

BUSINESS IN

WEEKLY WEBINAR SERIES

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Your Host



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TODAY'S AGENDA

Gabe Oberfield – (12:00PM-12:05PM)

- Welcome / agenda
- Updates on the NYS budget process

Caroline Westover – (12:05PM-12:10PM)

- DHS to begin monitoring social media activity

Kyle Ritchie – (12:10PM-12:20PM)

- The evolving landscape of college student athlete compensation

Kathryn Stiffler – (12:20PM-12:30PM)

- Recent developments regarding the age when students with disabilities in New York may lose eligibility for a "Free Appropriate Public Education" plan

G. Oberfield – (12:30PM)

- Questions / Wrap Up

Where We Are with the New York State Budget



- **The Senate and Assembly released their one-house bills in Mid March**
- **Budget was due on April 1, 2025 – how long will we wait?**
 - Will it be May?
- **Issues to negotiate:**
 - Cell phones in schools – advancing?
 - Discovery laws – advancing?
 - Involuntary commitment standards – advancing?
- **Issues left out**
 - Consumer Directed Personal Assistance Program – issues ongoing
 - MTA financing – awaiting more info, e.g., on congestion pricing
- **Emerging health policy from CMS**
 - Change in waiver funding – how will it affect the extant 1115 waiver amendment?

DHS to Begin Monitoring Social Media Activity



Caroline M. Westover

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The Evolving Landscape of College Student Athlete Compensation



Kyle D. Ritchie

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Recent developments regarding the age when students with disabilities in New York may lose eligibility for a "Free Appropriate Public Education" Plan



Kathryn M. Stiffler

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Free Appropriate Public Education (FAPE)

- **Federal law – Individuals with Disabilities Education Act (IDEA)**
 - States generally must make FAPE available to children with disabilities between the ages of 3 and 21, *inclusive*
- **New York law – Commissioner's Regulations 8 N.Y.C.R.R. § 200.1**
 - “Student with a disability” means a student with a disability who has not attained the age of 21 prior to Sept. 1
- **New York law – Education Law NY Educ. Law § 4402(5)**
 - A child with a disability who reaches 21 during the school year (July 1 – June 30) is entitled to finish the school year
- **FAPE** expires upon turning 21 or earning a high school diploma, whichever occurs first



Second Circuit 2021 Decision



- ***A.R. v. Connecticut Board of Education*** – the phrase “3 through 21 inclusive” in the IDEA means **every day up and until a student’s 22nd birthday** (i.e., up to 21 years and 364 days)
- New York – obligation to provide FAPE until student receives a diploma or the end of the school year in which they turn 21
- What does this mean for New York public school districts?

NY State Educ. Dept. (NYSED) Formal Opinion – July 2023

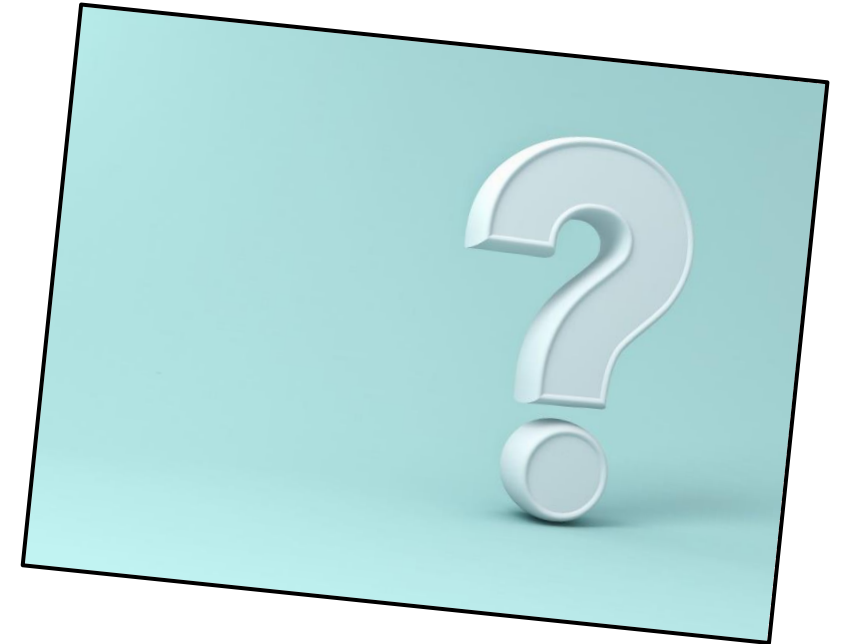
- NYSED fully embraces the Second Circuit decision in *A.R.*
- NY law defining eligibility for special education is “materially indistinguishable” from CT law
- The holding in *A.R.* **requires NY public schools to provide FAPE to resident students with disabilities at least until their 22nd birthday**
- While not legally required, SED Office of Special Education recommends providing FAPE through the end of the school year in which the student turns 22 or upon receipt of a high school diploma, whichever occurs first

Recent Developments – Rulings by Albany County Supreme Court

- March 8, 2024: *Katonah-Lewisboro UFSD v. Betty Rosa, et. al.*
 - Second Circuit's decision **contrary to NY law**
 - **Students with disabilities entitled to FAPE until the end of the school year in which they turn 21, as opposed to until their 22nd birthdays**
 - Appeal pending
- April and June 2024: NYSED memoranda confirming its position that students with disabilities in NY are entitled to FAPE until their 22nd birthday

Recent Developments – Rulings by Albany County Supreme Court

- March 10, 2025: *Mahopac CSD v. Betty Rosa, et. al.*
 - Respondents rely on *A.R.*
 - “Bottom line is that the governing definitions have not been expanded to encompass individuals who have reached their 21st birthday within the definition of a “student with a disability.”
 - “[I]t is beyond the scope of this Court’s role to delve into whether a four-year old federal court decision adjudicating Connecticut law renders New York law, as written, deficient under federal law.”



Questions?



Gabriel S. Oberfield

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Katie Stiffler, kstiffler@bsk.com

Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email bondonline@bsk.com

Thank You

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It is not to be considered as legal advice.
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