

# Georgia School Superintendents Association

## Fall Bootstrap Conference

### Legal Issues Update

October 23, 2014

Phillip L. Hartley

Harben, Hartley & Hawkins, LLP

# Issues from the Federal Government



[School & District Search](#)[Custom Charts & Detailed Data Tables](#)[State and National Estimations](#)[Additional Resources](#)[FAQs/User Guide](#)[Office for Civil Rights\(OCR\)](#)

Do you know the CRDC includes data about...

- \* Enrollment Demographics
- \* Prekindergarten
- \* Math & Science Courses
- \* Advanced Placement
- \* SAT/ACT
- \* Discipline
- \* School Expenditures
- \* Teacher Experience

[Looking for the 2013-14 CRDC?](#)

# CIVIL RIGHTS Data Collection



Wide-ranging education access and equity data from a sample of our nation's public schools.

## Quick Access



### 2009-10 District or School Reports

- Find school- or district-level summaries
- Access all data for a single school or district



### Detailed Data Tables

- View and compare data across multiple schools and districts
- 2000, 2004, 2006, and 2009-10 CRDC data



### State and National Estimations

- Download 2000, 2004, 2006, and 2009-10



### View Longitudinal Data (Coming Soon)

- Explore data trends over time



# Dear Colleague...

Letter from OCR/DOJ dated January 8, 2014

- “The Civil Rights Data Collection (CRDC), conducted by OCR, has demonstrated that students of certain racial or ethnic groups tend to be disciplined more than their peers.”
- “In short, racial discrimination in school discipline is a real problem.”
- “Title VI protects students over the entire course of the disciplinary process, from behavior management in the classroom, to referral to an authority outside the classroom because of misconduct – a crucial step in the student discipline process – to resolution of the discipline incident.”

# Dear Colleague....

Letter from OCR Dated October 1, 2014

“As discussed above, challenging and creative courses, programs, and extracurricular activities; effective and qualified teachers, leaders, and support staff; adequate facilities; updated technology; quality education materials; and sufficient funding — are critical to the success of students. Yet, disparities in the level of access to these resources often reflect the racial demographics of schools, with schools serving the most students of color having lower quality or fewer resources than schools serving largely white populations even within the same district. This letter, therefore, highlights the importance of protecting students from discrimination in the allocation of any of these educational resources.”



# *Perez v. Mortgage Bankers Association*

- Rulemaking by Letter
- The Right to Comment or at Least Anticipate
- The Effect on the Courts

# Why Does It Matter?

- New Priority and Focus for OCR
- Often Arises Over Relatively Minor Discipline Incidents or Other Matters
- The Cost of an Investigation and the Remedy Imposed

# What You Should Do...

- Read the Letters and be proactive
- Avoid OCR complaints
- Know your own data because they do
- Evaluate your schools as if you were OCR
- Train teachers, administrators and SROs
- Monitor on a regular basis



# Other Federal Issues

- USDA Food and Nutrition Guidelines
- RTTT and NCLB Waivers and the Effect on State and Local Options

# STATE LEGISLATIVE ISSUES





# Guns/Weapons in the Schools

## O.C.G.A. § 16-11-127.1

- (b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or on a bus or other transportation furnished by a school any firearm or explosive compound, other than fireworks.

# Weapons in Motor Vehicle

Provisions of the code section shall not apply to teachers and other personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle;

O.C.G.A. § 16-11-127.1(c)(17)

# Picking up a child at school?

- A person who is licensed ... when such person carries or picks up a student within a school safety zone, a school function, or on a bus or other transportation furnished by a school or a person who is licensed ... when he or she has any weapon legally kept within a vehicle when such vehicle is parked within a school safety zone or is in transit through a designated school safety zone;

O.C.G.A. § 16-11-127.1(c)(7)



## How Exception § 16-11-127.1(c)(7) would have read under HB 826

(7)(6) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, ~~when such person carries or picks up a student at a school building, school function, or school property~~ when he or she is within a school safety zone or on a bus or other transportation furnished by ~~the~~ a school or a person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any ~~weapon~~ firearm legally kept within a vehicle when such vehicle is parked ~~at such school property~~ within a school safety zone or is in transit through a designated school safety zone;

# Weapons

## **HB 60 – signed on April 23, 2014**

- Safe Carry Protection Act
- Revised Title 16, but maintained definition of weapon
- No revision to Title 20

## **HB 826 – signed April 22, 2014**

- Revised Title 16 to eliminate definition of weapon
- Revised Title 20, changed definition of firearm and added other definitions

The last bill signed by the Governor controls where Bills irreconcilably conflict, but what about the lawsuits?

# Suggestion???

## Notice: Drop/Pickup of Students

- Each school will identify an area(s) where student(s) may be dropped off for school and picked up after school dismisses;
- A person who takes a student(s) to school or picks a student(s) up from school may do so at the designated drop/pickup area;
- Any person who accompanies or meets the student(s) beyond the designated drop/pickup area is considered a visitor;
- A person on school grounds other than the designated drop/pickup area is considered a visitor;
- Visitors must first sign in at the front office.

# What About Your Central Office?

HB 60 (O.C.G.A. § 16-11-127)

“A license holder shall be authorized to carry a weapon in a government building when the government building is open for business and where ingress into such building is not restricted or screened by security personnel. A license holder who enters or attempts to enter a government building carrying a weapon where ingress is restricted or screened by security personnel shall be guilty of a misdemeanor if at least one member of such security personnel is certified as a peace officer ... provided, however, that a license holder who immediately exits such building or immediately leaves such location upon notification of his or her failure to clear security due to the carrying of a weapon shall not be guilty of violating this subsection....”

# What About Your Central Office?

- Take the position that it is a school safety zone;
- Treat it the same as all other school buildings in terms of signs and requirements for visitors to check in at a designated location;





## GEORGIA DEPARTMENT OF LAW

40 CAPITOL SQUARE SW  
ATLANTA, GA 30334-1300

SAMUEL S. OLENS  
ATTORNEY GENERAL

[www.law.ga.gov](http://www.law.ga.gov)  
(404) 656-3300

### Frequently Asked Questions Regarding the Weapons Law Amendments Taking Effect on July 1, 2014

The Attorney General's Office has received numerous inquiries from state agencies in regard to the newly enacted weapons laws taking effect on July 1, 2014. The most frequently asked questions have involved entry into government

1. Can a person with a weapons carry license enter a government building with a weapon if the government building is open to the public and has no security personnel manning a security checkpoint?

*Generally yes, except as discussed below.*

2. Can a person with a weapons carry license enter an open government building with a weapon if the government building has security personnel manning a security checkpoint?

*No. However, the person cannot be charged with the offense of carrying a weapon in an unauthorized place if the person approaches security personnel, notifies them of the presence of a weapon and explicitly follows their directions for removing, securing, storing, or temporarily surrendering such weapon. The person also cannot be charged with carrying a weapon in an unauthorized place if the person leaves the restricted area after being notified that he or she cannot enter with the weapon. Note: A charge of carrying a weapon in a government*



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40 CAPITOL SQUARE SW  
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7. Can a person with a weapons carry license carry a weapon on a college campus?

*Both House Bill 60 and House Bill 826 addressed this question in amendments to O.C.G.A. § 16-11-127.1. The provisions are in conflict. House Bill 60 was signed by the Governor after House Bill 826 and is the later enactment, so the provisions of House Bill 60 control. Therefore, there is a general prohibition against carrying weapons in a school safety zone (which includes the real property or buildings of public or private elementary schools, secondary schools, technical schools, vocational schools, colleges, or universities); however, a person who possesses a weapons carry license may have a weapon when carrying or picking up a student and may have a weapon in a vehicle that is in transit through or parked within a school safety zone.*

*the person leaves the restricted area after being notified that he or she cannot enter with the weapon. Note: A charge of carrying a weapon in a government*

# Issues from the Courts





## *Duke v. Hamil*

### *Decision by Northern District of Georgia, federal court*

- “Yet despite his intentions and quick removal of it, the post became public after someone provided the image to a television station. This illustrates the very gamble individuals take in posting content on the Internet and the frequent lack of control one has over its further dissemination. And even though there was no social media policy prohibiting political posts on websites like Facebook, the absence of such a policy did not foreclose a response to speech that compromised the Department’s interests.”

## ***Boston v. Athea (Georgia Court of Appeals)***

“Under Georgia law, liability for the tort of a minor child is not imputed to the child’s parents merely on the basis of the parent-child relationship. Parents may be held directly liable, however, for their own negligence in failing to supervise or control their child with regard to conduct which poses an unreasonable risk of harming others.”

“The Ahearns’ argument does not take into account that, as Dustin’s parents, they *continued* to be responsible for supervising Dustin’s use of the computer and Internet *after* learning that he had created the unauthorized Facebook profile.”



# THE LATEST ISSUES FROM THE PRESS: RESPONDING TO EBOLA

Very little risk of legal liability

Very little risk of disease spreading

Very high risk of public panic

# EBOLA

## Letter from

### Dept of

### Public

### Health



Brenda Fitzgerald, MD, Commissioner | Nathan Deal, Governor

2 Peachtree Street NW, 15th Floor  
Atlanta, Georgia 30303-3142  
[www.health.state.ga.us](http://www.health.state.ga.us)

To: Georgia Educators  
Subject: Ebola Virus Disease  
Date: October 6, 2014

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As you know, national and international health authorities are working to control a large, ongoing outbreak of Ebola virus disease (EVD) in several countries in West Africa, with the current epicenter in Liberia, Sierra Leone, and Guinea. Public Health relies on the vigilance of a vast array of informed contributors beyond our traditional medical providers to report diseases and it is therefore critical that the following guidance and recommendations be provided to the educational community at this time.

- (1) Be aware of students and their families, staff or teachers who have traveled to Ebola-affected West African countries, including Liberia, Sierra Leone, and Guinea within the previous 21 days.
- (2) Know the signs and symptoms of Ebola, which may appear anywhere from 2 to 21 days after exposure to Ebola and include:
  - Fever greater than 101.5°F
  - Severe headache
  - Muscle pain
  - Weakness
  - Diarrhea
  - Vomiting
  - Abdominal pain
  - Unexplained, unusual bleeding or bruising
- (3) If someone presents to your school health clinic with a fever, immediately ask if they have traveled to or come into contact with someone who has traveled to an Ebola affected region.
- (4) If you encounter individuals who you believe meet the case definition described in (1) and (2) or (3), immediately separate the individual from contact with others and report it to the Department of Public Health at 1-866-PUB-HLTH or the DPH Epidemiology section at 404-657-2588.



***We Protect Lives.***

# GANA/JGCC

## 160-1-3-.03 INFECTIOUS DISEASES

- (a) LEAs shall develop policies, regulations, and procedures related to the impact of infectious diseases on school system management and operations.
- (b) LEAs shall annually provide employees with information, education, or training related to infectious diseases, including transmission, risk education, and standard precautions, based on CDC guidelines or recommendations.
- (c) LEAs shall make personal protective equipment (PPE) readily available and appropriate to tasks with exposure potential.

# GANA/JGCC

## 160-1-3-.03 INFECTIOUS DISEASES

- (d) Where LEAs have reasonable suspicion to believe that an employee or student has an infectious disease, school authorities shall counsel that person [or parent] immediately ... of the need to obtain an appropriate medical evaluation.
- (e) Operational decisions related to employees or students infected with communicable diseases shall be made in conjunction with the school nurse, state and/or local public health agency representatives, health care professionals, and school system administrators.
- (f) Each LEA shall limit the disclosure of health-related information of its employees and students. ...Additionally, the disclosure of certain confidential health information may be a misdemeanor punishable under O.C.G.A. § 24-9-47.

# Issues from the State Board





# The Latest in Governance Options

Status Quo Systems and Waivers

IE2 and the New Options

See the Powerpoint

See the Prototype Contract

A New State Board Rule for Charter Systems

**160-4-9-.07 CHARTER SYSTEMS**

**(1) CHARTER SYSTEM PETITION SUBMISSION.**

(a) **LETTERS OF INTENT.** Letters of intent to submit a charter petition shall be submitted to the Department in accordance with the Charter Systems Guidelines. After submitting a letter of intent, but prior to submitting a charter system petition, a local district may withdraw its letter of intent at any time upon written notice to the Department.

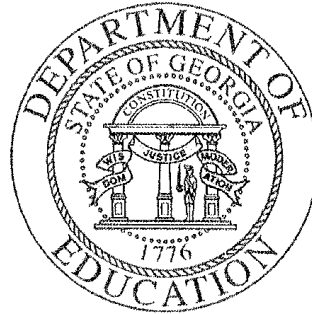
(b) **LOCAL BOARD RESOLUTION.** Pursuant to O.C.G.A. § 20-2-2063.2, a local board seeking to create a charter system must adopt a resolution approving the proposed charter system petition prior to submission to the Department. The resolution shall be adopted and submitted to the Department in accordance with the Charter Systems

**(d) MAXIMIZATION OF SCHOOL LEVEL GOVERNANCE.**  
All charter systems shall maximize school level governance in accordance with the Charter Systems Guidelines. Maximization shall include the involvement of parents, teachers, and community members in such governance.

promulgated in the Charter Systems Guidelines. The Department may revise timelines, page limitations, formatting requirements or other components of the application or application process each year in accordance with this Rule and accompanying Guidelines.

**(2) CHARTER SYSTEM PETITION REVIEW PROCEDURES.**

(a) The Department shall process all charter system petitions submitted to the Department and coordinate with the Charter Advisory Committee, as applicable, to facilitate the review of the petition and recommendations to the State Board as outlined in the Charter Systems Guidelines.



***Dr. John D. Barge, State School Superintendent***  
***"Making Education Work for All Georgians"***

# **Guidelines for Charter Systems to accompany State Board of Education Rule 160-4-9-.07**

# Accountability Requirements

- (D) All charter systems will be held accountable for maximizing school level governance. Local school governance teams (LSGTs) must exercise decision-making authority in each of the following categories and shall meet the minimum requirements as described below:
- a. Personnel decisions – Charter systems shall develop processes to meaningfully engage LSGTs in the selection of the principal or school leader. LSGTs shall recommend the principal or school leader to the Superintendent for selection by the LBOE;

- b. Financial decisions and resource allocation – LSGTs shall have input into the final recommendations for the school budget, including number and type of personnel, curriculum costs, supply costs, equipment costs and maintenance and operations costs;
- c. Curriculum and Instruction – LSGTs shall have input into the selection of the curriculum and accompanying materials consistent with the district's Essential and Innovative Features as included in the charter contract and the school's Improvement Plan;



- d. Establishing and monitoring the achievement of school improvement goals – LSGTs shall approve the school improvement plan and provide oversight of its implementation; and
- e. School operations – LSGTs shall have input into school operations that are consistent with school improvement and charter goals.

In addition to the minimum requirements set forth above, the LBOE may grant each LSGT additional authority above the minimum. Although constitutional authority remains with the LBOE, both the Superintendent and LBOE shall give due consideration to recommendations and input from the LSGTs. Charter systems shall create processes that allow for meaningful input from LSGTs.

# Draft of Revised Definition

Code: IEB

## 160-4-9-.04 CHARTER SCHOOLS ~~AND CHARTER SYSTEMS~~ DEFINITIONS.

### ~~DEFINITIONS.~~

~~-(a) Charter – a performance-based contract between the charter authorizer(s) and a charter petitioner.~~ Georgia nonprofit charter school governing board (nonprofit governing board). By entering into a charter, a nonprofit governing board ~~charter petitioner~~ and the charter authorizer(s) shall be deemed to have agreed to be bound ~~to~~ by all the provisions of the Charter Schools Act, O.C.G.A. §-20-2-2060 et. seq., and all State Board of Education rules and guidelines implementing the Charter Schools Act as if such terms were set forth in the charter. A charter for a local charter school, if approved, shall be a three-party agreement between a Georgia nonprofit charter school governing board, a local board of education, and the State Board of Education. A charter for a Charter

(x) Local school governance (charter systems) – a Local School Governing Team at system charter school shall have authority, as provided for in the contract, to make personnel decisions, including recommending the principal or school leader for selection by the local board of education; financial decisions and resource allocation decisions, including having input into the final recommendations for a system charter school's budget and input as to the number and type of personnel, curriculum costs, supply costs, equipment costs and maintenance and operations costs; input into the selection of a curriculum and accompanying instructional materials; establishment and monitoring of the achievement of school improvement goals, including approval of the school improvement plan and oversight of its implementation; and school operations, including input into any school operations that are consistent with school improvement and charter goals. The local board of education ultimately retains constitutional authority.

(f) Charter petitioner – a local school, local board of education, private individual,



160-4-9-.04 CHARTER SCHOOLS ~~AND CHARTER SYSTEMS~~ DEFINITIONS.~~DEFINITIONS.~~

(mm) Substantial autonomy – The nonprofit governing board of a charter school shall have authority to make, but is not limited to, personnel decisions, including selection of the principal or school leader; financial decisions and resource allocation decisions, including establishing the number and type of personnel, curriculum costs, supply costs, equipment costs and maintenance and operations costs; selection of a curriculum and accompanying instructional materials; establishment and monitoring of the achievement of school improvement goals, including approval of the school improvement plan and oversight of its implementation; and operations that are consistent with school improvement goals. The local board shall only override decisions of a conversion charter school’s governing board in those areas where the local board has constitutional authority and has a reasonable belief that a decision will be substantially detrimental to students and is not in the public interest.

(c) Charter attendance zone – may include all or any portion of the local school system in which the charter school is located and may include all or any other portion of other local school systems if the charter school is jointly authorized pursuant to O.C.G.A. § 20-2-2063(c).

(d) Charter authorizer – an entity authorized under the Charter Schools Act to review applications, decide whether to approve or deny applications, enter into charter contracts ~~with,~~ oversee public charter schools, ~~or,~~ and decide whether to renew, ~~not renew/nonrenew,~~ or revoke ~~existing~~ charter contracts.

(e) Charter high school cluster – a high school cluster that petitions for, and is granted a charter, held by a Georgia nonprofit charter cluster governing board.

(f) Charter petitioner – a local school, local board of education, private individual,

# Questions

