

Board Legal Counsel Proposal



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Submitted to:

Board of Education, Grosse Pointe Public Schools

Attn: Mr. Sean Cotton, Board Treasurer

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THRUN LAW FIRM'S LEGAL SERVICES PROPOSAL

A. Proposer's Name and Address

Thrun Law Firm, P.C. has three offices located in East Lansing, Grand Rapids, and Novi, with 29 attorneys. The addresses and additional contact information for our offices can be found on the cover page to this Proposal, as well as our website (www.thrunlaw.com).

Thrun Law Firm was originally founded in 1946. For more than 75 years, Thrun Law Firm has provided effective representation for Michigan public schools' boards of education on a statewide basis.

B. Summary of Firm's Expertise

Thrun Law Firm Overview

Thrun Law Firm's practice is dedicated to representing public school boards and counseling school officials across the State of Michigan. With 29 attorneys focused almost exclusively on school law and the representation of Michigan public schools, our experience and expertise in this area of law is unmatched in Michigan. A more in-depth description of our firm's history is included with this Proposal as **Attachment 1**.

We currently act as legal counsel to the majority of Michigan's public school boards. We represent more than 500 public schools on a retainer basis, and have a non-retainer relationship with numerous additional public schools. Our current retainer clients are listed in **Attachment 2**. We have a broad client base that exposes us to the current issues of concern to school officials throughout Michigan, including the Wayne County area and southeastern Michigan region.

Our attorneys collectively represent over 500 years of school law experience. As a result, our attorneys have addressed nearly every legal issue facing schools today. Guidance and advice can be provided to school officials quickly and efficiently, resulting in positive outcomes for our clients at a reasonable cost. When novel legal issues arise, Thrun Law Firm's attorneys have the experience, resources, and expertise to provide creative and well-reasoned strategies and solutions.

We commit to providing Grosse Pointe Public Schools' Board of Education with prompt and effective legal services to your specifications, requirements, and satisfaction. Our approach to providing legal services typically involves assigning a team of attorneys from different practice areas, as more fully described below, to ensure that the Board of Education's matters receive prompt attention. Our attorneys are available for contact at any time by board officers and/or school officials designated by the Board to obtain legal counsel and services.

We believe that our history and background best illustrate what sets Thrun Law Firm apart from other law firms in the State of Michigan that practice school law. It is our firm's history and mission of almost exclusively representing boards of education and public schools for more than 75 years that benefits our school clients through experienced and knowledgeable attorneys and staff, effective and efficient legal representation, comprehensive legal analysis of issues facing public education, and fair and cost-effective billing practices.

Areas of Practice and Expertise

Thrun Law Firm's attorneys have the experience and expertise needed to address all legal matters described in your request for proposal. Our firm is structured to provide boards of education and school officials with the complete range of legal services for all issues facing boards of education and school officials today. As the following narrative illustrates, Thrun Law Firm is truly a full service law firm for school law.

1. General School Law, Public School Legislation, and Laws

Thrun Law Firm has set the standard for providing exceptional legal services in every aspect of school law to Michigan public schools.

While our attorneys develop an expertise in one or more areas of law impacting public schools, every attorney in our firm is well-versed in the fundamentals of school governance and operations. Our ability to serve as general counsel to public school boards of education is unsurpassed by any other firm. Most Thrun attorneys routinely attend Board of Education meetings and are familiar with Board governance, the Open Meetings Act, and Robert's Rules of Order, as well as Board policies and administrative guidelines. In addition, every Thrun attorney regularly prepares resolutions for adoption by the Board of Education.

In the area of general school law, our attorneys maintain an in-depth understanding of current and pending legislation. Attorneys within various practice groups are often consulted by legislative bodies and state agencies related to the interpretation of the laws governing Michigan public schools. Our firm was primarily responsible for drafting the School Code of 1955 and its revision in 1976. Our attorneys were consistently consulted in the later development of the School Code of 1996 and continue to consult with legislative officials and state agencies on the interpretation of various provisions in a variety of laws affecting Michigan public schools. This extensive history in the development of school law stemming back to 1955 provides our attorneys with a depth of experience and understanding related to the current Revised School Code's nuances and history that other law firms cannot claim.

Thrun Law Firm closely monitors legal developments potentially affecting our clients on a daily basis, including proposed legislation and court decisions at both the state and federal levels, attorney general opinions, and published guidance from a myriad of state and federal agencies. Important legal developments are communicated to our retainer clients through our monthly newsletter, *School Law Notes* (see **Attachment 3** for a sample retainer client newsletter) and through periodic alerts or informational emails ("E-Blasts"). In addition to keeping our clients well-informed, Thrun Law Firm devotes significant resources to continuing legal education to ensure that our attorneys remain current in their particular areas of expertise.

Our firm has extensive experience in the areas of freedom of speech, association, and religion, due process of law, and search and seizure pertaining to students and employees. The firm regularly advises clients about student publications, access to facilities, drug testing, and surveillance matters.

In addition, we routinely advise school officials regarding student due process and discipline and suspension matters. We have also provided extensive representation of public school clients in circuit court actions challenging such expulsions. We routinely review or assist with creating student handbooks and board policies in this area.

Thrun Law Firm attorneys regularly develop, revise, and review Board policies and administrative procedures and draft model policies in response to legal developments. Our attorneys analyze such policies with an eye toward meeting the school board's objectives, while complying with Michigan and federal law. Policies of particular emphasis include appropriate use policies for students and staff of school district computers and technology, policies related to compliance with Internal Revenue Service and the Securities Exchange Commission initiatives affecting tax-exempt bonds, and other financing and anti-bullying policies, to name a few.

In addition, Thrun Law Firm now offers its own policy service to Michigan school districts. In developing the Thrun Policy Service, we applied our vast experience in all areas of school law to provide clients with board policies and administrative guidelines that avoid unnecessary complexity. Our policies will provide board members and administrators with guidance and flexibility while complying with state and federal law. The policies are also drafted with the intention of being well organized and user friendly. If you are interested in receiving more information regarding the Thrun Policy Service, please contact a Thrun attorney or email policy@thrunlaw.com.

2. Open Meetings Act and Freedom of Information Act

Thrun Law Firm has a long history of advising school boards regarding the requirements of the Freedom of Information Act and the Open Meetings Act. Our attorneys are well versed in these statutes and their nuances, and remain up-to-date on pending and recently enacted legislation as well as published guidance related to this important practice area. Our attorneys frequently attend Board meetings at the request of our clients, and counsel school officials and Board members on procedural rules applicable to different, and sometimes unique, situations.

Additionally, we have represented numerous schools in circuit court and appellate actions concerning both statutes. The following is a sampling of some of the relevant litigation in which we represented school boards:

- *Bradley v Saranac Community Schs*, 455 Mich 285 (1997). We defended both the Saranac and Lansing school districts' position as it related to the disclosure of personnel files. The advice that we provided to the school boards was affirmed by the courts.
- *Moore v Fennville Public Schs*, 223 Mich App 196 (1997). The firm successfully defended a school board in a lawsuit alleging that the board met in closed session in violation of the Open Meetings Act. Both the trial court and the Court of Appeals ruled in favor of the school district, finding that board members could legally come to a consensus regarding labor negotiation strategy in closed session.
- *Traverse City Record Eagle v Traverse City Public Schs*, 184 Mich App 609 (1990). We successfully defended the Traverse City Public Schools' refusal to disclose tentative agreements on labor contracts sought by the press prior to a ratification vote by the parties.

3. Finance and Election Law

Thrun Law Firm has a well-established reputation across Michigan for providing exceptional finance and election services to our school clients. Thrun Law Firm is consistently among the top five bond counsel firms in Michigan, based on the dollar volume of bond issues, as ranked by *The Bond Buyer* (a daily trade newspaper). Thrun Law Firm serves as bond counsel for over 85% of the school bonds and state aide notes issued by Michigan school districts each year. Further, our firm annually closes more bond and note transactions than any other bond counsel firm in the State of Michigan.

For more than 75 years, Thrun Law Firm has been nationally recognized bond counsel as established by and published in the Bond Buyer's Municipal Marketplace directory. Eight of our attorneys are dedicated to the public finance/municipal bond practice, and their combined experience in this highly specialized and often complicated area of practice exceeds 120 years. Our firm's finance and election attorneys are experienced in all areas of public finance, from equipment purchases and short-term cash flow borrowings to complex bond issues, including refunding bonds and voted bonds. Each attorney remains well versed in the practice of election law, as well as Michigan's Campaign Finance Act. Our finance and election attorneys consider providing such services to our clients their top priority, if not sole focus and responsibility.

Our team of finance attorneys have extensive experience and an expertise in school finance. Such expertise includes matters related to school funding in general under the State School Aid and other statutes, state and federal taxation, permissible investment of bond proceeds and school funds in general, and school millages, to name a few examples.

Thrun's finance attorneys routinely send out reminders to clients throughout the year with respect to filing requirements, including annual filings required by the Michigan Department of Treasury for the issuance of debt. We have assisted clients with the nuances that accompany the State's system of electronic filing and in resolving issues when they surface.

Our finance team advises Michigan public school districts on the rules and regulations under Michigan law applicable to the budget process. Furthermore, our finance attorneys assist clients by preparing or reviewing documents related to Truth in Taxation and annual budget adoption. Our attorneys regularly review required forms, including the L-4029, at the request of clients and advise as necessary to avoid unnecessary complications or issues that may result from inaccurate reporting.

For borrowing options, our finance attorneys are seasoned in every financing option available to Michigan public school districts, having an expertise that is unmatched in the State of Michigan in this area. They assist clients with the issuance of notes for operating revenue purposes, including state aid notes and tax anticipation notes. Each year Thrun Law Firm represents more than 100 Michigan public school districts in issuing state aid notes, a large portion through the Michigan Finance Authority.

For larger borrowings, our attorneys have an expertise in every type of bond issue as well, including voted and non-voted bonds. Our attorneys have served as bond counsel for transactions involving the issuance of tax credit bonds as well as many complex refunding bonds utilized to refinance existing debt. In addition, our finance attorneys frequently assist clients with installment and lease purchase agreements issued to finance the acquisition of equipment, including school buses, computers, copiers and other equipment.

Thrun Law Firm counts among its recent and current clients for public finance services the majority of Michigan's local and intermediate school districts, the State of Michigan and its agencies, universities and community colleges, as well as various counties, cities, villages, townships, and drainage districts and other governmental entities.

Unlike some bond counsel firms, Thrun finance attorneys remain committed as bond counsel from the time of issuance through maturity without any additional or ongoing charges to our finance clients (with the exception of litigation or other more complex matters that may arise). We take the view that the one-time bond counsel fee covers the life of the obligation, whether five years or 30 years, which results in significant savings to our clients, as we frequently provide guidance and assistance with compliance matters and other questions. Our clients know they can call us any time with finance-related questions without the fear of having the "meter" running.

In addition, since it was founded in 1946, Thrun Law Firm has regularly represented school district clients regarding school elections. With the large number of school elections handled by our firm over the past seven decades, our attorneys have a unique historical perspective, and have addressed most legal issues pertaining to school election law. Such expertise has established the firm's reputation in Michigan as the most experienced and knowledgeable law firm for school election law, including such matters as general operating millage, hold harmless millage, Headlee rollbacks, board member vacancies, consolidation and annexation and other school election matters. In even-numbered years, when school districts have their regular elections, Thrun Law Firm typically represents more than 200 school districts on election matters.

Our election attorneys regularly advise on matters related to the Campaign Finance Act and frequently assist clients with navigating this ever-changing area of law that can often involve inadvertent and seemingly innocuous violations of Campaign Finance Act to avoid not only potential penalties, but also the public controversy that may negatively impact an important election.

As a courtesy and routine service to our election clients, Thrun's election attorneys send out annual reminders related to upcoming deadlines, millage renewals and up-to-date information related to guidance published by the Secretary of State on election matters and other changes in the law impacting election and Campaign Finance Act matters.

Thrun Law Firm also assists clients in resolving election related disputes or challenges when those arise. Such resolutions often include representing our election clients with responding to complaints before administrative or state agencies having jurisdiction, as well as matters involving the need for litigation.

4. Real Estate and Taxation

Thrun Law Firm's attorneys have represented numerous Michigan public schools in real estate transactions, including land and/or buildings. Many of these real estate matters have required our attorneys to counsel school officials regarding federal tax implications of selling/disposing of school buildings because tax-exempt bonds are still outstanding.

We also have significant expertise with respect to environmental law and regulations as such matters relate to school district property. Our activity in utility law is also significant. For example, we have represented several clients on utility franchise issues.

Thrun Law Firm has successfully represented dozens of school clients that have been sued by taxpayers or taxpayer associations over tax levies, tax base sharing, Headlee claims, tax allocations, bond debt levies, tax exemption issues, refund procedures, Michigan Tax Tribunal procedures and jurisdiction, and many other aspects of the constitutional and statutory framework for school and municipal taxation.

Our attorneys have represented both municipalities and individual property owners in the Michigan Tax Tribunal and in the courts on issues relating to property assessments, tax collections, and tax levies. Our firm has significant experience in representing public school clients in condemnation proceedings and the acquisition of land necessary for school district purposes.

5. Business Contracts, Construction, and Transactions

Thrun Law Firm attorneys handle the wide-array of legal issues that typically arise in the school business office setting, from contract negotiations to competitive bidding issues.

Our business/transactional attorneys have extensive experience in all aspects of school construction projects. This experience includes everything from involvement with respect to payment and performance bond issues, preparing requests for proposals for various professional services or purchases to representing schools in construction-related disputes.

We regularly negotiate contracts for architectural, engineering, and construction management services. Our construction law attorneys also negotiate energy performance contracts and remain keenly aware of the laws and unique issues related to such projects. Those attorneys have assisted clients in resolving conflicts that often arise on large and complex construction projects, including representing clients in arbitration and litigation.

Our transactional attorneys frequently advise schools on all aspects of purchasing, from developing or revising current purchasing policies to drafting agreements for the purchase of supplies and equipment. In addition, with respect to equipment purchases, including technology related agreements, our attorneys work closely with our finance attorneys to handle every aspect of the transaction, which includes the financing of an equipment purchase. To that end, our finance attorneys prepare and review lease and installment purchase agreements for the acquisition of such equipment.

In short, our transactional attorneys have assisted in the negotiation of nearly every form of business contract encountered by Michigan public schools. We have worked extensively on drafting agreements and meeting other legal obligations related to outsourcing non-instructional services, pupil transportation, telecommunications related contracts, lease agreements and more.

6. Labor and Employment

Employee Contracts

We regularly draft and evaluate individual employment contracts in light of requirements under existing board policy, labor contracts, and state and federal law. Additionally, we provide full service to schools in all matters of employee discipline. We represent schools in due process hearings before the board of education, as well as in mediation, arbitration, and administrative hearings.

Labor Arbitration

We represent schools in all steps of the grievance process. We also represent schools in litigation seeking to vacate or enforce arbitrator awards. Our labor attorneys have significant experience with all aspects of labor arbitration, including selecting arbitrators and communicating with tribunal representatives from the American Arbitration Association, the Federal Mediation and Conciliation Service, and other like entities.

Tenure

We have significant experience working with school officials to discipline and discharge teachers in compliance with the Michigan Teachers' Tenure Act. We regularly appear before the State Tenure Commission (STC) and Michigan Appellate Courts. Previous matters include the following:

- *Baumgartner v Perry Pub Schs*, 309 Mich App 507 (2015). We defended the school district before the Michigan Court of Appeals on the issue of whether the STC has jurisdiction over teacher layoffs in light of the 2011 education reform legislation. The Court of Appeals agreed with our position, ruling that the STC did *not* have jurisdiction for teacher layoff/recall issues.
- *Ranta v Eaton Rapids Pub Schs*, 271 Mich App 261 (2006). Teachers sued the school district alleging that its cap on health insurance premiums constituted a reduction in wages, and that wage reduction amounted to a demotion under the Tenure Act that was without just cause. The court ordered that the case be dismissed by the STC. The school board's cap on its payment of health insurance premiums did not result in the teachers being demoted under the Tenure Act. Because there was no demotion, the STC lacked jurisdiction as PERA controlled instead.
- *Oates-Ulrich v Okemos Schs*, 163 Mich 587 (1987). We defended the school district's position that a school psychologist and social worker were not protected under the Tenure Act.
- *Beebee v Haslett Pub Schs*, 406 Mich 224 (1979). This decision established the initial parameters for a finding of teacher incompetency, many of which are now reflected in the 2011 teacher evaluation legislation.

Our firm's efforts on behalf of school clients before the STC have included the following:

- *Clare Pub Schs, STC 18-3 (2018)*. Seeking clarification on the STC's interpretation of the Teachers' Tenure Act, our firm requested that the STC issue a declaratory ruling whether a district could grant a probationary teacher more than five years to obtain tenure if the teacher is not rated "effective" or "highly effective" in each of the teacher's last three school years. The STC concluded that a district could grant such a teacher more than five years.
- *Mertz v Byron Center Pub Schs, STC 17-9 (2018)*. The school district's discharge of a teacher was upheld after we established his incompetency, dereliction of duty, and insubordination.
- *Lefebvre v Norway-Vulcan Area Schs, STC 18-1 (2018)*. The STC upheld a district's discharge of a teacher after we established that the teacher violated the Child Protection Law by not immediately reporting child abuse and violated district policy by not notifying a student's parents that the student was cutting herself.
- *Hill v Potterville Pub Schs, STC 16-14 (2017)*. The school district discharged a teacher for dragging a student on the ground and emailing embarrassing photos of students to former co-workers. The STC found that discharge was supported by a reasoned explanation that had properly taken into account the teacher's positive contributions to the school.
- *Purdun v Ionia Pub Schs, STC 16-5 (2017)*. The school district discharged a teacher after she went on a profanity-laced tirade in front of students and left during the school day. The Administrative Law Judge found that the charges were proven but suggested that discipline less than discharge was appropriate. After we appealed, the STC upheld the discharge as not arbitrary or capricious.
- *Whitley v Cadillac Area Pub Schs, STC 13-41 (2014)*. The school district discharged a teacher who was arrested twice in a short time period for drunk driving. Both the Administrative Law Judge and the Tenure Commission held that the teacher's actions adversely impacted the school and were contrary to her responsibilities as a teacher.
- *Bowers v Hastings Area Sch, STC 11-54 (2012)*. The school district discharged a teacher based on an act of sexual misconduct that involved a student from over 20 years prior. After a lengthy hearing, both the Administrative Law Judge and the STC upheld discharge.

PERA/Michigan Employment Relations Commission

Our firm's labor attorneys have extensive experience with issues related to the Public Employment Relations Act (PERA). Our firm provided technical advice to the Governor and Michigan Legislature on amendments to PERA in the early 1990s and has continued to do so with the 2011 education reform legislation and the recent amendments to teacher evaluation legislation. The following is a representative example of the cases in which our attorneys represented school clients before the Michigan Employment Relations Commission (MERC) and Michigan Appellate Courts:

- *Mich Educ Ass'n v Vassar Pub Schs*, Mich App No. 337899 (May 22, 2018). The union attempted to arbitrate the school district's decision not to recall a laid off teacher, and the school district filed an unfair labor practice against the union. Both MERC and the Michigan Court of Appeals rejected the union's argument that the collective bargaining agreement only prohibited the union from challenging layoff/recall decisions that complied with board policy. Teacher layoff/recall decisions remained prohibited subjects under PERA regardless of the contract.
- *Ionia County Intermediate Educ Ass'n v Ionia County Intermediate Sch Dist*, Mich App No. 334573 (February 22, 2018). The Michigan Court of Appeals for the first time interpreted the prohibited bargaining subject of teacher discipline. The ISD issued a written reprimand to a teacher, and the union challenged the discipline under the collective bargaining agreement's "not arbitrary or capricious" discipline standard and under due process. The court agreed with our position that teacher discipline applies to individual discipline as well as underlying disciplinary procedures used in an investigation.
- *Ionia Pub Schs v Ionia Educ Ass'n*, Mich App No. 325413 (May 12, 2016). A school district's collective bargaining agreement was expiring a month after Public Act 103 of 2011 expanded the list of prohibited bargaining subjects in PERA. The school district identified several provisions in its expiring contract as prohibited bargaining subjects and refused to include them in the successor agreement. The union brought an unfair labor practice charge against the school district. The Michigan Court of Appeals held that the union had no right to demand that the terms roll over into the successor agreement, and the charge was dismissed.
- *Shiawassee Intermediate Sch Dist Educ Ass'n and Shiawassee Regional Educ Service Dist*, Case No. CU 15 F-019 (January 12, 2016). The union insisted on discussing teacher discipline, a prohibited subject, by demanding to arbitrate a grievance seeking the school district's reasons for imposing discipline. MERC affirmed the Administrative Law Judge's finding that decisions concerning discharge encompass the formulation and implementation of disciplinary policies.
- *Calhoun Intermediate Educ Ass'n v Calhoun Intermediate Sch Dist*, 314 Mich App 41 (January 7, 2016). During bargaining, the union refused to remove contract terms that are now prohibited bargaining subjects under PERA of 2011. Because of this refusal, the ISD brought unfair labor practice charges against the union. MERC agreed with our argument that the union violated PERA by "unlawfully insisting" on retaining the new prohibited subjects of bargaining. MERC also found that the union's conduct violated its duty to bargain in good faith and impeded the bargaining process. The Michigan Court of Appeals affirmed.
- *Ionia Pub Schs and Ionia Educ Ass'n*, 311 Mich App 479 (July 28, 2015). In a case related to prohibited bargaining subjects, we defended a school district against unfair labor practice charges brought by the union. MERC ruled in favor of the school district, finding that it had no duty to follow provisions of an expired collective bargaining agreement for posting vacancies and holding a "bid-bump" meeting for assigning teachers because decisions regarding "teacher placement" are now prohibited bargaining subjects. The Michigan Court of Appeals affirmed.

- *Decatur Pub Schs v Van Buren Educ Ass'n*, 309 Mich App 630 (March 17, 2015). We represented a school district against the MEA's unfair labor practice charges stemming from the school district's attempts to comply with the Publicly Funded Health Insurance Contribution Act, Public Act 152 of 2011. MERC found that the school district had the right to impose the PA 152 "cap" option by the deadline. The Michigan Court of Appeals affirmed.
- *St. Clair Intermediate Sch Dist v Intermediate Educ Ass'n/MEA*, 218 Mich App 734 (1996), *aff'd* 458 Mich 540 (1998). The ISD sued the MEA and MESSA asserting that they had made unilateral changes in the terms and conditions of insurance without bargaining. The Court of Appeals ruled that MESSA was an agent of the MEA. The Michigan Supreme Court affirmed.
- *Mich State AFL-CIO v Mich Employment Relations Comm'n*, 453 Mich 362 (1996). We successfully represented the Michigan Association of School Boards in the defense of Public Act 112 of 1994, which provided for broad amendments to PERA, including the addition of prohibited bargaining subjects unique to public schools.

Collective Bargaining/Negotiations

Our labor attorneys engage in collective bargaining negotiations as their primary practice focus. Serving as chief spokesperson for the board of education, each of these attorneys will typically negotiate 10 or more labor agreements per year (for both teachers and support staff). We also frequently provide clients with proposals/counter-proposals and contract language in circumstances where our attorneys are not directly negotiating at the bargaining table.

We provide legal assistance to our clients about all aspects of labor contract administration, including employee discipline, discharge, and layoff and recall.

Employment Discrimination and Regulation Issues

Our labor attorneys frequently advise clients about employment regulation issues, including occupational health and safety. Our attorneys involved in these matters maintain an expertise in OSHA, MIOSHA, and Department of Labor rules and regulations. Our labor attorneys are also well-versed in the complex legal requirements, both state and federal, related to wage and hour issues and unemployment compensation.

We have also developed expertise navigating the Michigan Employment Security Act and advocating on our clients' behalf to the Michigan Unemployment Insurance Agency. These activities include representing clients in eligibility determination hearings before administrative law judges and appealing eligibility determinations to the Michigan Compensation Appellate Commission.

7. Special Education

Thrun Law Firm provides extensive advice and counsel to clients in all aspects of special education, Section 504, and disability law, including such issues as accommodations, auxiliary services, IEPs, student discipline, *Honig* injunctions, manifestation determinations, transition, graduation, athletics, compensatory education, student records, least restrictive environment, transportation, and cooperative agreements. In addition, the firm's attorneys represent clients in due process hearings, IEP team meetings, and mediation, as well as before the Michigan Department of Education and the U.S. Department of Education's Office for Civil Rights.

The firm has successfully represented Michigan schools in several high profile special education cases before the United States Supreme Court, United States Court of Appeals, (Sixth Circuit) and Michigan federal and state courts, including *Waterman v Marquette-Alger Intermediate Sch Dist*, *Dong v Bd of Ed of the Rochester Cmty Schs*, *Burilovich v Bd of Ed of the Lincoln Consolidated Schs*, *Sabin v Greenville Public Schs*, and *Soraruf v Pinckney Cmty Schs*.

Additional examples of special education cases handled by Thrun Law Firm include:

- *Lang v Oakridge Pub Schs*, Case No. 1:18-cv-284 (WD Mich, 2019): Parents of ASD student sued school in federal court, alleging discrimination, harassment, and a failure to provide accommodations to the student, in violation of the ADA and Section 504. Although the parents did not allege a violation of the IDEA, the court dismissed the parents' claims for failing to exhaust their administrative remedies under the IDEA. The parents, who admitted the student was a student with a disability under the IDEA in their complaint, could not avoid the IDEA's exhaustion requirement by filing claims under the ADA and Section 504, where the crux of the claims was that the school failed to provide FAPE to the student.
- *Monroe County Intermediate Sch Dist*, 119 LRP 6611 (2019): Deaf student with Down syndrome was placed in afternoon ECSE classroom. Student's father believed student should be placed in morning ECSE classroom. Student's father also was aggressive towards staff and behaved poorly in IEP meetings and at school. After several outbursts, the school placed restrictions on father's presence in the school building. The ALJ held that these restrictions did not limit the father's ability to access the student's teachers or discuss the student's progress, evaluation, placement, or services. The ALJ also held that the student's IEP could be carried out in the morning or afternoon sessions, but that the afternoon session was more appropriate because the student was demonstrating progress in that section.
- *Van Buren Pub Schs*, (2018): Student with a physical impairment engaged in sexual activity on a school bus and falsely reported that the activity was nonconsensual. The student was expelled after the MDR team concluded that her behavior was not a manifestation of her disability. After an expedited due process hearing, the ALJ upheld the MDR team's decision, noting that the team considered all relevant information, including an outside medical report and the student's disciplinary record, and that the parent (the only witness who believed the student's misconduct was a manifestation of her disability) did not meet her burden of proof.

- *River Valley Sch Dist*, 73 IDELR 82 (2018): School implemented several strategies and supports for a student with multiple medical diagnoses, including a safety plan that provided a 1:1 aide for certain periods of the school day, to prevent the student from putting items in her mouth. The ALJ rejected the parents' request for a full-time 1:1 aide, finding that the parent provided no proof to overcome the school's evidence that the existing supports worked and that the IEP, without a full-time 1:1 aide, provided the student a FAPE.
- *Battle Creek Public Schs*, 114 LRP 4823 (2013). The school district properly determined that a student with behavioral difficulties who had previously been found eligible in an out-of-state district was not special education eligible. The hearing officer agreed with the school district that the student was exhibiting normal adolescent behavior that was not indicative of a disability.
- *Dick-Friedman v West Bloomfield Pub Schs*, 427 F Supp 2d 768 (ED Mich, 2006). In this "mainstreaming" case, the school district placed a student with Down syndrome half time in a general education setting and half time in a segregated categorical classroom, despite his mother's desire that he be placed full time in general education. The court dismissed the student's claims, affirming the hearing officer's determination that any social benefits gained by attending classes in the general educational setting full time were outweighed by the student's inability to achieve his educational goals in that setting.

8. Vocational Education

Our attorneys are experienced in providing school officials with guidance and advice regarding vocational education programs and projects. Our finance and election attorneys are also experienced with vocational education financing, including related millage and election issues. As our clients are keenly aware, vocational and technical education training programs continue to receive more and more attention in the State of Michigan as demand for such programs continues to grow. In addition to assisting our clients with funding, our attorneys remain current on the rules and regulations applicable to such programs and assist clients in drafting agreements in this growing area of law.

9. Federal Programs

Thrun Law Firm regularly advises clients on a broad range of federal programs relevant to Michigan public schools. Thrun Law Firm attorneys have advised clients on matters related to Title I and Title IX compliance, the McKinney Vento Act, National School Lunch Program, E-Rate Funding as well as a myriad of grants and financial assistance offered through the U.S. Department of Education and other federal agencies.

10. Student Matters

Thrun Law Firm provides advice and counsel to public school clients on a regular basis on a wide variety of student issues such as pupil accounting, student speech, transgender students, bullying/harassment, confidentiality and release of student records (FERPA), religion in schools, athletics and extracurricular activity eligibility, graduation, search and seizure of student property, drug testing, and child protection laws. Our attorneys also provide guidance to schools on student discipline issues on a daily basis. These issues include handling threats, assaults, and other code of conduct violations, issuing suspensions and expulsions, and implementing restorative practices.

Thrun attorneys are also well-versed in Title IX law, conducting investigations into staff-to-student and student-to-student sexual harassment and criminal sexual conduct, and advising clients on discipline, remedial measures, documentation, reporting, and training. Additionally, four Thrun attorneys are Association of Title IX Administrators (ATIXA) certified Civil Rights Investigators. Finally, our attorneys draft and review student handbooks, student codes of conduct, and board policies and procedures related to these issues.

The firm has successfully represented Michigan school districts before state and federal courts in several high profile cases involving disciplinary actions taken by a board of education against a student, and other student related issues. In *Paredes v Curtis*, 864 F2d 426 (1988), Thrun Law Firm represented the district against a student who challenged the school district's refusal to disclose the names of witnesses who testified against the student at the student's expulsion hearing. The Sixth Circuit ruled in favor of the district, holding that it did not need to disclose names of student witnesses. Additionally, in *Davis v Hillsdale Cmty Schs*, 226 Mich App 375 (1997), Thrun attorneys successfully defended a school district's policy that mandated expulsion for the possession of a BB gun on school grounds. Although state law required students be expelled for possessing a dangerous weapon on school grounds, it did not include a BB gun in the definition of a dangerous weapon. The court in *Davis*, however, agreed with Thrun's attorneys and upheld the district's policy and authority to expel a student for possessing a BB gun on school grounds.

Additional student issues cases recently handled by Thrun Law Firm include:

- *Callahan v Hartland Consolidated Schs*, 2013 US Dist LEXIS 17228 (ED Mich, 2013). A student, allegedly suffering from post-traumatic stress disorder, became unruly at a high school football game, was tackled and arrested by the school district's liaison officer, and ultimately pled guilty to disorderly conduct. The student sued the school district for constitutional violations, alleging that the school district's failure to train employees in crowd control led to excessive force being inflicted upon him and demonstrated an alleged custom of tolerating or acquiescing to federal rights violations. The court sided with the district and concluded that the student's claims were factually unsupported.
- *Glowacki v Howell Pub Sch Dist*, 2013 US Dist LEXIS 85960 (ED Mich, 2013). A student sued the school district, alleging that its anti-bullying policies violated his First Amendment right to speak out against homosexuality, which he asserted was based upon religious belief. The court found that the school district's policies balanced the need to protect individual students from bullying, while maintaining the equally important goal of fostering expression of diverse opinions in the classroom. Judgment was entered in the school district's favor.

11. Telecommunications and Technology Law

Thrun Law Firm routinely assists clients in telecommunications matters, including drafting cell tower leases, fiber leases, co-lash agreements, and excess fiber optic capacity agreements. Due to the importance of federal E-Rate funding for school technology services and projects, Thrun Law Firm attorneys often advise clients on the nuances of the E-Rate regulations and draft vendor contracts for qualifying projects and services.

Thrun Law Firm attorneys have negotiated and drafted numerous intergovernmental, cooperative services, and technology agreements on behalf of its public school clients. Our attorneys have worked on such projects as wide area network agreements between intermediate school districts and service providers, internet service agreements, consortia and cooperative agreements, and agreements between and among school districts, as well as between school districts and other municipalities/governmental entities regarding services and facilities.

In addition, Thrun Law Firm also has broad experience in representing clients in negotiating technology designer agreements, technology purchases and bidding, service provider and technology management contracts, hosting agreements, and wide area network agreements. Thrun Law Firm has drafted contracts for clients on several matters related to the State of Michigan's Technology Readiness Infrastructure Grant and advised clients of relevant legal considerations.

12. Security and Privacy

Thrun Law Firm attorneys regularly counsel school officials regarding student and employee privacy matters. By representing Michigan public schools, Thrun Law Firm attorneys regularly provide legal advice on FOIA exemptions related to privacy and permitted and non-permitted disclosures of student records under the Family Educational Rights and Privacy Act (FERPA). Thrun Law Firm has also drafted policies addressing the intersection of FERPA with other privacy laws such as Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Individuals with Disabilities Education Act ("IDEA").

Similarly, Thrun Law Firm attorneys have assisted technology directors and other school officials to navigate the requirements of the Children's Internet Protection Act ("CIPA") and the Children's Online Privacy Protection Act ("COPPA"), which includes the creation of a compliant internet safety policy and acceptable use agreement for technology resources. Virtually all Thrun Law Firm labor and student issues attorneys routinely advise clients on the Michigan Internet Privacy Act ("MIPA"), particularly as it relates to student and employee discipline.

Technology has rapidly changed data management and security and Thrun Law Firm has kept the pace. Our attorneys have presented on data security liability and data breach response laws such as the Identity Theft Protection Act, the Michigan Data Breach Notification Act, and the Michigan Social Security Number Privacy Act. Thrun Law Firm attorneys also have reviewed credit card merchant agreements that incorporate the Payment Card Industry Data Security Standards and have advised clients regarding those requirements.

13. Immigration

While Thrun Law Firm does not specialize in immigration law as a practice area, our attorneys have a solid understanding of immigration matters directly impacting public schools as well as the experience to determine when a matter requires referral to an attorney outside of our firm specialized in the complexities of immigration law.

In recent years, Thrun Law Firm attorneys have assisted several clients with immigration issues as they relate to public schools, including issues related to F-1 student visas and public school admissions. Thrun Law Firm attorneys have assisted several clients with matters involving the intersection between public school education and immigration. We have advised school clients on the enrollment of foreign exchange students and individuals with F-1 student visas, the prohibitions against discrimination based on race or national origin, and the corresponding prohibitions against adopting

policies or procedures that discourage access to a free public education based on immigration status. We have also advised school officials on the U.S. Immigration and Customs Enforcement (ICE) “Sensitive Location Enforcement Policy.”

14. Copyright and Intellectual Property Law

Especially in recent years, Thrun Law Firm has provided clients with advice and guidance with respect to a myriad of intellectual property law issues. For example, Thrun Law Firm's attorneys have assisted school officials with copyright, trademark, and licensing issues related to school mascots and logos, including the marketing of merchandise and other products bearing school logos. In addition, our attorneys have represented school clients with respect to challenges made by third parties regarding trademark/copyright claims related to school logos and other matters. Our attorneys have also assisted school officials with licensing matters related to movies, videos, and music, including licensing issues related to performing arts centers and performances. Our attorneys are cognizant of the complex legal issues related to intellectual property matters within the context of public schools.

15. Government and Public Affairs

As detailed in the firm's history (see **Attachment 1**), Thrun Law Firm has a long tradition of advising the legislature on school-related legislation. Thrun Law Firm was intimately involved in the creation of the School Code of 1955, the School Code of 1976, and the Revised School Code of 1996. Thrun Law Firm also advised the legislature on the 1993 and 2011 amendments to the Teachers' Tenure Act and the 1994 and 2011 revisions to the Public Employment Relations Act. Thrun Law Firm collaborated with a Michigan intermediate school district to create Public Act 105 of 2011, which allows an ISD superintendent to serve as the superintendent for a constituent school district. Thrun Law Firm's finance attorneys had significant involvement in the legislature's changes to the Michigan School Bond Qualification and Loan Program, recommending modifications and clarifications for the benefit of our school district clients. In addition, our attorneys assisted in revising Public Act 152 of 2011, which implemented the “80/20” and “hard cap” contribution limits for public employer health care contributions.

16. Litigation

Thrun Law Firm's attorneys have extensive litigation experience in all state and federal courts. Our litigation experience covers nearly every area of school law listed above, including but not limited to discrimination and employment matters, student due process, construction and finance litigation, appeals from administrative agencies, challenges to the Freedom of Information Act and the Open Meetings Act, election law challenges and insurance defense litigation. Our attorneys have experience practicing before state and federal appellate courts, including the Michigan Supreme Court and the United States Supreme Court.

On October 7, 2008, the federal Sixth Circuit Court of Appeals issued a favorable decision in a significant case handled by Thrun Law Firm on behalf of a public school client. In *MAL v Kinsland*, 543 F3d 841 (CA 6, 2008), the Sixth Circuit ruled that school districts may impose reasonable, content-neutral restrictions on student expression in schools. In so ruling, the court reversed the United States District Court for the Eastern District of Michigan, and ruled contrary to several other district courts around the country, which held that student expression during non-instructional time may be regulated only when it is disruptive, or the district reasonably expects substantial disruption to occur. This ruling restores to school officials significant authority to regulate student behavior before disruptive events occur.

For example, Thrun Law Firm attorneys handled a school funding case under the Headlee Amendment to the Michigan Constitution that resulted in a recovery for our clients, reached in July of 1997, in an amount in excess of \$211 million. Our clients in that suit recovered \$3.6 million from the State of Michigan in the spring of 1998.

Additionally, we have represented the State of Michigan as special Assistant Attorney General in the milk and bus anti-trust cases pursued in the 1990's which resulted in a successful settlement on behalf of numerous Michigan school districts.

The firm frequently provides representation to public school clients at all levels of state and federal government forums, including the Michigan Department of Civil Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights and all levels of state and federal courts including the United States Supreme Court.

In 1986, we successfully defended a Michigan public school district before the United States Supreme Court in *Stachura v Truskowski*, 477 US 299 (1986). In that case, the trial court had found that the school district improperly placed a teacher on an indefinite suspension with pay pending an investigation. Our firm was engaged by the insurance carrier less than two months before the scheduled trial date and was engaged to handle the appeals from an adverse jury verdict based upon instructions approved by the trial judge (over our objections). We were successful before the Supreme Court in overturning the lower court rulings which found the school district liable for substantial monetary damages.

Also, in *Cesaro v Lakeville Cmty Sch Dist*, 953 F2d 252 (CA 6, 1992), our firm successfully represented the school district on appeal to the Sixth Circuit Court of Appeals and overturned a trial court's ruling in favor of the plaintiff, an award in excess of \$200,000 against the school district. The plaintiff alleged that she had been discriminated against based upon her gender when denied a promotion.

17. Educational Foundations and Charitable Giving

Our attorneys have significant experience with establishing educational foundations and advising school officials on the relationship that exists between the school district, as a governmental entity, and educational foundations as a separate non-profit organizations. Our attorneys are able to provide the necessary guidance and outline the specific steps that must be taken in order to create an educational foundation, including assistance with drafting bylaw and providing guidance on filing requirements.

Once established we are able to advise school officials on working with such entities, including the legal parameters that must be respected between the school district and such separate non-profit organizations. These matters have become of increased interest in recent years as parents, community members and other interested parties often consult with or look to school officials for guidance on establishing entities such as educational foundations, as a means to provide outside support to the school district.

Our attorneys have familiarized themselves with the relationship that exists between such separate non-profit organizations and the school district and are able to assist school officials in establishing a positive working relationship while understanding and respecting the legal boundaries that exist between such third parties and the school district itself. To that end, we have assisted school officials with setting boundaries, including revisions to school policy and administrative guidelines to

better define the relationship that exists. Our attorneys are experienced with drafting agreements related to educational foundations and advising clients regarding the use and expenditure of gifted funds.

Related to such matters, our attorneys are also vastly familiar with the issues that often arise with parent or community support groups, including booster clubs, PTAs and PTOs, and are able to assist districts with resolving or avoiding potential issues that may arise by advising both parties of the legal limitations that govern such entities. Our attorneys have presented to both school officials and, at the request of our school district clients, to parent support groups on practical advice and guidelines, the importance of such groups developing bylaws and understanding the legal boundaries that exist between such entities and the school district in order to preserve or develop a positive working relationship.

18. Insurance

For many years, Thrun Law Firm P.C. has been appointed by various insurance companies to serve as insurance counsel for, and to represent the interests of, school districts. Although the firm is appointed and paid by the insurance company, the client is still the board of education. The firm has successfully handled student issues, litigation, special education matters, appeals, and many other matters as insurance counsel for school districts.

19. State Capital Outlay Requirements

Our attorneys have special expertise in all aspects of public bidding and purchasing, including drafting and review of policies, legal interpretation, fact-specific compliance analyses, implementation of procedural safeguards, and resolution of disputes. A complete and thorough understanding of the various public bidding laws and their nuances is necessary to provide superior service and creative solutions. Our long history of almost-exclusively representing public bodies uniquely qualifies us to expertly handle a client's bidding and purchasing needs.

20. Pupil Accounting and State Aid

Our attorneys have significant experience advising school officials on State School Aid Act requirements, handling pupil accounting appeals, and challenging MDE State Aid deductions.

C. Individual Attorney Profiles

Subject to your approval, we propose that the following Thrun attorneys be designated as the primary (but not necessarily sole) contacts for your Board of Education with respect to their practice areas:

Raymond M. Davis - Labor and Employment, General Counsel

Cristina T. Patzelt – General Counsel, Student Matters, Litigation

Christopher J. Iamarino - Bonds, Finance, Elections, Construction

Michele R. Eaddy – Special Education, Student Matters, General Counsel

The above-listed attorneys' biographies are included with this Proposal as **Attachment 4**. Biographies for Thrun's other attorneys can be found on our website at www.thrunlaw.com/attorneys. Thrun Law Firm has a "deep bench" of attorneys experienced in and knowledgeable regarding all facets and practice areas of school and education law.

Experience has shown that our clients are best served by the assignment of a team of experts from various practice areas, in particular when serving in the role of general counsel to a public school board of education. Pursuant to your request for proposal, Thrun assures Grosse Pointe Public Schools that the above attorneys will be the primary contacts for the Board of Education for each respective area of expertise.

It is our practice to assign individuals from each practice area to ensure that our clients are aware of who they may contact for a particular issue. In our opinion, this method best assures continuity, so that Board of Education will be served by the same attorney for common legal issues.

Please note that the above proposed primary contacts for your Board of Education are suggestions, and it remains our firm's practice to honor a client's request to work with attorneys of their choosing. As such, should the Board of Education desire to work with a particular Thrun attorney who is not identified above, that request will be accommodated.

While we are confident that the above-identified team will be more than adequate to serve Grosse Pointe Public Schools' needs, in the event that a unique issue arises that the contact person(s) assigned is unfamiliar with, the matter will be directed, with your consent, to another attorney in the office with the requisite expertise.

In short, the Board of Education will have the ability to choose which Thrun Law Firm attorney(s) it desires to work with on specific projects. We are confident that Thrun Law Firm will have an attorney with the appropriate experience and expertise available to assist the Board with any legal issue that arises.

D. Firm References

You are welcome to contact any of the following Thrun school clients for further information about our law firm, attorneys, and qualifications:

Northville Public Schools

Phone: (248) 344-3500

Novi Community Schools

Phone: (248) 449-1200

West Bloomfield School District

Phone: (248) 865-6420

L'Anse Creuse Public Schools

Phone: (586) 783-6300

In addition, attached to this Proposal as **Attachment 2** is a list of Thrun Law Firm's current retainer clients, most of which have been clients of the firm for many years and, in most cases, decades. We encourage you to contact any of our school clients to inquire as to our qualifications, availability, and any other questions that you may have with reference to our firm's reputation and ability to provide your Board of Education with the services that you require and expect.

E. Firm Philosophy

Thrun Law Firm's attorneys believe that the five indispensable components of quality legal representation are knowledge, skill, communication, availability, and reasonable cost. Ready access to, and timely responses from, attorneys are a priority of our firm and a rightful expectations of clients. Simply stated, clients ask questions because they need answers quickly and in plain English. A delayed response from legal counsel is often little more useful than no response at all.

Our attorneys frequently respond to matters of urgency and address such matters with immediate attention, understanding that such circumstances are not uncommon in the public school setting. We commit to provide the Board of Education with prompt and effective legal services to your specifications, requirements and satisfaction.

Our attorneys have encountered nearly every conventional issue facing boards of education and Michigan public schools, allowing us to draw upon that knowledge base to respond to routine inquiries without delay. When a specialized or more complex matter arises, we are able to utilize the expertise of 29 school law attorneys to provide a timely and well-reasoned response. Our firm's extensive expertise in a wide range of practice areas often alleviates the need to consult with outside counsel, thereby reducing legal expenses for many clients.

Thrun Law Firm maintains up-to-date and state of the art systems, including voicemail, email, and facsimile systems, and direct dial phone service to the desk of each attorney. Each attorney is assigned a highly trained legal assistant to ensure client accessibility. While we prefer to meet with clients personally, and frequently attend school board meetings, our firm is equipped for video or teleconferencing when the need arises.

As general legal counsel to the Board of Education, as the school district's governing body, it is our responsibility at all times to represent the Board's interests in the legal matters with which it is confronted. To that end, our attorneys are available for contact at any time by those designated by the Board of Education to obtain legal counsel and services.

F. Fees and Billing Practices

The 2023 hourly billing rates for Thrun Law Firm's *non-retainer clients* are:

Shareholders	\$340
Senior Associates	\$320
Associates	\$300

For 2023, the hourly billing rates for Thrun Law Firm's *retainer clients* are:

Shareholders	\$300
Senior Associates	\$280
Associates	\$250

We will provide retainer services to our clients for an annual retainer fee of \$2,500 for the 2023 calendar year.

Our annual retainer letter (the 2023 version of the letter is attached for your reference as **Attachment 5**) establishes an attorney-client relationship with our firm and covers our billing rates and practices. The retainer letter also details the many benefits of establishing a retainer client relationship with our firm. For example, our hourly fees are much lower for retainer clients, and retainer clients are not charged for occasional brief telephone calls. In addition, retainer clients are invited to attend the Thrun Law Firm annual webinars each spring, which are half-day presentations by our attorneys regarding current legal topics of interest.

Our annual retainer fee offers our clients a relatively low initial financial commitment for legal costs, in comparison to many other law firms that require a larger retainer fee that results in a significant “upfront” cost and thus limits a client’s ability to control its overall legal expenses. We believe that a fee structure that involves a low annual retainer fee, combined with reasonable hourly rates, provides the best cost containment mechanism for public schools.

Further, as mentioned above, our retainer clients are not billed for occasional brief telephone conversations. As a result of our focus on school law, our attorneys are often able to provide clients with immediate answers to many legal questions without the need for extensive research and costly opinion letters. Consequently, we address many legal concerns for our retainer clients at no additional cost. For many of our retainer clients, the value of that service alone far exceeds the annual retainer fee.

The firm’s standard billing procedure is to submit bills for fees and expenses on a monthly basis. The billing statements are itemized by date and contain a description of services provided on each date. Billing statements also identify the attorney performing the services described and the time expended by that attorney in providing each service. Attorney time is billed in minimum increments of one-tenth (0.1) of an hour, except as noted above. As such, Thrun Law Firm will provide Grosse Pointe Public Schools with detailed monthly billing statements that itemize legal expenses by attorney, legal issue/matter, time spent on the issue/matter, time spent in court, and time spent on general legal work and tasks, as well as other relevant billing details.

Our attorneys will typically conduct their own research, prepare legal opinions, prepare routine motions, coordinate discovery, and meet with witnesses. In some complex cases which require unusual amounts of preparation, a second attorney within our office may be utilized. However, we strive to minimize the number of attorneys working on a given assignment to avoid duplication of effort and to control the fees billed to our clients.

Thrun Law Firm bills out-of-pocket expenses on an actual cost basis, including the cost of filing fees, court reporter fees, mediation fees, service of process, and related services for litigation support. We typically bill for electronic/computer legal research, although we are willing to negotiate the parameters of same. For expert witness fees, as well as other major expenditures, we obtain approval from the client before incurring the expense. Generally, copying costs are not billed unless they are related to a specific court case or are voluminous in nature. A quote for miscellaneous costs is available upon request. Please also see **Attachment 6**, which contains information about client fees and chargebacks.

G. Contract

Thrun Law Firm has not utilized formal contracts with respect to the representation of our public school clients. Our services are generally provided under the terms and provisions of this document and our annual retainer letter (see **Attachment 5**) for those clients that wish to take advantage of the benefits of a retainer relationship. The retainer letter and the client fee and expense chargeback information (see **Attachment 6**) outline our fees and general terms of service for both retainer and non-retainer clients. It has been our experience that utilizing a formal contract is not in the best interest of our clients, as clients are free to terminate services at any time.

While we do not normally use a formal contract to establish an attorney-client relationship, we are willing to discuss that issue and the terms of such a contract. We believe that such a contract may be more appropriate for the engagement of our firm with respect to certain legal matters, such as specific litigation, rather than to establish the general attorney-client relationship between the Board of Education and Thrun Law Firm. Again, however, we are open to discussing a contract and the specific terms thereof.

H. Insurance and Bonding

Please see **Attachment 7** for verification of our professional liability coverage and insurance information. Our current professional liability coverage limits are \$5 million per claim, and \$5 million in aggregate. We have maintain those coverage limits for many years. Should you have any questions related to our insurance coverage or other liability matters, please do not hesitate to contact us.

I. Additional Information

1. Support of K-12 Public Education

Thrun Law Firm attorneys frequently present on school law issues, from in-depth coverage of specific topics to broad school law updates that provide clients with an overview of recently enacted legislation, court decisions, attorney general opinions and other published guidance. Such presentations are in addition to our annual spring webinars, which are provided at no charge to our retainer clients.

Our attorneys frequently present at local and intermediate school districts as well as nearly every professional organization dedicated to Michigan public school districts and education, including but not limited to:

- Michigan Association of School Boards
- Michigan Association of School Administrators
- Michigan School Business Officials
- Michigan Association of Secondary School Principals
- Michigan Association of Elementary and Middle School Principals Association
- Michigan Association of Administrators of Special Education
- Michigan Pupil Accounting and Attendance Association
- Michigan Association of School Personnel Administrators
- The Detroit Metro Bureau
- Michigan Negotiators Association
- Michigan Community College Association
- Michigan Community College Business Officers Association

For a recent example of our upcoming speaking engagements, please see **Attachment 8**, "Schedule of Upcoming Attorney Speaking Engagements," or visit our website at www.thrunlaw.com under the "Events" tab. In addition, Thrun Law Firm frequently provides in-services and client professional development events. Our attorneys are available to provide the Board of Education and other school officials with in-services, workshops and other professional development opportunities upon request.

In addition to our extensive support of educational organizations across Michigan through speaking engagements and related contributions, our firm contributes, on average, to more than 30 education foundations each year.

Further, as described in our firm history (**Attachment 1**), Thrun Law Firm has played a key role in advising the Michigan Legislature on legislation impacting Michigan public schools. Similarly, our attorneys are frequently consulted by Michigan Association of School Administrators (MASA), Michigan School Business Officials (MSBO), Michigan Association of School Boards (MASB), and many other organizations, for advice and input regarding pending legislation and other matters of critical importance to boards of education and public school districts.

2. Professional Development

Thrun Law Firm lawyers frequently present at workshops for staff at school districts and intermediate school districts to address specific professional development issues, including such topics as employee discipline, teacher evaluation, student discipline, search and seizure, school records, bullying and hazing, and personnel files.

3. Training, Newsletters, and Additional Retainer Client Benefits

Thrun Law Firm's dedication to school law and our substantial school client base permit us to offer a valuable and unique package of services to our retainer clients. In addition to lower hourly billing rates, a retainer relationship with our firm offers the following benefits:

- Brief Telephone Consultations

Retainer clients are not billed for occasional brief telephone conversations and other minor tasks. This service greatly benefits our retainer clients because our attorneys, as a result of their experience and focus on school law, are often able to provide answers and advice "on the spot" and without additional cost.

- Annual Client Webinars

Each spring, Thrun Law Firm conducts our annual client webinars, where Thrun attorneys present on legal issues of importance to public school officials. Registration for the webinars is free of charge to our retainer clients' administrators and board members. These webinars have been well attended each year by hundreds of school administrators and board members statewide.

- Monthly Newsletter and E-Blasts

Retainer clients also receive *School Law Notes*, a monthly newsletter containing current and important information regarding state and federal court and agency decisions, new legislation, opinions of the Attorney General, and Department of Education actions. See **Attachment 3** for a sample newsletter. Our newsletter is an excellent resource for “proactive” legal information that is useful for school officials and board members in their day-to-day functions. We also send prompt notices of important developments through “E-Blast” messages to retainer clients to alert school officials regarding important and urgent issues.

Respectfully submitted,

THRUN LAW FIRM, P.C.



Michael D. Gresens
Treasurer

Attachment 1

Thrun Law Firm History

Thrun Law Firm provides legal services to public schools and municipalities throughout the State of Michigan. Our history and background best illustrate what sets us apart from other law firms that practice law in the public sector. It is the firm's history of almost exclusively representing schools for over 70 years that benefits our school clients through effective and efficient legal representation, comprehensive and knowledgeable legal analysis of issues facing public education, and fair and cost-effective billing practices.

The present firm is a successor to the original firm founded by Fred M. Thrun in 1946. The practice originally focused on finance, school law and municipal charters. Caroline M. Thrun, Fred Thrun's wife, joined the firm in 1955 after leaving her 20-year post as Assistant Attorney General. She had also served as staff legal advisor to the Superintendent of Public Instruction for 10 years, and was responsible for educational matters throughout Michigan. Mr. and Mrs. Thrun were primarily responsible for drafting the School Code of 1955 and Mrs. Thrun was responsible for its revision in 1976.

Fred M. Thrun



Caroline M. Thrun



Robert M. Thrun joined the firm in 1959. He collaborated with Fred M. Thrun, his father, on the Community College Act of 1966. This legislation established the system of community colleges throughout Michigan. Together with James Maatsch and Thomas Nordberg, Robert Thrun continued the legacy of his parents in developing the firm's statewide reputation of being the premier school law firm, unmatched in its education law expertise.

Our near-exclusive focus on providing legal services to Michigan public schools has also allowed the firm to avoid some of the actual and apparent conflicts of interest faced by other law firms. It is not uncommon for some law firms to represent schools, while at the same time representing other clients (private businesses and contractors, for example) in adversarial matters against school districts. Thrun Law Firm has deliberately avoided such conflicts by making public schools the central focus of our practice.

While the firm's history is important for defining who we are as a law firm, it also demonstrates how this firm has continued to set the standard for legal representation of Michigan schools. For example, the firm, primarily through the efforts of Kevin Harty, provided technical advice to the Governor and Michigan Legislature on amendments to the Public Employment Relations Act. In 1996, the firm devoted

a substantial amount of its resources to provide technical advice to the Legislature when it made significant revisions to the Revised School Code. This service was provided at no cost to schools or to the Legislature.

Thrun Law Firm Today

Our firm has grown into a close-knit band of experienced attorneys, staffing our three branches in East Lansing, Novi, and Grand Rapids. Aside from our attorneys, we have dedicated support staff, some of whom have been with us for close to 40 years, who assist with keeping our clients satisfied.

Presently, our firm represents over 500 local and intermediate school districts, public school academies, colleges, and municipalities to whom we provide first rate legal services. Combined, our attorneys have more than 500 years of legal experience spanning almost every area of education and public sector law. You will be hard-pressed to find another firm with our level of expertise. Thrun Law Firm is unmatched in its ability to address all legal matters facing Michigan schools and local governments in a cost-effective and efficient manner.



Current Retainer Clients

Total Number of Retainer Clients: 540

0772 A.M.A. E.S.D.	0707 Berrien R.E.S.A.	0037 Cassopolis Public Schools	0840 Deckerville Community Schools
0086 Adams Township School District	0253 Berrien Springs Public Schools	0293 Cedar Springs Public Schools	3750 Delta College
0015 Addison Community Schools	2081 Bessemer Area School District	3156 Center Line Public Schools	0769 Delta-Schoolcraft I.S.D.
0025 Adrian Public Schools	0749 Big Bay de Noc School District	0247 Central Lake Public Schools	0320 Delton Kellogg Schools
0215 Airport Community Schools	0022 Big Rapids Public Schools	0008 Central Montcalm Public School	0816 DeTour Area Schools
0042 Akron-Fairgrove Schools	0257 Birch Run Area Schools	0108 Centreville Public Schools	3576 Detroit Premier Academy
0216 Alanson Public School	0023 Blissfield Community Schools	3807 Charlevoix Montessori Academy	3124 Detroit Public Schools
0777 Alba Public School District	2543 Bloomfield Hills Schools	0294 Charlevoix Public Schools	0624 DeWitt Public Schools
0080 Alcona Community Schools	0105 Bloomington Public Schools	0633 Charlevoix-Emmet I.S.D.	0325 Dexter Community Schools
1040 Algonac Community Schools	2008 Boyne City Public Schools	0038 Charlotte Public Schools	2347 Dickinson-Iron I.S.D.
0744 Allegan Area E.S.A.	0650 Boyne Falls Public Schools	0871 Chassell Township Schools	0865 Dollar Bay-Tamarack City A.S.
0224 Allegan Public Schools	0755 Branch I.S.D.	0241 Cheboygan Area Schools	0010 Dowagiac Union Schools
2126 Allen Park Public Schools	0263 Brandon School District	0298 Chelsea School District	0329 Dryden Community Schools
0807 Allendale Public Schools	1098 Brandywine Community School	0033 Chesaning Union Schools	0053 Dundee Community Schools
0219 Alma Public Schools	0214 Breckenridge Community School	0809 Chippewa Hills School District	0112 Durand Area Schools
0383 Alpena Public Schools	1015 Breitung Township Schools	0300 Clare Public Schools	2108 East China School District
0016 Anchor Bay School District	0028 Bridgeport-Spaulding C.S.	0758 Clare-Gladwin R.E.S.D.	2121 East Grand Rapids P.S.
0695 Armada Area Schools	0266 Bridgman Public S.D.	0301 Clarkston Community Schools	0812 East Jackson Community School
0096 Ashley Community Schools	0267 Brighton Area Schools	0039 Climax-Scotts Comm. Schools	2009 East Jordan Public Schools
0017 Athens Area Schools	0189 Brimley Area Schools	0306 Clinton Community Schools	0456 East Lansing Public Schools
0222 Atlanta Community Schools	3573 Britton Deerfield Schools	0910 Clinton County R.E.S.A.	0770 Eastern Upper Peninsula I.S.D.
1077 Au Gres-Sims School District	0030 Bronson Community Schools	1007 Clintondale Community Schools	0761 Eaton R.E.S.A.
0703 Bad Axe Public Schools	1041 Brown City Community Schools	2069 Clio Area Schools	0054 Eaton Rapids Public Schools
0098 Baldwin Community Schools	0854 Buchanan Community Schools	0309 Coldwater Community Schools	0663 Eau Claire Public Schools
2150 Bangor Public Schools	0839 Buckley Community School	0310 Coleman Community Schools	0338 Edwardsburg Public Schools
2118 Bangor Township SD	2256 Bullock Creek School District	0040 Coloma Community Schools	0340 Elk Rapids Schools
0593 Baraga Area Schools	0277 Burr Oak Community Schools	0041 Colon Community Schools	0341 Elkton-Pigeon-Bay Port Laker
0079 Bark River-Harris Schools	0278 Byron Area Schools	0029 Columbia School District	0879 Ellsworth Community Schools
0653 Barry I.S.D.	0031 Byron Center Public Schools	0719 Comstock Park Public Schools	0056 Escanaba Area Public Schools
0018 Bath Community Schools	0759 C.O.O.R. I.S.D.	2129 Comstock Public Schools	2351 Essexville-Hampton P.S.
0087 Battle Creek Public Schools	0297 C.O.P. E.S.D.	3622 Concord Academy -Petoskey	0342 Evart Public Schools
2285 Bay City Public Schools	0286 Cadillac Area Public Schools	0926 Concord Community Schools	0844 Ewen-Trout Creek Schools
0788 Bay De Noc Community College	0034 Caledonia Community Schools	0132 Constantine Public Schools	0752 Fairview Area Schools
0834 Bay-Arenac I.S.D.	0756 Calhoun I.S.D.	0826 Coopersville Area P.S.	0347 Farwell Area Schools
0036 Beal City Public Schools	0872 Calumet Public Schools	0859 Copper Country I.S.D.	0420 Fennville Public Schools
0019 Bear Lake Schools	0107 Camden-Frontier Schools	0044 Corunna Public Schools	0350 Fenton Area Public Schools
0242 Beaver Island Community School	2034 Capac Community Schools	0773 Covert Public Schools	2606 Ferndale Public Schools
0102 Beaverton Schools	0890 Carman-Ainsworth C.S.	0373 Crawford AuSable S.D.	3426 Flat River Academy
0894 Beecher Community Schools	0287 Carney-Nadeau Public Schools	0778 Crestwood School District	0051 Flat Rock Community Schools
0020 Belding Area Schools	0288 Caro Community Schools	3781 Crossroads Charter Academy	2317 Flint Community Schools
0630 Bellaire Public Schools	0989 Carrollton Public Schools	3816 CTA Creative Technologies Academy	3789 Flint Cultural Center Academy
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0682 Benton Harbor Area Schools	0290 Caseville Public Schools	0262 Dearborn Public Schools	2055 Forest Hills Public Schools
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0377 Garden City Public Schools	0071 Houghton Lake C.S.	0091 L'Anse Creuse Public Schools	0878 Menominee Area Public Schools
0058 Gaylord Community Schools	0850 Houghton-Portage Township S.I	0035 Lansing School District	0771 Menominee County I.S.D.
0774 Genesee I.S.D.	0073 Howell Public Schools	0659 Lansing, Charter Township of	1001 Meridian Public Schools
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0059 Gladwin Community Schools	0075 Huron Valley School District	0442 Leland Public Schools	0693 Mid Michigan College
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2040 Glenn Public School	0421 Ingham I.S.D.	0712 Les Cheneaux Community Scho	2002 Mid Peninsula School District
0060 Gobles Public Schools	0119 Inland Lakes Schools	0092 Leslie Public Schools	0800 Midland County E.S.A.
2208 Godfrey-Lee Public Schools	3757 Innocademy	3383 Lighthouse Academy	0419 Midland Public Schools
2039 Gogebic-Ontonagon I.S.D.	1036 Ionia County I.S.D.	0805 Lincoln Consolidated S.D.	0943 Milan Area Schools
0344 Goodrich Area Schools	0738 Iosco R.E.S.A.	2599 Lincoln Park Public Schools	0005 Millington Community S.D.
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0117 Grand Ledge Public Schools	2348 Ironwood Area Schools	0723 Litchfield Community Schools	0136 Mona Shores Public Schools
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DECEMBER 22, 2022

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MDE Temporarily Waives Daily Substitute Permit Limitation

On November 17, 2022, the Michigan Department of Education (MDE) issued a memo waiving, for the 2022-23 school year, the 90-day teaching limitation that typically applies to Daily Substitute Permits. The announcement is intended to assist schools with the ongoing statewide teacher shortage. MDE's memo is available at:

<https://www.michigan.gov/mde/-/media/Project/Websites/mde/Memos/2022/11/Daily-Substitute-Teaching-Permits-90-Day-Limitation-Waiver.pdf?rev=a777082e52f244008685bccb3f9eb09b>

Daily Substitute Permits

State School Aid Act Section 163 authorizes MDE to initiate state aid deductions when a school employs an instructor who does not possess a teaching certificate, substitute permit, or other approval issued by MDE. Administrative rules allow schools to apply for a Daily Substitute Permit, which is valid for one school year for classroom teaching when the certified teacher regularly assigned to that classroom is temporarily absent. The permit is not valid for an assignment to the same classroom for more than 90 consecutive calendar days, unless MDE grants an extension.

MDE Memo

Although intended to relax Daily Substitute Permit requirements, MDE's memo appears to contain conflicting information. It announces that the State Superintendent waived the Daily Substitute Permit 90-day limitation for schools "that have applied for the waiver." It also suggests, however, that the waiver was granted for all schools, stating: "No further action is required to extend the validity of the Daily Substitute Permits issued during the 2022-2023 school year." The memo adds that Daily Substitute Permits will be valid for assignments until the end of this school year or August 31, 2023, whichever is later.

Our firm contacted MDE's Office of Educator Excellence, which clarified that the 90-day limitation is waived for all schools regardless of whether a school applied for a waiver. Accordingly, all Daily Substitute Permits issued for this school year will remain valid until the end of this school year or August 31, 2023, whichever is later, without any further action by schools and without a 90-day limitation. There is one significant caveat: the waiver does not apply to assignments in special education classrooms.

Caution

Although the increased flexibility granted by MDE's memo is welcome news for many schools, school officials are reminded that Revised School Code Section 1236 grants substitute teachers employed by a school and assigned to one specific teaching position for at least 60 days certain rights. After 60 days in one assignment, the substitute teacher is entitled to leave time and "other privileges"

granted to the school's regular teachers, including a salary equal to at least the minimum salary on the school's teacher salary schedule. While not defined by statute, an informal Attorney General opinion suggests that "other privileges" are benefits granted to regularly employed teachers by a collective bargaining agreement.

Additionally, a substitute teacher employed by a school for at least 150 days during a school year of at least 180 days must, after all other teachers are reemployed, be given the first opportunity (either during that school year or the immediately succeeding school year) to accept a contract for any position for which the substitute teacher is certified. The same right of first refusal applies to a substitute teacher employed for at least 180 days by an intermediate school district that operates any program for at least 220 days. This right of first refusal does not apply to a substitute teacher who fulfills the duties of a "teacher who is unable to teach due to a terminal illness."

Importantly, rights granted by Revised School Code Section 1236 apply only to substitute teachers employed by a school, not substitute teachers employed by a third-party that provides services to the school. RSC Section 1236 defines a "day" as "the working day of the regular, full-time teacher for whom the substitute teacher substitutes." A quarter-day, half-day, or other daily fraction of the substitute's service must be counted as the fraction worked unless the school acknowledges and pays a fraction of a day as a full day, in which case the time counts as a full day.

Notwithstanding MDE's November 17, 2022 memo, school officials should monitor the number of days that each school-employed substitute teacher works. Failure to do so could significantly limit the school's discretion over future hiring and salary decisions.

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Sixth Circuit Clarifies FMLA Intermittent Leave Rules

The Sixth Circuit Court of Appeals, whose decisions are binding in Michigan, recently declined to dismiss an employee's Family and Medical Leave Act (FMLA) intermittent leave interference claim. *Render v FCA US, LLC*, 53 F.4th 905 (CA 6, 2022). The decision clarifies FMLA rules applicable to intermittent leave and highlights the importance of clear FMLA policies and procedures.

Background

FCA used a third party, Sedgwick, to process its FMLA leave requests. After FCA-employee Edward Render requested intermittent FMLA leave, Sedgwick sent Render a letter mandating medical documentation

to support his FMLA leave request. The letter stated that Render must report FMLA absences by calling FCA.

Render sent Sedgwick a medical certification stating that intermittent leave was medically necessary to manage Render's major recurrent depression and generalized anxiety disorder. The certification also stated that during "flare-ups," Render would be unable to perform any job duties.

Sedgwick later sent Render a second letter approving intermittent FMLA leave. As with the first letter, the second letter directed Render to report FMLA absences by calling FCA. The second letter, however, also stated that Render must call Sedgwick on his first FMLA absence day "at the number listed below"; the letter did not list a number for Sedgwick.

Render called FCA on various days to report absences and tardies, stating either that he had a "flare-up" or was "sick." FCA marked all absences and tardies as "miscellaneous unexcused."

When a supervisor notified Render that his absences and tardies were unexcused, Render spoke to an FCA human resources representative. The representative contacted Sedgwick, inquiring whether Render was "FMLA approved." Sedgwick responded that the absences were not FMLA-approved because they were not marked as "FMLA" in FCA's system. Render then was discharged for the unexcused absences and tardies.

Render filed a lawsuit against FCA, arguing that FCA violated the FMLA by interfering with his FMLA rights. The Sixth Circuit declined to dismiss the lawsuit.

FMLA Interference

To establish FMLA interference, an employee must prove, among other things, that (1) the employee was entitled to FMLA leave, (2) the employee provided the employer with notice of the employee's intent to take FMLA leave, and (3) the employer denied FMLA leave. FCA only disputed the notice element, asserting that it properly denied Render's leave because he failed to comply with FMLA notice requirements.

FMLA regulations state that an employee "giving notice of the need for FMLA leave does not need to expressly assert rights under the [FMLA] or even mention the FMLA to meet his or her obligation to provide notice." Instead, an employee must make the employer aware that the employee's leave may qualify for FMLA leave, such as a statement that the employee is under the continuing care of a health care provider.

Additional notice requirements apply, but they vary depending on whether the employee's leave is foreseeable or unforeseeable. The Court concluded that because only regulations applicable to foreseeable leave mention intermittent leave, foreseeable leave

notice requirements apply to all intermittent FMLA leave requests.

The regulations applicable to foreseeable leave state: “notice need only be given one time, but the employee shall advise the employer as soon as practicable if dates of scheduled leave . . . were initially unknown.” FCA argued that Render failed to meet this standard because Render’s call-in statements typically failed to put FCA on notice that his absences and tardies may qualify for FMLA leave. The Court held that Render met the standard because he was required to provide notice only once, which he did when he initially applied for FMLA leave. After the notice was provided, Render was only required to “advise” FCA of anticipated absences, which he did.

FCA further argued that FMLA regulations allow an employer to require an employee to comply with the employer’s “usual and customary notice and procedural requirements for requesting leave,” and Render failed to comply with such requirements. Specifically, FCA claimed that Render failed to comply with the call-in requirements specified in Sedgwick’s letters because he only called FCA (not both FCA and Sedgwick) to report absences and tardies.

Although the Court acknowledged that an employer can deny leave if an employee fails to follow the employer’s usual and customary notice and procedural requirements for requesting leave, the Court determined that an employee “cannot be faulted for failing to comply with company policy if the policy was unclear or the employee lacked notice of the policy.” The Court observed that Sedgwick’s letters were so confusing that even FCA’s human resources representative was unsure whether the letters required Render to call both FCA and Sedgwick to report absences and tardies. The Court concluded that Render could not be faulted for failing to comply with Sedgwick’s conflicting letters. Accordingly, the Court held that Render provided sufficient evidence to establish that FCA interfered with his FMLA rights by inappropriately denying him FMLA leave.

Although an employer is typically permitted to negate an employee’s interference claim by proving a nondiscriminatory reason for the alleged interference, the Court concluded that opportunity does not apply when an employee alleges that the employer wrongfully denied FMLA leave.

To reduce the potential for FMLA claims, school officials are encouraged to review their school’s FMLA leave policies and procedures for clarity and consistency. For Thrun Policy Service subscribers, Board Policy 4106 contains an FMLA policy, while Administrative Guideline 4106 contains FMLA procedures. Schools should assign responsibility for processing FMLA leave requests to staff familiar with

both the FMLA and the school’s FMLA policies and procedures. Failure to do so could result in costly lawsuits.

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Employee Denied Unemployment Benefits for Leaving Work Early

The Michigan Court of Appeals recently held that an employee who left work mid-shift without the employer’s permission was ineligible for unemployment benefits because such conduct constituted voluntarily quitting his job, even though he attempted to return to work the following day. *Anderson v Wright Coating Co*, COA Docket No. 357295 (November 10, 2022).

Travis Anderson worked for Wright Coating Company (WCC) as a forklift operator. He was suspended from work for refusing to wear a facemask as required by WCC policy. WCC employees accumulated demerit points for misconduct. Employees who accumulated 14 points were subject to discharge.

When Anderson returned from his suspension, a WCC administrator informed him that he would accumulate demerit points for the days he was suspended. That information angered Anderson, and he left work mid-shift. When Anderson returned to work the next day, the WCC administrator told him that WCC considered his decision to leave without authorization to be a resignation.

Anderson applied for unemployment benefits. The Michigan Unemployment Insurance Appeals Commission denied his claim, and the Michigan Court of Appeals affirmed.

Under Michigan Employment Security Act Section 29, an employee is disqualified from receiving unemployment benefits if the employee: “Left work voluntarily without good cause attributable to the employer.” Michigan courts have interpreted “left work voluntarily” to be synonymous with quitting a job voluntarily. The Section 29 standard is presumed met if the employee leaves work.

Additionally, an employee “who is absent from work for a period of 3 consecutive work days or more without contacting the employer in a manner acceptable to the employer and of which the individual was informed at the time of hire” is considered to have met the Section 29 standard. The employee has the burden of proof to establish that the employee left work involuntarily or for good cause attributable to the employer.

The Court of Appeals concluded that Anderson’s conduct of leaving work mid-shift without the employer’s permission constituted voluntarily quitting

his job. The Court rejected Anderson's argument that under Section 29 he had to be absent for 3 consecutive days to be disqualified from benefits, finding that an absence of 3 consecutive days is merely one way to demonstrate that an employee left work voluntarily without good cause attributable to the employer. Accordingly, the Court concluded that Anderson was disqualified from receiving unemployment benefits.

Although unemployment claims are fact specific, this decision demonstrates that even temporarily leaving work without the employer's permission could serve as a basis for an employer to challenge an employee's unemployment benefits claim.

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MERC Finds Employer Did Not Violate Its Duty to Bargain

The Michigan Employment Relations Commission (MERC) recently decided that an employer did not violate its duty to bargain in good faith under the Public Employment Relations Act, dismissing claims that the employer engaged in surface bargaining, prematurely declared impasse, and engaged in regressive bargaining. *Capital Area Transp Authority*, MERC Case No. 21-E-1120-CE (November 16, 2022).

The Capital Area Transportation Authority (CATA) and a union attempted to negotiate a successor collective bargaining agreement. Making little progress after 40 bargaining sessions, CATA filed a petition with MERC for fact-finding.

During fact-finding, a MERC representative holds a hearing at which the parties present their bargaining proposals. The MERC representative then issues a non-binding recommendation intended to assist the parties with finalizing an agreement.

CATA rejected all fact-finding recommendations that favored the union, and the union rejected all fact-finding recommendations that favored CATA. The parties continued to bargain. After over 70 bargaining sessions, CATA notified the union that it was declaring impasse and unilaterally implementing certain employment terms, including wage increases and changes to work assignments.

The union filed an unfair labor practice (ULP) charge, asserting that CATA violated its duty to bargain in good faith by engaging in surface bargaining, prematurely declaring impasse, and engaging in regressive bargaining.

MERC adopted the decision of the MERC Administrative Law Judge (ALJ), who dismissed the ULP in its entirety. The ALJ rejected the union's argument that CATA engaged in surface bargaining due to its refusal to move in any substantial manner from the positions it

took before fact-finding. The ALJ explained that a party's behavior over the entire course of bargaining must be examined in determining whether it engaged in surface bargaining. In this case, although CATA never moved from its initial position on various issues, it did not maintain a fixed position on all issues and made concessions on many matters. The ALJ also noted that CATA participated in more than 70 bargaining sessions with the union and that there was no evidence that it presented unusually harsh or unreasonable proposals to the union during the bargaining process.

The ALJ found no merit to the union's claim that CATA prematurely declared impasse. In determining whether impasse exists, MERC examines:

- (1) the amount of time spent in bargaining;
- (2) whether the parties' positions have become fixed;
- (3) the parties' contemporaneous understanding regarding the state of the negotiations;
- (4) the importance of the issue or issues on which there is disagreement; and
- (5) whether the parties have utilized mediation and fact-finding.

The ALJ explained that at the time CATA declared impasse, the parties had bargained for more than 16 months, exchanged dozens of proposals, participated in over 70 bargaining sessions, participated in fact-finding, and remained far apart on significant issues.

The ALJ found the union's third argument - that CATA engaged in regressive bargaining by proposing less favorable terms than in its prior proposals and by unilaterally withdrawing from tentative agreements signed during negotiations - similarly lacked merit. The ALJ explained that making a proposal which is less favorable than a previous proposal is not in itself evidence of bad faith bargaining, and a party may modify its position, or offer less, over the course of bargaining. He added that regressive bargaining occurs when there is evidence that a party is making successively less generous offers as a tactic to avoid reaching an agreement, and the evidence did not support that CATA engaged in such a tactic.

This decision serves as a reminder that, although the duty to bargain does not compel a party to agree to a proposal or make a concession, it does require the party to actively engage in bargaining with an open mind and sincere desire to reach an agreement.

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Back to Basics: Student Discipline

This month's Back to Basics article focuses on constitutional and statutory requirements school officials must consider when handling student discipline.

Due Process

In 1975, the U.S. Supreme Court ruled in *Goss v Lopez* that the right to attend public school is a property interest protected by the 14th Amendment to the United States Constitution. Exclusion from school violates the Constitution's Due Process Clause unless the school gives the student "some kind of notice" of the charges and an opportunity to respond. The Court concluded that a "10-day suspension from school is not *de minimis* [i.e., minor] . . . and may not be imposed in complete disregard of the Due Process Clause." Although the case involved a series of suspensions of 10 days or less, the Court recognized that a suspension for more than 10 days "may require more formal procedures."

Following the *Goss* decision, most schools now require different procedures for (1) suspensions of 10 days or less and (2) suspensions over 10 days and expulsions. For suspensions of 10 days or less, students usually are entitled to (1) oral or written notice of the charges, (2) an explanation of the evidence, and (3) an opportunity to respond to the charges and evidence. For most schools, building-level administrators may suspend students for up to 10 days. Your school's board policy and student handbook should clearly describe the process for short-term suspensions, including any appeal process.

Suspensions over 10 days and expulsions require more formal procedures and additional protections, including written notice, as detailed below, and an opportunity to respond in a more formal hearing. Often, a student has the opportunity for a hearing before a panel, the superintendent, or the board. Specific procedures for suspensions over 10 days and expulsions should be included in your school's board policy and student handbook.

Suspension vs. Expulsion

Revised School Code Section 1310d defines a "suspension" as a disciplinary removal from school for *fewer* than 60 school days. An "expulsion" is a disciplinary removal from school for 60 *or more* school days. A student therefore cannot be "suspended" for 180 school days. Many student handbooks and board policies, however, reference "180-day suspensions," and some school boards vote to "suspend" students for periods longer than 59 school days. Check your school's board policies, student handbooks, and practices to ensure the definitions of "suspension" and "expulsion" are consistent with Section 1310d.

Seven Factors

When the Legislature enacted Revised School Code Section 1310d, it added the requirement that school administrators and boards consider seven factors before suspending or expelling a student for any period of time. The seven factors are:

- (1) age;
- (2) disciplinary history;
- (3) whether the student has a disability;
- (4) the seriousness of the violation or behavior;
- (5) whether the violation or behavior threatened the safety of any student or staff member;
- (6) whether restorative practices will be used to address the behavior; and
- (7) whether a lesser intervention would properly address the violation or behavior.

School administrators and school boards must document their consideration of the seven factors for any suspension or expulsion, except for an expulsion for possession of a firearm. A suspension of more than 10 days or an expulsion is presumed unwarranted unless supported by an analysis of the seven factors. School officials also should ensure that board policy and the student handbook address the 1310d requirements.

Notice to Parents

Administrators must provide written notice to the student and parent before any disciplinary hearing at which long-term suspension or expulsion will be considered. The notice should include, at a minimum:

- (1) a statement of the offense committed, including a reference to the specific code of conduct provision that was violated and applicable law;
- (2) the recommended consequence (e.g., 30-day suspension, 90-day expulsion, or permanent expulsion consistent with state law);
- (3) the date, time, and place of the disciplinary hearing;
- (4) a copy of the school's hearing rights (which is usually a separate document); and
- (5) anything else required by board policy, the student handbook, or the student code of conduct.

Be careful when drafting the notice letter – many board policies and student handbooks impose additional requirements or afford parents specific rights. For example, some policies guarantee parents the right to a hearing "transcript" or require an administrator to

meet with the parent before moving to a board hearing. Other policies require pre-hearing witness lists and a summary of proposed testimony. Failure to notify parents of their rights or to follow your school's specific procedures, may provide a basis for a parent to challenge the discipline on due process grounds.

Interplay with Other Laws

Before imposing discipline, school administrators must carefully review whether there are any other laws that grant the student additional rights in the disciplinary process. For example, as detailed in last month's edition of *School Law Notes*, the 2020 Title IX regulations afford students accused of sexual assault and sexual harassment significant due process rights and limit a school's ability to discipline students before the conclusion of a lengthy grievance process. Consult with your Title IX Coordinator before moving forward with discipline related to sexual harassment, sexual assault, or sexual misconduct to ensure all requirements are met.

Students with disabilities also have additional protections in the discipline process. For example, if the student has an IEP or 504 plan, or if the school has "knowledge" that the student is a student with a disability, the student has the right to a manifestation determination review before any disciplinary change in placement. A school is deemed to have "knowledge" if:

- (1) the parent expressed a concern in writing to school administrators or the teacher that the student may need special education and related services;
- (2) the parent requested an evaluation;
- (3) the student is currently being evaluated; or
- (4) the teacher or another staff member expressed specific concerns about the student's pattern of behavior to the special education director or another administrator.

It is therefore important to review a student's file before suspending or expelling a student.

Returning After a Suspension or Expulsion

Most students who are suspended or expelled become eligible at some point to return to school or to apply for reinstatement. Consider the student's potential return date at the time of suspension or expulsion so that the timing of the student's return is in the best interests of both the student and the school community. For example, returning a student at the beginning of a trimester, semester, or year (especially for secondary students where grades/credits have significance) will make the transition easier than if the student returns after a term has begun. While aligning a return with a natural break in the school calendar is not always possible, doing so may minimize problems.

For Thrun Policy Service subscribers, Board Policies 5206 through 5206E address student discipline consistent with this article. For others, we encourage school officials to carefully review their student discipline policies and handbooks to ensure that they are legally up to date, consistent with the guidance in this article, and internally consistent with other policies, handbooks, and practices.

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Student Threat Considerations

School officials across the state are facing the unenviable task of determining when a student may constitute a threat to themselves or others and then taking the appropriate next steps. Contrary to popular belief, removing the student that potentially constitutes a threat from school is not always the answer, nor is it always legal. When facing a student threat, consider the following guidance.

Immediate Response

Depending on the threat, consider whether to contact law enforcement or the need for a lock-down or school closure. Student and staff safety should be the top priority. Once safety is secured, determine if communicating the disruption to parents is advisable.

May I search?

If you believe there may be a weapon in school, you first should consider whether it is safe to search. If it is safe, then determine if you have consent to search the item or area that you intend to search (e.g., backpack, jacket, or car). If you have consent, then you or another school official may conduct the search.

If you do not have consent, then you must have individualized suspicion that: (1) the student engaged in misconduct or that the student poses imminent risk of harm to the student or others *and* (2) the search will reveal relevant contraband or evidence of the misconduct or safety risk. As always, the search must be reasonable at inception and in scope.

Remember, school officials may always search lockers, even without individualized suspicion, if a locker search policy is included in the student handbook.

Is Discipline Appropriate?

Not all threats warrant student discipline or removal. Discipline may be appropriate when the student's actions violate the student code of conduct, board policy, or law. Writings, drawings, and counseling disclosures may be cause for concern but may not be cause for discipline in every situation.

Consider whether the student's actions constitute a "true threat." In other words, was there a serious

expression of intent to commit unlawful violence against a specific target? If so, then discipline is likely warranted, subject to procedural safeguards. School officials may also discipline students if their actions create a substantial disruption or school officials can reasonably forecast a substantial disruption. Remember speech (including social media posts) that does not constitute a true threat or create a substantial disruption is protected by the First Amendment and cannot result in discipline.

If discipline is warranted, ensure that adequate due process is provided, including complying with the IDEA and Section 504 for students with disabilities.

Non-Disciplinary Removals

If a student cannot be removed for disciplinary reasons, consider whether a non-disciplinary removal may be necessary and lawful. Unless discipline is appropriate or there is an imminent threat of harm to others, unilateral removals are typically not authorized. Instead, consider creating a safety plan or removing the student with parental agreement. Days of removal should not be counted as suspensions, but they will count toward days of removal for special education students.

Safety Plans

School officials can implement a safety plan for students who remain in school or return after a disciplinary removal. The school generally does not need parental consent to create and implement a safety plan. Although there is not a one-size-fits-all approach to safety plans, consider addressing the following:

- (1) when and who will check-in with the student;
- (2) backpack protocol (e.g., no backpacks, clear backpacks, or backpacks left in the office);
- (3) student search (parent or student consent is required if you do not have individualized reasonable suspicion);
- (4) dress code (e.g., no jackets or baggy sweatshirts);
- (5) supervision for the student during unstructured times (e.g., bathroom breaks, passing times, or lunch); and
- (6) other supportive measures.

Threat Assessments

Although schools across the state are using threat assessments to analyze whether a student is considered a threat, school officials should tread carefully before referring a student for a threat assessment.

Before a referral, school officials should consider who will conduct the threat assessment, whether that

individual is appropriately trained, and whether the assessment is likely to yield accurate results. School officials also should consider whether parental consent is required before a threat assessment is conducted, as the assessment may implicate the Protection of Pupil Rights Amendment (PPRA). The PPRA requires parental notice and consent if the school is inquiring about, among other things, mental or psychological problems of a student or family; illegal, anti-social, or incriminating behaviors; critical appraisals of close family members; or religious practices or beliefs. Given that a threat assessment may delve into these issues, parental consent or notice and the right to opt out may be required to prevent an inadvertent PPRA violation.

To assist clients with assessing student threats, Thrun Law Firm is offering a student threat webinar on Wednesday, January 11, 2023, from 12:00-3:00 p.m. To register for the webinar, please complete and return the registration form attached to this newsletter. Each attendee will receive an email with a link to the event in advance of the webinar.

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FERPA Exception: What Is a Health or Safety Emergency?

The Family Educational Rights and Privacy Act (FERPA) generally prohibits school officials from disclosing a student's education records or personally identifiable information from those records without written consent from a parent or eligible student (adult student or emancipated minor). There are 17 exceptions to this rule. Most of these exceptions either arise infrequently or are so routine (such as the directory information exception) that staff have little difficulty navigating them. The health or safety exception, however, is a unique beast.

FERPA's health or safety exception allows school officials to disclose student education records and personally identifiable information from those records to "appropriate parties" if "knowledge of the information is necessary to protect the health or safety of the student or other individuals." In a situation that involves a possible health or safety emergency, school officials need to understand these concepts so that a relatively quick decision can be made.

The first consideration is whether the information is necessary to protect health or safety at the time of the disclosure. There must be an actual, impending, or imminent emergency that could affect the health or safety of the student or other individuals. Before disclosing information pursuant to the health or safety exception, a school official must identify the "articulable and significant threat" that exists to justify the disclosure.

The second consideration is whether the person or agency seeking the information is an appropriate party. An appropriate party is one for whom the knowledge found in the education record is necessary to protect the health or safety of the student or other individuals. Often, such an individual will be a law enforcement officer, medical personnel, crisis team member, or the parent of an eligible student.

FERPA regulations explain that school officials may consider the totality of the situation to determine whether information from an education record should be disclosed under this exception. If a FERPA complaint arises from the disclosure of information under the health or safety exception, the U.S. Department of Education will consider whether there was a rational basis for the decision to disclose, *based on the information known at the time*. Thus, even if in hindsight there was no actual threat to health or safety, so long as the school official disclosed information only to appropriate parties and can explain a rational reason for believing that there was an articulable threat, there is no FERPA violation.

An appropriate use of the health or safety exception often arises when a student is experiencing a medical emergency and first responders need to know about medical conditions or medication allergies. In this situation, first responders on the scene are appropriate parties and the information disclosed from the school health record is necessary to protect the student. If the school official also disclosed information about the student's discipline history to the first responders, that disclosure likely would not fit within the health or safety exception.

When a health or safety emergency disclosure is requested and when information from a student's record is disclosed, school officials must record both the request and the specific disclosure in the student's records. The documentation must include the name of the person or agency who requested and, if applicable, received the records, the articulable and significant threat that formed the basis of the disclosure, and the parties to whom the information was disclosed.

The U.S. Department of Education's Student Privacy Policy Office offers FERPA resources on its website at <https://studentprivacy.ed.gov/>.

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I've Got 1099 Problems, But Board Member Compensation Ain't One

As we wrap up 2022 and prepare for the new year, now is a good time to remind school officials about how to properly report school board member compensation.

In our February 2022 edition of *School Law Notes*, we explained that the Revised School Code permits schools to compensate their board members for costs associated with attending board meetings. The board may determine whether to compensate board members and the rate of compensation. The Internal Revenue Code (IRC), however, makes clear that such compensation must be reported on a Form W-2, not a Form 1099.

Under the IRC, people performing services are generally classified as either "independent contractors" or "employees." If the person is an independent contractor, then the school is not required to withhold or pay any taxes on payments made to that person, and those payments must be reported using a Form 1099. On the other hand, if the person is an employee, then the school must withhold income taxes on the person's wages and file a Form W-2 for that employee.

The IRC defines an "employee" as "an officer, employee, or elected official of the United States, a State, or any political subdivision thereof." The Internal Revenue Service (IRS) considers a board member to be a "public officer" and therefore a school employee, even if the board member only receives a per diem allowance for attending board meetings. Consequently, board member compensation is subject to employment taxes and must be reported on Form W-2.

Tax laws are purposely broad and intentionally inclusive to allow for maximum income tax collection. The IRS's inclusion of school board members as employees should *not* be construed to suggest that school board members are employees for purposes of other laws, such as the Fair Labor Standards Act.

All board members should be treated as school employees for federal tax purposes by withholding applicable taxes from board member compensation and reporting the compensation on Form W-2. Though the IRS has not historically penalized schools for misclassifying school board members as independent contractors, such a misclassification or failure to report a board member's income could lead to IRS penalties, including fines and repayment of unpaid taxes.

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Don't Forget to Take the Oath!

Congratulations to all recently elected school board members! We look forward to working with you. Before commencing board duties in January, board members elected to full-term seats must remember a critical step: taking the oath of office and completing the corresponding oath form. This is true even for those who are re-elected to a new board term.

Both the Michigan Constitution and Michigan election laws require board members to take and

subscribe to an oath of office before performing the duties of their office. Thrun election clients received the oath and accompanying instructions in an October letter outlining post-election procedures. The language of the oath and the form to be filed can also be found on the Secretary of State's website:

https://www.michigan.gov/sos//media/Project/Web/sites/sos/01holland/Accept_of_Off_New.pdf?rev=3b771eb46c754d399974e35323769566

Though elected board members should have already filed their "Acceptance of Office," taking and filing the oath form is an equally important step for holding office. Failing to do so creates an immediate vacancy, requiring the board to appoint a replacement within 30 days.

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Filing Requirement for Issuers of Tax Credit Bonds

Schools that issued tax credit bonds *on or before* December 31, 2017 must annually complete and file Form 1097-BTC with the IRS. For tax year 2022, Form 1097-BTC must be filed via mail by **February 28, 2023**, or alternatively, filed electronically by **March 31, 2023**.

Tax credit bonds differ from conventional school bonds because the bond purchaser receives a tax credit in lieu of, or in addition to, periodic interest payments. For schools, tax credit bonds were typically issued as either a Qualified School Construction Bond (QSCB) or a Qualified Zone Academy Bond (QZAB).

Many schools issued their QSCBs and QZABs as "direct-pay" bonds that do not give the purchaser a tax credit but, instead, provide the school with a subsidy from the federal government to make debt service payments. Those direct-pay bonds are not subject to Form 1097-BTC filing requirements. Only QSCBs and QZABs issued as tax credit bonds trigger the Form 1097-BTC filing requirements.

Form 1097-BTC must be filed either by: (1) using the IRS's e-filing "FIRE" system, which many find cumbersome; or (2) mailing paper forms to the IRS. Issuers that file the paper Form 1097-BTC must also include a Form 1096, which can be downloaded from the IRS website. In addition to the annual IRS filing, school officials must send a Form 1097-BTC statement to the original bond purchaser (but not the IRS) each quarter. The fourth quarter submission to the purchaser, however, can serve as the annual IRS filing and should be sent both to the IRS and the purchaser. The deadline for providing a copy of the annual (2022 fourth quarter) form to the purchaser is **February 15, 2023**, which is earlier than the IRS deadline.

Even though the IRS website provides detailed instructions for completing and filing both Form 1097-BTC and Form 1096, tax credit bond issuers should consider outsourcing that task to a financial institution that provides paying agent services.

For tax credit bonds issued after 2013, the financial advisor for many school transactions negotiated a contract with a Kansas bank to file the forms on the school's behalf. If your tax credit bond was issued after 2013, we recommend contacting your financial advisor to inquire whether a third party already files the forms as part of an existing engagement.

If your school has an outstanding tax credit bond, we recommend that school officials, or the bond registrar or paying agent acting on your school's behalf, comply with the Form 1097-BTC filing requirements and consult the IRS website for filing instructions. A link to the IRS webpage devoted to Form 1097-BTC, including instructions for completing and filing the form, is available on our website under "Links" – "Bond and Finance."

We encourage clients to start the tax year 2022 filing process, or to make arrangements with an appropriate financial institution to file the form on your behalf, well before the February 28 or March 31 IRS filing deadlines.

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Reminder: January 12 FOIA Webinar

As announced in last month's *School Law Notes*, Thrun Law Firm is offering a Freedom of Information Act (FOIA) webinar on Thursday, January 12, 2023, from 1:00-3:00 p.m. to refresh school officials on FOIA obligations. This webinar will address FOIA timelines, common exemptions, and fee calculations, among other topics. Understanding FOIA is critical because a failure to comply with FOIA requirements can subject a school to litigation, court costs and legal fees, and media scrutiny.

To register for the webinar, please complete and return the registration form attached to this newsletter. Each attendee will receive an email with a link to the event in advance of the webinar.

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Vaping Litigation Settlement

We previously notified our retainer clients through E-Blasts and *School Law Notes* about the opportunity to join a nationwide lawsuit against Juul Labs, Inc., Altria, and other vaping product manufacturers. The lawsuit alleges that these entities fraudulently and intentionally marketed their products to children.

A settlement is currently pending with Juul and Juul-related parties, including Juul executives. Although the settlement will resolve the litigation against Juul and Juul-related parties, litigation would continue against the remaining defendants, including Altria.

Schools that have not yet joined the litigation may still join. Those schools are not eligible for settlement funds from Juul and Juul-related parties, but they may be eligible for funds from any future settlement with the remaining defendants.

If your school has not yet joined the vaping litigation but is interested in doing so, please email your interest to attorney Piotr Matusiak at pmatusiak@thrunlaw.com.

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Policy Service Update

Thrun Law Firm's policy service is designed to provide school officials with guidance and flexibility in a well-organized and used-friendly manner. Effective July 1, 2023, prices for policy services will be as follows for retainer clients:

Board Policy Manual: \$8,000
Administrative Guidelines and Forms: \$4,500
Annual Updates: \$2,750

Prices for non-retainer clients will be:

Board Policy Manual: \$10,500
Administrative Guidelines and Forms: \$7,000
Annual Updates: \$4,250

To purchase Thrun policy services, please contact Lucas Savoie at lsavoie@thrunlaw.com or 517-374-8818.

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Registration Form

Student Threat Webinar

Training Date: Wednesday, January 11, 2023 from 12:00 p.m.-3:00 p.m.

Cost: \$175 per person for retainer clients and \$350 per person for non-retainer clients

Over the past year, school administrators have had the undesirable task of responding to, evaluating, and imposing discipline related to an increased number of student threats. Balancing student safety against the rights of the individual student involves a difficult, high-stakes balancing act. Join us as we discuss best practices for evaluating student threats, First Amendment implications, the intersection between threats and disability rights, legal issues related to threat assessments, and other common traps and pitfalls.

To register for this training, please complete and return this form. Each attendee will receive an email with a link to the event after the order form has been processed.

Name of District/ISD/PSA: _____

Name of Person Submitting Form: _____

(Please provide the name and email address for each person attending.)

Number of people attending **Student Discipline Webinar on January 11, 2023:** _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

The cost of the training session will be included on the District's/ISD's/PSA's monthly bill.

Signature

Date

Please return to:
Jill Walker (JWalker@thrunlaw.com)
P.O. Box 2575, East Lansing, MI 48826
Phone: (517) 374-8822



Registration Form

Freedom of Information Act Webinar

Training Date: Thursday, January 12, 2023 from 1:00 – 3:00 p.m.

Cost: \$150 per person for retainer clients and \$300 per person for non-retainer clients

To register for this training, please complete and return this form. Each attendee will receive an email with a Zoom link to the event after the order form has been processed.

Name of District/ISD/PSA: _____

Name of Person Submitting Form: _____

(Please provide the name and email address for each person attending.)

Number of people attending **Freedom of Information Act Webinar on January 12, 2023:** _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

Attendee Name: _____ Email: _____

The cost of the training session will be included on the District's/ISD's/PSA's monthly bill.

Signature

Date

Please return to:
Jill Walker (jwalker@thrunlaw.com)
P.O. Box 2575
East Lansing, MI 48826
Phone: (517) 374-8822



Raymond M. Davis

Shareholder

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PRACTICE AREAS

Board Counsel
General School Law
Labor and Employment
Litigation, Administrative Law, and Appeals
Municipal Law

ADMISSIONS

State Bar of Michigan
U.S. District Court, Eastern District of Michigan
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Sixth Circuit
State Bar of North Carolina (inactive)
U.S. District Court Eastern District of North Carolina (inactive)
U.S. District Court, Western District of North Carolina (inactive)

EDUCATION

J.D., Duke University
L.L.M. Duke University
B.A., *summa cum laude*, Albion College

MEMBERSHIPS

Ingham County Bar Association
Michigan Bar Association
Michigan Council of School Attorneys
American Bar Association
National Council of School Attorneys

Raymond M. Davis has practiced with the Thrun Law Firm since 1999, focusing his practice on labor and employment law, general school law, construction law and general civil litigation. Prior to joining the firm, he practiced for the multi-national law firm of Hunton & Williams, and the North Carolina firm of Cranfill, Sumner & Hartzog, where he was a partner and head of the employment practices group.

Ray graduated from Albion College (B.A., *summa cum laude*, 1984), where he completed the curriculum for the Honors Program and the Gerald R. Ford Institute for Public Service. He also was a member of Phi Beta Kappa. In 1988, he graduated from Duke University School of Law with honors, earning both his Juris Doctor and Master of Laws degrees. Ray is admitted to practice in Michigan and North Carolina (although currently inactive in NC), and various federal district and appeals courts.

In the area of labor and employment work, Ray has successfully negotiated numerous labor contracts for public school districts and other municipal entities. He has also successfully litigated administrative claims before multiple federal and state agencies, including the Equal Employment Opportunity Commission ("EEOC"), the Michigan Employment Relations Commission ("MERC"), and the Michigan Teacher Tenure Commission. As a trial lawyer, he has first chair experience with various civil matters before federal and state trial and appellate courts.

Ray lives in Marshall with his three children. He is a member of the Albion College External Board for the Gerald R. Ford Institute, and is very active as a volunteer for the Boy Scouts of America. An Eagle Scout and Vigil member of the Order of the Arrow, Boy Scouts of America's honor society. He currently sits on the Michigan Crossroads Council's Executive Board.



Cristina T. Patzelt

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PRACTICE AREAS

Board Counsel
General School Law
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Municipal Law
Special Education
Student Matters

ADMISSIONS

State Bar of Michigan
State Bar of Illinois
District of Columbia Bar

EDUCATION

J.D., *cum laude*, Michigan State
University College of Law
B.A., with honors, Michigan State
University (James Madison
College)

MEMBERSHIPS

Ingham County Bar Association
Michigan Council of School Attorneys
American Bar Association
National Council of School Attorneys
District of Columbia Bar Association

Cristina T. Patzelt joined Thrun Law Firm in 2016. Cristina's practice focuses on litigation, labor and employment, special education, and general school law. She assists public school districts, intermediate school districts, public school academies, and community colleges with student issues, special education issues, FOIA requests, and labor and employment matters. She regularly provides general counsel and advice to public schools and municipalities and represents public school clients in administrative hearings and state court proceedings. Cristina also presents on a variety of school law topics to public schools, intermediate school districts, and associations, including the Michigan Association of School Administrators, the Michigan Elementary and Middle School Principals Association, and the Michigan School Public Relations Association.

Before joining the firm, Cristina spent five years representing local governments in Chicago and the District of Columbia. As a prosecutor for the City of Chicago and an attorney for District of Columbia's Board of Ethics and Government Accountability, she handled misconduct investigations, trained employees on compliance with government ethics rules, and successfully advocated for the government in hundreds of bench trials, jury trials, and administrative hearings.

Cristina graduated from James Madison College at Michigan State University and Michigan State University College of Law. In law school, she received the Walter E. Oberer scholarship for stellar trial advocacy skills and a certificate in Trial Practice from the Fieger Trial Practice Institute, and competed as two-year member of the Appellate Moot Court Board.

Cristina is admitted to practice in Michigan, Illinois, and the District of Columbia. She is a member of the Ingham County Bar Association, the American Bar Association, the District of Columbia Bar Association, and the National and Michigan Councils of School Attorneys.

Originally from Metro Detroit, Cristina lives in the Lansing area with her husband. She is a devoted fan of Michigan State University athletics and Detroit sports, and enjoys traveling, hiking, musical theater, and playing on the firm's recreational softball league.



Christopher J. Iamarino

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PRACTICE AREAS

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Municipal Law
Public Finance and Election

ADMISSIONS

State Bar of Michigan
U.S. District Court, Eastern District of Michigan
U.S. District Court, Western District of Michigan
U.S. Court of Appeals for the Sixth Circuit

EDUCATION

J.D., Notre Dame Law School
B.A., *cum laude*, Michigan State University
(James Madison College)

MEMBERSHIPS

Ingham County Bar Association
Michigan Council of School Attorneys
American Bar Association
National Association of Bond Lawyers
National Council of School Attorneys

Christopher J. Iamarino has practiced public finance and election, school and construction law since 1995, exclusively with Thrun Law Firm. Mr. Iamarino received his J.D. from Notre Dame Law School in 1995, where he studied for a year in the Concannon Programme of International Law, London, England. While at Notre Dame, he was a published note author for the Journal of Legislation. Mr. Iamarino graduated with a B.A., *cum laude*, from Michigan State University (James Madison College) in 1991. He was also a graduating member of the Michigan State University Honors College.

Mr. Iamarino has served as bond and note counsel to public school districts, intermediate school districts, public school academies, community colleges, counties, townships, cities, villages, libraries and municipal authorities across the state of Michigan. He deals with election matters involving both bond and millage questions, as well as election of public officers. He regularly provides general counsel and advice to public schools and municipal corporations. Mr. Iamarino frequently drafts construction contracts and handles construction litigation. As a trial lawyer, Mr. Iamarino has first chaired various construction, public finance, and contract disputes on behalf of public sector clients in federal and state trial and appellate courts, as well as in mediation and in arbitration. With a blend of both trial and transactional skills, Mr. Iamarino is a seasoned and experienced lawyer who has been counted upon by public entities to negotiate and draft important transactional agreements that further the goals of those public entities and, if necessary, litigate on behalf of those entities to enforce those agreements.

With a Martindale Hubbell rating of "AV Preeminent," Mr. Iamarino is admitted to practice both in Michigan state and federal courts. He is listed as a bond attorney in the Bond Buyer's Municipal Marketplace directory (the "Red Book"). Leadership is a hallmark of Mr. Iamarino's approach. He currently serves as a James Madison College Board of Visitors member (since 2007), and previously served as the President of the Michigan Council of School Attorneys (2010-2011), a two-term member of the Michigan Council of School Attorneys Board of Directors (2006-2012), a member of the Michigan State University National Alumni Board of Directors (2004-2007), and as a Cub Scout Pack 125 Cubmaster (2009 – 2012). He is a frequent speaker and lecturer on public finance and election, school and construction law matters for organizations including the Michigan Council of School Attorneys, the Michigan School Business Officials, the Michigan Association of School Administrators, the Michigan Association of School Boards and the Michigan Community College Business Officers Association. Mr. Iamarino currently serves on the executive committee of Thrun Law Firm, PC (since 2004).

Mr. Iamarino lives in the Lansing area with his wife and two sons. He enjoys the outdoors, kayaking, scuba diving and is an avid fan of both Michigan State University and University of Notre Dame athletics. He and his family are active parishioners at St. Thomas Aquinas Church in East Lansing.



Michele R. Eaddy

Shareholder
East Lansing Office

Direct Line: 517.374.8840
Fax: 517.484.0041
meaddy@thrunlaw.com

Assistant: Carrie Watts
Direct Line: 517.374.8826
cwatts@thrunlaw.com

PRACTICE AREAS

General School Law
Special Education
Student Matters

ADMISSIONS

State Bar of Michigan
U.S. District Court, Eastern District of Michigan
U.S. District Court, Western District of Michigan
U.S. Court of Appeals for the Sixth Circuit

EDUCATION

J.D., University of Illinois
B.A., University of Michigan

MEMBERSHIPS

Ingham County Bar Association
Michigan Council of School Attorneys
American Bar Association
National Council of School Attorneys
Davis-Dunnings Bar Association
Women Lawyers Association of Michigan

Michele R. Eaddy joined Thrun Law Firm in 2001 after more than 10 years of legal experience representing school districts. Her practice at Thrun focuses primarily in the areas of special education, student issues, and general school law. Michele received her Juris Doctor from the University of Illinois College of Law in Urbana-Champaign in 1988 and her undergraduate degree from the University of Michigan in Ann Arbor in 1985.

Michele has represented school districts in state and federal courts and before various state and federal administrative agencies, including the Office for Civil Rights, Michigan Department of Education, Michigan Office of Administrative Hearings and Rules, and the Michigan Department of Civil Rights. She is a frequent presenter on special education law, Section 504, and disability law related topics to schools and educational organizations. Michele also serves as a Section 504 hearing officer and is a facilitative mediator.

Michele currently serves on the Board of Directors of the National Council of School Attorneys and is a member and past president of the Michigan Council of School Attorneys, past president of the Women Lawyers Association of Michigan – Mid-Michigan Region, past officer and member of the Davis-Dunnings Bar Association, and past member of the State Bar of Michigan District E Character & Fitness Committee.

As a proud graduate of the University of Michigan living in Spartan country, Michele is active in the U-M Club of Greater Lansing having served as a past president, board member, and regional clubs council representative to the U-M Alumni Association. She also served as a past chairperson and board member of the Boys & Girls Club of Lansing and was named the Boys & Girls Club of Lansing's Volunteer of the Year in 2001.

Michele lives in the Lansing area with her husband and daughter.



THRUN

LAW FIRM, P.C.

Attachment 5

U.S. MAIL ADDRESS

P.O. Box 2575, EAST LANSING, MI 48826-2575

PHONE: (517) 484-8000 FAX: (517) 484-0041

ALL OTHER SHIPPING

2900 WEST ROAD, SUITE 400

EAST LANSING, MI 48823-6386

LISA L. SWEM
JEFFREY J. SOLES
ROY H. HENLEY
MICHAEL D. GRESENS
CHRISTOPHER J. IAMARINO
RAYMOND M. DAVIS

MICHELE R. EADDY
KIRK C. HERALD
MATTHEW F. HISER
ROBERT A. DIETZEL
KATHERINE WOLF BROADDUS
DANIEL R. MARTIN

JENNIFER K. STARLIN
TIMOTHY T. GARDNER, JR.
IAN F. KOFFLER
FREDRIC G. HEIDEMANN
RYAN J. NICHOLSON
CRISTINA T. PATZELT

PHILIP G. CLARK
PIOTR M. MATUSIAK
JESSICA E. MCNAMARA
RYAN J. MURRAY
ERIN H. WALZ
MACKENZIE D. FLYNN

KATHRYN R. CHURCH
MARYJO D. BANASIK
CATHLEEN M. DOOLEY

GORDON W. VANWIEREN, JR. (OF COUNSEL)
MARGARET M. HACKETT (OF COUNSEL)

January 2, 2023

Dear Client:

Welcome to the new year! In 2022, school officials continued to see their schools at the epicenter of many of our most divisive social issues. We are grateful to our school clients for their dedication, passion, and professionalism in light of the many challenges posed in 2022. We are honored to provide guidance and be by your sides to help manage those circumstances.

Our attorneys assisted school clients with numerous issues in 2022, including – to name just a few – increased student services matters, library book challenges, ongoing school safety concerns, complicated election issues, and the continued web of federal ESSER funds spending regulations.

Additionally, our retainer clients received numerous E-Blasts, had access to client webinars on a variety of topics, and continued to receive their monthly edition of *School Law Notes* throughout the year.

Thrun Law Firm prides itself on providing high-quality, practical, and cost-effective legal services to our school clients. This letter explains in detail the costs and benefits of becoming or continuing as a retainer client. We believe that, more than ever, the services we provided in 2022 highlight the value of that relationship.

We look forward to continuing our attorney-client relationship with you. We appreciate your confidence in us and will strive throughout 2023 to provide your school with legal services.

Retainer Fee

Enclosed is our retainer fee statement in the amount of \$2,500 for the 2023 calendar year, which remains unchanged from 2022. This fee establishes an attorney-client relationship that covers extensive legal resource availability. Thrun Law Firm has 29 attorneys, each of whom focuses on school law and works with public school officials on a daily basis. Our experience in this highly specialized area of law ensures effective and efficient representation for our school clients.

Benefits of Retainer Relationship

- Substantially lower hourly rates than those charged to non-retainer clients.
- No charge for occasional brief telephone calls.
- Access to all of our attorneys across all practice groups.



Retainer Client
January 2, 2023
Page 2 of 4

- Reduced pricing for the initial purchase of, and annual updates for, the Thrun Policy Service.
- Access to model language and forms that are generally provided without charge or for a nominal flat fee.
- *School Law Notes*, our monthly retainer client newsletter, which contains timely information about current legal issues affecting school districts, boards of education, and school officials.
- Access to our annual spring webinar series at no additional charge.
- Periodic, prompt electronic notices (E-Blasts) about important legal developments.
- We also provide additional valuable services at no charge to our retainer clients regarding pertinent legal developments that affect your school district's day-to-day operations. Recent examples of those services include:
 - reviewing forms, such as the annual Municipal Finance Qualifying Statement, that school districts are required to file with governmental agencies;
 - regularly attending meetings of the State Tenure Commission and the Michigan Employment Relations Commission to monitor developments under the laws administered by those agencies;
 - analyzing State Tenure Commission decisions, special education due process decisions, property transfer decisions, and pupil accounting decisions; and
 - serving as a resource to statewide school management membership organizations on a variety of legal issues.

We take great pride in preparing our E-Blasts and *School Law Notes* newsletter in an accessible format that emphasizes “plain English,” avoids “legalese,” and provides our clients with practical legal information, including model forms, resolutions, and other helpful documents. For example, the newsletter annually includes summer tax and truth-in-taxation resolution forms at no additional cost. Past editions of the *School Law Notes* newsletter (January 2008 to present) are available in a searchable electronic format on our website (www.thrunlaw.com) exclusively for our retainer clients.

Practice Areas

In addition to our extensive trial and appellate practice before Michigan and federal courts, as well as various state and federal administrative agencies, Thrun Law Firm offers a broad range of legal services for public school districts, which are described in Attachment A to this letter.



Retainer Client
January 2, 2023
Page 3 of 4

Fees

For 2023, fees will be billed for retainer and non-retainer clients at the following hourly rates:¹

<u>Shareholder</u>		<u>Senior Associate</u>		<u>Associate</u>	
Retainer	\$300	Retainer	\$280	Retainer	\$250
Non-Retainer	\$340	Non-Retainer	\$320	Non-Retainer	\$300

Election issues involving ballot questions and finance issues (i.e., bonds, tax and state aid anticipation notes, installment purchase agreements, and lines of credit) are billed on a flat fee basis. With the exception of an election for a regional enhancement millage,² our 2023 school millage/bond election fee is \$1,950 for retainer clients and \$2,350 for non-retainer clients.³ This fee covers our review of existing millages and potential needs, as well as preparation of the necessary calendar, resolutions, ballot language, and related documents. We retain a copy of the entire proceedings for school district elections. Consequently, if an issue arises about an election, either for a potential borrowing or any court action, we have a complete transcript of the election proceedings on site for use in addressing the matter. We also maintain a database for our use regarding each election client that has important information about millage expiration dates. This information allows our attorneys to provide our clients with the advice they need to help determine when a school district's millage should be renewed by voters.

Our fee for a school bond financing is determined by the nature and amount of the bond issue, while fees for other types of finance issues are determined primarily by the amount of the financing. Our bond counsel fees are all-inclusive - clients are not billed for additional expenses such as in-state travel, telecommunications, copies, shipping, and other related costs. However, fees for architect, construction manager, energy performance, construction contract reviews and related construction or renovation matters are considered separate and are billed at the applicable hourly rate. Board member election questions are also generally billed on an hourly basis.

Forms

All governmental units and nonprofit organizations, including public school districts, are required to issue a Form 1099 to each law firm to which any payment for legal services was made during calendar year 2022. Please submit your school district's Form 1099 to us *by January 31, 2023*.

¹ Please note, if the retainer fee is not paid by March 31, 2023, billing rates will be adjusted to the non-retainer rates.

² Our fee for a regional enhancement millage election is \$1,950 or \$2,350, as applicable, plus an additional \$100 for each constituent school district.

³ When a bond election passes, the election fee is waived and incorporated into our bond counsel fee that is billed when the related bonds are issued.



Retainer Client
January 2, 2023
Page 4 of 4

In anticipation of your request for our federal taxpayer identification number, we have enclosed a completed Substitute Form W-9 for your files.

Conclusion

We look forward to being of continuing service to your school district in 2023. If you would like additional information regarding our legal services, please do not hesitate to contact us.

Very truly yours,

THRUN LAW FIRM, P.C.

Enclosures: Retainer Fee Statement
Substitute Form W-9

ATTACHMENT A

Board Counsel

- Board policy
- Board operations
- Business contracts
- Construction and real estate matters
- Finance and elections
- Freedom of Information Act (FOIA)
- Labor and employment
- Litigation, administrative law, and appeals
- Open Meetings Act (OMA)
- Special education
- State aid/pupil accounting
- Student matters

Business Contracts

- Arbitration and mediation
- Competitive bidding and procurement/RFPs
- Construction and architectural agreements
- Cooperative service agreements
- Donations and charitable giving arrangements
- Energy improvement projects
- Environmental protection and remediation
- Formation of business entities (including 501(c)(3) organizations)
- General business agreements
- Trademarks and service marks
- Intergovernmental agreements
- Investment and depository agreements
- Real estate transactions
- Technology and telecommunication agreements
- Third party service agreements
- Zoning and ordinance compliance

General School Law

- Constitutional law, including free speech, religion, search & seizure, and due process
- Family Educational Rights and Privacy Act (FERPA)
- Freedom of Information Act (FOIA)
- Open Meetings Act (OMA)
- Revised School Code
- State Aid Act
- Board policy drafting and review
- Board governance, including Robert's Rules of Order
- Incompatibility of public offices and conflicts of interest

Labor and Employment

- Administrative hearings
- Americans with Disabilities Act (ADA)
- Arbitration and mediation
- Civil rights and discrimination (EEOC and MDCR)
- Collective bargaining agreements
- Contract negotiations
- Employee contracts
- Employment regulations (OSHA, MIOSHA, and DOL)
- Employment-related investigations
- Fact finding
- Fair Labor Standards Act (FLSA)
- Family and Medical Leave Act (FMLA)
- Management strategies
- MPERS
- Patient Protection and Affordable Care Act
- PERA and MERC
- Personnel policies and procedures
- Teacher tenure
- Unemployment
- Wage and hour compliance
- Whistleblowers' Protection Act

Litigation, Administrative Law, and Appeals

- Arbitration and mediation
- Civil rights litigation
- Construction arbitration, mediation, and litigation
- Defense of insured claims
- Employment litigation
- Fair Labor Standards Act (FLSA)/wage and hour claims
- MDCR complaints
- MERC hearings and appeals
- OCR complaints
- Teacher tenure and appeals
- Property tax appeals
- Property transfers
- Special education/Section 504/ADA claims
- State aid and pupil accounting appeals
- Unemployment compensation claims
- Whistleblowers' Protection Act
- Workplace safety claims
- Wrongful discharge claims

Public Finance and Elections

- Annexations and consolidations
- Ballot drafting, including millage, bond, and other proposals
- Campaign Finance Act compliance
- Competitive bidding
- Emergency loan notes
- Energy bonds
- Energy loan notes
- Equipment leases and lease purchase agreements
- Headlee restoration and Headlee hedge proposals
- Installment purchase agreements
- Intermediate school district millages, including CTE, special education, and regional enhancement millages
- Investment of funds
- Lines of credit
- Michigan Finance Authority borrowings
- Operating millage renewals
- Permitted use of bond and note proceeds
- Post-issuance compliance
- Public recreation millage
- Revenue bonds
- School Bond Qualification and Loan Program
- Sinking fund millage
- Special assessment bonds
- State aid notes (SANs)
- State Building Authority borrowings
- Tax anticipation notes (TANs)
- Truth-in-taxation and budget hearings
- Voted and non-voted bonds, including capital improvement bonds

Special Education

- Americans with Disabilities Act (ADA)
- Auxiliary services
- Child find, evaluations, and eligibility
- Cooperative agreements and contracted services
- Defense of insured claims
- Due process complaints and hearings
- Extracurricular activities
- FAPE, LRE, and placement
- Funding
- IEP Team meetings
- Individuals with Disabilities Education Act (IDEA)
- In-services and workshops

Mediation

- OCR, MDCR, and MDE complaints
- Private schools and private placement
- Related services, supplementary aids, and accommodations
- Resolution meetings
- Schools of choice and 105c agreements
- Section 504
- State and federal court litigation
- Student discipline

State Aid and Pupil Accounting

- Certification penalty appeals
- Program compliance review
- Pupil accounting procedures
- State aid appeals (all levels)
- State School Aid Act

Student Matters

- Athletics and extracurricular activities
- Board policy changes and interpretations
- Child protection law
- CIPA and COPPA
- Curriculum
- Discipline
- Dress code
- Due process
- Electronic devices
- Family Educational Rights and Privacy Act (FERPA)
- Free speech rights
- Handbooks
- Religious exercises and the Equal Access Act
- Residency
- Search and seizure
- Special education and Section 504 implications
- Titles IV, VI, VII, and IX

**THRUN LAW FIRM, P. C.
CLIENT FEE AND EXPENSE CHARGE BACK INFORMATION**

Thrun Law Firm, P.C. wants each client relationship to be productive and satisfying for both parties. We believe one way to accomplish this goal is to explain the basis and manner by which we charge our fees and expenses.

FEES

You will have an attorney who is responsible for your engagement with our firm. The basis upon which we will charge for our services is subject to a contractual agreement between you and the firm. Fees are determined by the time and effort required and the experience and skill of the attorney performing the work (as reflected in hourly rates). Secretary time is not charged. Messenger time is charged on most occasions.

EXPENSES

Photocopying – Retainer clients are **not** billed for standard photocopies. Non-retainer clients are billed \$0.20 per page for photocopying.

Color Printer Charges – We typically charge \$0.25 per page for production of documents in color.

Mileage - Attorney and in-house messenger mileage expenses are charged at an amount not exceeding that set by the Internal Revenue Service. We also bill a delivery charge of \$20 per hour for errands and deliveries performed by our messengers. However, we do not bill our clients for mileage and delivery charges with respect to most finance and election matters.

Computerized Legal Research - We charge standard Lexis-Nexis rates plus a 25% adjustment representing our equipment cost and the charges placed by the internet provider.

Overnight Couriers - The charge to our client is the UPS or other courier's standard charge, including any temporary fuel surcharge or fee applicable to ensure delivery to the addressee.

Postage - Although we do not charge for ordinary mailings, we may charge for certain special delivery services.

Office Supplies - Although we do not generally charge for office supplies, we may charge for supplies necessary for special projects.

Other Expenses – Court filing fees, motion fees, mediation fees, arbitration fees, and similar expenses will appear on your bill at the amount actually disbursed by us on your behalf. You may be asked to pay directly for certain larger expenses that are invoiced by third parties.

INVOICES

Unless some other arrangement has been mutually agreed upon, we will submit monthly invoices for fees and expenses. This practice ensures that you have a current understanding of charges and expenses. The work we have performed on your behalf will be detailed in the monthly bill.

We strive to make sure that you receive a timely, complete, accurate, and fair invoice. We strongly encourage you to raise promptly with us any questions or comments you may have regarding any invoice. In return, we expect payment of our invoices within 30 calendar days after receipt. We may charge interest on past due accounts. If your account is not kept current, we reserve the right to terminate our representation, in accordance with applicable ethical rules.



ASPEN AMERICAN INSURANCE COMPANY

Administrative Offices

Newport Office Center III
499 Washington Boulevard, 8th Floor
Jersey City, NJ 07310

Statutory Home Office

350 North St. Paul Street
Dallas, TX 75201

THIS IS BOTH A CLAIMS MADE AND REPORTED INSURANCE POLICY.

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY APPLIES TO THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED AND REPORTED IN WRITING TO THE COMPANY DURING THE POLICY PERIOD. UNLESS THIS POLICY IS OTHERWISE ENDORSED, CLAIM EXPENSES ARE WITHIN AND REDUCE THE LIMITS OF LIABILITY. PLEASE READ THIS POLICY CAREFULLY.

LAWYERS PROFESSIONAL LIABILITY POLICY DECLARATIONS

COMPANY: ASPEN AMERICAN INSURANCE COMPANY

POLICY NUMBER: LPP000026-09

RENEWAL OF: LPP000026-08

PRODUCER NAME & ADDRESS:

B&B Protector Plans, Inc.
d/b/a The Lawyer's Protector Plan
655 North Franklin Street
Suite 1900
Tampa, FL 33602

1. NAMED INSURED:

Thrun, Maatsch and Nordberg, P.C. d/b/a Thrun Law Firm, P.C.

2. ADDRESS:

2900 West Road
Suite 400
East Lansing, MI 48823

3. POLICY PERIOD: **EFFECTIVE DATE:** 03/01/2022 **EXPIRATION DATE:** 03/01/2023
12:01 A.M. Standard Time at the address of the **Named Insured** as stated in Item 1. above.

4. LIMITS OF LIABILITY (Inclusive of **claim expenses** ☒, or; exclusive of **claim expenses** ☐):

- A. \$5,000,000 Limit of Liability - Each **Claim**
- B. \$5,000,000 Limit of Liability - Policy Aggregate

5. **DEDUCTIBLE** (Inclusive of **claim expenses** ☒, or; exclusive of **claim expenses** ☐):

- A. \$100,000 Each **Claim**
- B. \$N/A Aggregate

6. **PREMIUM:** \$81,539.00
TAXES and/or SURCHARGES: \$0.00
TOTAL: \$81,539.00

7. **NOTICES TO BE SENT TO:**

Report a Claim in Writing:

Claims Department
Lawyer's Protector Plan
655 North Franklin Street
Suite 1900
Tampa, FL 33602
Fax 888-239-2663

Email: lppclaims@bbprograms.com

All Other Notices:

Lawyer's Protector Plan
655 North Franklin Street
Suite 1900
Tampa, FL 33602
800-282-6955
Fax 813-223-9547

Email: lpp@bbprograms.com

For claims related questions, please call:

813-222-4291
Toll Free: 800-336-5529 ext. 14291

8. **RETROACTIVE DATE** (if applicable): Full Prior Acts

9. **FORMS AND ENDORSEMENTS ATTACHED AT POLICY EFFECTIVE DATE:**

ASP LPP 062 DEC (12 1) Law ers Professional Liability Declarations
ASP CO 098 (02 13) AAIC Signature Page
ASP LPP 063 (11 13) Lawyers Professional Liability Policy
ASP LPP 064 (11 13) OFAC Endorsement
ASP LPP 076 MI (11 13) Michigan Amendatory Endorsement
ASP LPP 077 MI (11 13) Michigan Policyholder Notice
ASP LPP 027 (11 13) Extended Reporting Period Retirement Amendment
ASP LPP 033 (11 13) Mutual Choice of Counsel Endorsement
ASP LPP 038 (11 13) Network or Information Security Breach Endorsement
ASP LPP 043 (11 13) Self Insured Retention Endorsement
ASP LPP 146 (03 20) Limited Claim Expenses in Addition to the Limit of Liability

Thrun Law Firm attorneys are scheduled to speak on the legal topics listed below.

For additional information, please contact the sponsoring organization.

www.thrunlaw.com/calendar/list

Date	Organization	Attorney(s)	Topic
January 11, 2023	Thrun Law Firm, P.C.	Jennifer K. Starlin Robert A. Dietzel	Student Threat Webinar
January 12, 2023	Thrun Law Firm, P.C.	Jennifer K. Starlin Philip G. Clark	Freedom of Information Act Webinar
January 12, 2023	St. Joseph County Business Managers	Lisa L. Swem	School Law Update Webinar
January 17 & 18, 2023	MSBO Financial Strategies Conference	Raymond M. Davis Timothy T. Gardner, Jr.	Strategies for Upcoming Labor Negotiations
January 18, 2023	MASA Midwinter Conference	Cristina T. Patzelt	Transgender Student and Staff Rights
January 19, 2023	MASA Midwinter Conference	Daniel R. Martin Cathleen M. Dooley	Analyzing Student Threats: a Framework
January 19, 2023	MASA Midwinter Conference	Raymond M. Davis	Collective Bargaining Hot Topics: Safety Protocols, Remote Work, & Employee Retention
January 19, 2023	MASA Midwinter Conference	Daniel R. Martin Cathleen M. Dooley	School Law and Legislative Update