

# Chalkboard



An Education Newsletter from the Attorneys of Rosenstein, Fist & Ringold

2016 Issue 2

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## The Proper Role of School Resource Officers

by Adam Breipohl

Many school districts contract with local police departments to provide school resource officers (SROs) because SROs improve relations between students and police as well as offer additional security, deterrence, and the capability to deal with law enforcement issues that may arise on campus such as gangs, illegal contraband, etc. However, use of SROs can be problematic, particularly to the extent the presence of uniformed police officers can create a "jail-like" atmosphere in schools and blur the line between law enforcement issues and student discipline issues. While SROs can be a valuable resource, school districts should be careful not to let their use of SROs lead to an inhospitable atmosphere, gratuitous involvement of the criminal justice system in disciplinary issues, or unnecessary use of physical force against students.

First, school districts should be careful to separate the law-enforcement functions of SROs from their routine investigations of discipline matters. Districts should take care not to reflexively involve

SROs in every student interview, search of student property, etc. if there is not a valid law-enforcement reason why the SRO needs to be involved, as doing so can create an oppressive atmosphere where students feel they are presumed to be criminals and SROs are viewed as "the enemy."

Districts should also take care not to unnecessarily criminalize student misbehavior. As police officers, SROs can and do enforce laws proscribing "public order" offenses such as disorderly conduct or disrupting the educational process,<sup>1</sup> and may do so in counterproductive ways. For instance, if a municipality has an ordinance forbidding profanity, SROs could issue criminal citations to students who

<sup>1</sup>Benjamin Thomas, et al., *School Resource Officers: Steps to Effective School-Based Law Enforcement*, NATIONAL CENTER FOR MENTAL HEALTH PROMOTION AND YOUTH VIOLENCE PREVENTION, at 3 (Sept. 2013), <http://www.ncfjcj.org/sites/default/files/SRO%20Brief.pdf>.

are caught swearing during their conversations walking in the halls between classes. This can lead to students convicted of criminal offenses in municipal court on the basis of conduct that may be technically unlawful but would be very unlikely to lead to any legal consequences for citizens who were not required to be cooped up in a building with a police officer who could overhear any off-color conversation they may have. Clearly, this would also lead to an "us vs. them" mentality with law enforcement.

This can be particularly troublesome when special education students misbehave in ways that are related to their disabilities. When SROs arrest special education students who are acting out, the situation is taken out of the domain of the IDEA, which may be the more effective and appropriate way to address issues related to the student's disability, and into the criminal justice system, which is much harsher and much less well-equipped to deal with the behavioral issues of disabled students.

Even more seriously, there have been high-profile incidences of alleged use of unnecessary force by an SRO while arresting a student. A recent incident in Virginia where an SRO was caught on video forcibly removing a student from her desk and restraining her in the process of arresting her for disorderly conduct received national media attention and led to both an investigation by the Department of Justice and a statement by U.S. Secretary of Education Arne Duncan condemning the use of excessive force by SROs, citing the need for schools to be "safe havens" and the traumatic impact on a student who experience excessive force by SROs.<sup>2</sup>

Needless to say, districts should avoid this kind of escalation of a disciplinary problem

into an arrest involving significant use of force against a student except where strictly necessary.

Therefore, while SROs can be an important asset in improving student/police relations as wells as the safety and security of the school community, districts should take care to avoid blurring the lines between law enforcement and student discipline and undermining the very interest in creating a "safe haven" that justifies the use of SROs.

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<sup>2</sup>Press Release, U.S. Dep't of Education, Statement from U.S. Secretary of Education Arne Duncan on School Discipline and Civil Rights, Oct. 30, 2015, available at <http://www.ed.gov/news/press-releases/statement-us-secretary-education-arne-duncan-school-discipline-and-civil-rights>.

## Assisting Parents and Students in Setting Realistic Transition Goals

by Cheryl A. Dixon

It is important that every IEP contain individualized postsecondary goals based on the particular student's needs. Under the Individuals with Disabilities Education Act (IDEA), its implementing regulations, and Oklahoma policy, the IEP for each student with a disability must include annual secondary transition services that are in effect no later than the beginning of the student's ninth grade year or upon turning 16 years of age, whichever comes first, or younger if determined appropriate by the IEP Team. The IEP must include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and (2)

the transitions services needed to assist the student in reaching those goals.

As a member of a student's IEP Team involved in postsecondary transition planning, you should help your students identify realistic goals and the steps necessary for achieving them. Recently, a hearing officer in the District of Columbia was required to determine whether the transition services of a student, qualified under the disability category of OHI, whose postsecondary goals included becoming a professional basketball player or professional businessman, were adequate. In this case, the hearing officer found that while the student's transition plan listed his interests in becoming a businessman or professional athlete, there was nothing specific "about how the Student might actually become" either of those things. Ultimately, the hearing officer concluded that the student's transition plan was deficient given the absence of a concrete strategy for the student to achieve his goals and the failure to provide transition services that related to the student's expressed vocational choices.

To set a proper foundation for transition planning, school districts should have the student involved and help him/her define his/her own interests. Thereafter, it is important to identify specific steps for how the student will achieve the identified postsecondary goals. If you have any questions about secondary transition, or any other special education issue, please contact your school district's attorney.

## Proposed Rule Change For Mandatory Annexation by Staci L. Roberds

The Oklahoma State Department of Education has opened for public comment a new proposed administrative rule regarding mandatory annexation of school districts. Although mandatory annexation is an involuntary process and one of the least utilized types of annexation, the proposed rule appears to broaden the scope upon which the State Board of Education ("SBE") may consider mandatory annexation of a district.

Under the current rule codified in Okla. Admin. Code, § 210: 1-3-2(b), mandatory annexation will be considered by the SBE when: (i) a district is declared academically at risk; (ii) a district is no longer accredited by the SBE; or (iii) a district, without officially dispensing with school, fails to open or maintain a school, taking into account circumstances beyond the control of the district that could cause a normal delay.



As a member of a student's IEP Team involved in transition planning, you should help your students identify realistic goals

The proposed rule provides that mandatory annexation will be considered by the SBE if any of the following situations occur: (i) a school district is identified as in need of improvement; (ii) a district is no longer accredited by the SBE; (iii) a district, without officially dispensing with school, fails to open or maintain a school, taking into account circumstances beyond the control of the district that could cause a normal delay in

commencing the school year; (iv) a district does not have sufficient funds to maintain its schools through the completion of the current school year; or (v) an audit of a district, conducted under the Oklahoma Public School Audit Law and its supporting rules, reveals evidence of financial mismanagement within a district.

Comparing the proposed rule changes with the current rule, the language of the proposed rule changes the reference to a district that is "academically at risk" to a district that is "identified as in need of improvement," a change which appears to merely make the language of the provision mirror the language utilized in Okla. Stat. tit. 70, § 1210.541. The proposed rule also adds a provision that explicitly allows for mandatory annexation when a district does not have sufficient funds to complete the current school year. The rule impact statement notes that this addition to the rule should clarify that the SBE may consider mandatory annexation not only in situations where a district lacks sufficient funds to commence the school year but also when a

district lacks sufficient funds to maintain its schools through the current school year. Finally, and most significantly, the proposed rule includes a completely new provision which allows for mandatory annexation if a financial audit of the district reveals evidence of financial mismanagement within the district. This new provision appears broad in nature with no language clarifying what type or what level of financial mismanagement could lead to mandatory annexation.

School districts may review a copy of the proposed rule and the rule impact statement at <http://ok.gov/sde/administrative-rules>. For any district interested in commenting on the proposed rule, the public comment period is open until March 17, 2016, at 4:30 p.m., with a public hearing scheduled that same day at 2:00 p.m. in the State Board Room at the State Department of Education. If a school district has any questions regarding mandatory annexation or the annexation process in general, it should contact its school district attorney for additional information.

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*Chalkboard* is designed to provide current and accurate information regarding current education law issues. *Chalkboard* is not intended to provide legal or other professional advice to its readers. If legal advice or assistance is required, the services of a competent attorney familiar with education law issues should be sought.

We welcome your comments, criticisms and suggestions. Correspondence should be directed to: Rosenstein, Fist & Ringold, 525 South Main, Seventh Floor, Tulsa, Oklahoma 74103-4508, or call (918) 585-9211 or 1-800-767-5291. Our FAX number is (918) 583-5617. Help us make *Chalkboard* an asset to you.

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