19-25.
divorce on the school’s students.29 Although the story about pregnant teens did not identify the students by name, the principal believed that the students could be identified from the context. He also thought that the references to teen sexual activity and birth control would be inappropriate for the school’s younger students. The divorce article, on the other hand, identified students by name. Because the article referenced a student’s complaints about his father’s conduct, the principal “believed that the student’s parents should have been given an opportunity to respond to the remarks or consent to their publication.”

As a result of his concerns, the principal directed that the two pages on which these articles appeared be withheld from publication, even though non-objectionable articles appeared on those same pages.

The student journalists asserted that their First Amendment rights had been violated. In ruling against the students, the Court departed from its standard in Tinker, and determined that “school sponsored speech” should be subject to greater regulation by school officials because:

First Amendment rights of students in the public schools are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment. A school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school. 484 U.S. at 266 (internal citations omitted).

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29 The journalism teacher later removed the name from the story’s final version.
The Court also found persuasive the inclusion of the journalism class in the school’s curriculum. According to the school system’s curriculum guide, the goal of the Journalism course was to develop journalistic skills.

The Court reasoned that publications or productions which “bear the imprimatur of the school” and may be characterized as part of the curriculum may be more closely regulated. Schools, in their capacity as publisher of a school newspaper, may regulate closely student speech:

Accordingly, we conclude that the standard articulated in Tinker for determining when a school may punish student expression need not also be the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. Instead, we hold that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns. This standard is consistent with our oft-expressed view that the education of the Nation’s youth is primarily the responsibility of parents, teachers, and state and local school officials, and not of federal judges. 484 U.S. at 273.

B. Student Fourth Amendment Rights

1. The Fourth Amendment’s guarantees against unreasonable search and seizure applies in the public school context. (TLO)

Two high school girls, who were caught smoking in the lavatory in violation of school rules, were questioned by Assistant Vice Principal Choplick. T.L.O. flatly denied that she had been smoking—and even declared that she did not smoke. Mr. Choplick inspected T.L.O.’s purse, and he immediately observed a pack of cigarettes. Upon reaching into her purse for the cigarettes, he then noticed cigarette rolling papers. A more thorough search ensued. Mr. Choplick subsequently discovered a small amount of marijuana, a pipe, empty plastic bags, a “substantial quantity of money in one dollar bills, an index card that appeared to be a list of students who owed T.L.O. money, and two letters that implicated T.L.O. in marihuana dealing.” 469 U.S. 328. When T.L.O.’s case was referred to juvenile court for disposition of charges of possession and sale of marijuana, T.L.O. argued that Choplick’s search of her purse had violated her Fourth Amendment rights.

Although the Court declined to hold that the search was illegal, it concluded that the Fourth Amendment’s prohibition on illegal searches and seizures did indeed apply to searches by public school officials. In so doing, the Court employed the *Tinker* rationale:

We have held school officials subject to the commands of the First Amendment ... if school authorities are state actors for the purposes of the constitutional guarantees of freedom of expression ... it is difficult to understand why they should be deemed to be exercising parental rather than public authority when conducting searches of their students .... Today’s public school officials do not merely exercise authority voluntarily

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30 The “assistant vice principal” title is used by the Court. 469 U.S. 325.
confferred on them by individual parents; rather, they act in furtherance of publicly mandated educational disciplinary policies.\(^{31}\)

The Court concluded that a student would possess a legitimate expectation of privacy in personal articles carried to school. At the same time, the Court noted that teachers and administrators possessed a “substantial interest ... in maintaining discipline in the classroom and on school grounds.”\(^{32}\)

The Court did not impose a probable cause requirement on public school searches: “[r]ather, the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. \(^{33}\) In applying the reasonableness to the facts presented, the Court concluded that Mr. Choplick’s search of T.L.O.’s purse complied with the Fourth Amendment. The Court increased the school’s authority to search, however, in subsequent decisions.\(^{34}\)

C. Student Discipline

1. Due process guarantees apply to non-trivial public school exclusions. (Goss)

In Goss v. Lopez, 419 U.S. 565 (1975), the Court addressed the constitutionality of student disciplinary exclusions from school. Goss was a class action brought by nine

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\(^{31}\) 469 U.S. at 336 ([citations omitted]).

\(^{32}\) 469 U.S. at 339.

\(^{33}\) 469 U.S. at 341.

public high school students who had been suspended, without a hearing, for up to 10 school days. The suspensions arose as part of a period of “widespread student unrest” in February and March of 1971. The school system asserted that because there is no constitutional right to a public education, “the Due Process Clause does not protect against expulsions from the public school system.” The Court disagreed and drew upon its holdings in both Brown and Tinker, and noted that “young people do not ‘shed their constitutional rights’ at the schoolhouse door.” Thus, “the State is constrained to recognize a student’s legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.”

Because school attendance represents a property right, certain procedural safeguards must be established. The Court explained further that:

We do not believe that school authorities must be totally free from notice and hearing requirements if their schools are to operate with acceptable efficiency. Students facing temporary suspension have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school.

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35 419 U.S. 574.
IV. STAFF

A. Public school employees have the constitutional right to speak on matters of public concern. (Pickering)

Public school employees, like other public employees, enjoy constitutional protections provided by the First Amendment, Fourth Amendment and the Due Process Clause.


In Pickering, a teacher was terminated because of his opposition to a school funding measure. He published his concerns in the local paper:

The superintendent told the teachers, and I quote, “any teacher that opposes the referendum should be prepared for the consequences.” I think this gets at the reason we have problems passing bond issues. Threats take something away; these are insults to voters in a free society. We should try to sell a program on its merits, if it has any . . . to sod football fields on borrowed money and then not be able to pay teachers’ salaries is getting the cart before the horse. If these things aren’t enough for you, look at East High. No doors on many of the classrooms, a plant room without any sunlight, no water in a first aid treatment room are just a few of many things. The taxpayers were really taken to the cleaners. A part of the sidewalk in the building has already collapsed. Maybe Mr. Hess would be interested to know that we need blinds in that building also. As I see it, the bond issue is a fight between the Board of Education that is trying to push tax-supported athletics down our throats with education, and a public that

37 In O’Connor v. Ortega, 480 U.S. 709 (1987), the Supreme Court found that public employees were subject to the Fourth Amendment.
has mixed emotions about both of these items because they feel they are already paying enough taxes, and simply don’t know whom to trust with any more tax money. I must sign this letter as a citizen, taxpayer, and voter, not as a teacher, since that freedom has been taken from the teachers by the administration. Do you really know what goes on behind those stone walls at the high school?

Respectfully, Marvin L. Pickering

The Board alleged that the letter’s assertions were false and that the letter had “impugned the ‘motives, honesty, integrity, truthfulness, responsibility and competence’ of both the Board and the school administration.” The Board also asserted that the false statements had damaged the professional reputations of its members and of the school administrators and had caused dissention in the district.

The Court disagreed with the Board’s contention that the statements were false, and concluded that the letter amounted to criticism, rather than statement of fact. As a result, it ruled that “in a case such as this, absent proof of false statements knowingly or recklessly made by him, a teacher’s exercise of his right to speak on issues of public importance may not furnish the basis for his dismissal from public employment.”

B. Public school employment is a property right that cannot be denied absent procedural due process. (Loudermill)

In 1979, James Loudermill was employed by the Cleveland Ohio Board of Education as a security guard. During the application process, Loudermill claimed that he had never been convicted of a felony. Eleven months following his hire, the school system learned that Loudermill had been convicted of grand larceny in 1968. Loudermill
received a letter from the Board’s business manager that, as a result of his dishonesty in completing his application, his employment was terminated without notice or a hearing.

Under Ohio law, Loudermill was considered a civil servant who could only be terminated for cause. Loudermill asserted that the civil service statute was constitutionally flawed because “it did not provide the employee an opportunity to respond to the charges against him prior to removal. As a result, discharged employees were deprived of liberty and property without due process.”

The Court concluded that Loudermill’s public employment constituted a property interest. As such, “under the Due Process Clause an individual must be given an opportunity for a hearing before he is deprived of any significant property interest.”

V. SERVICES

Local Boards of Education exist for one purpose: to educate students. However, the nature of those educational services is increasingly governed by federal law. That is, education for special populations and gender equity have been addressed in federal statute and by the United States Supreme Court. Moreover, the United States Department of Education has frequently interpreted local school districts’ compliance with federal law.38

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38 See, e.g., the Department of Education’s “Dear Colleague” Letter on Transgender Students [https://www.justice.gov/opa/file/850986/download](https://www.justice.gov/opa/file/850986/download)
A. **Special Education**

As it was first called at its 1975 enactment, the Education of All Handicapped Children Act requires that states provide a “free appropriate public education” to children with disabilities. A complete analysis of the Individuals with Disabilities Education Act (IDEA) is beyond the scope of this (or any) paper. However, knowledge of the following key United States Supreme Court decisions is necessary: *Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Honig v. Doe*, 484 U.S. 305 (1988); *Schaffer v. Weast*, 546 U.S. 49 (2005). *Rowley* stands for the proposition that schools need not provide the “best” education available to its special needs students. *Honig* requires local school districts to comply with procedures regarding a change of placement prior to excluding a disruptive disabled child from school. Lastly, *Weast* held that the party challenging a student’s educational plan bears the burden of proof in administrative proceedings.

B. **Title IX. Monetary damages are available under Title IX. (Gwinnett)**

Title IX of the Education Amendments of 1972 is a funding statute aimed at promoting equity in women’s athletics. The statute provides, in pertinent part that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C.A. § 1681.

In *Franklin*, the plaintiff alleged that she was sexually harassed and later abused by a male teacher. Specifically, Franklin alleged that, although the school officials became aware of and investigated the teacher’s sexual harassment of Franklin and other female students, teachers and administrators took no action to halt it and discouraged Franklin from pressing charges. The teacher subsequently resigned and all charges were dropped.

The Court’s holding dramatically expanded the remedies available to students and the exposure of local school systems to charges of abuse under this statute.

VI. CONCLUSION

“Going to school is not the same as going shopping. Parents should not be burdened with locating a suitable school for their child. They should be able to take their child to the neighborhood public school as a matter of course and expect that it has well-educated teachers and a sound educational program.”

Diane Ravitch

Local boards of education and local school superintendents guard our society’s most treasured commodity: our children. They are legally and morally required to ensure that all students are educated in the best possible environment. The scope of our clients’ civic duties and responsibilities is, in equal measure, alarming and inspiring. As their advocates and counselors, school attorneys must become increasingly adept at
managing the public’s competing priorities, viewpoints and expectations. One could be easily distracted by these strident and demanding voices. However, by grasping and mastering the foundational principles of school law, the careful education lawyer will be able to manage this challenging, but rewarding, area of law.