

# Hot Topics



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# “They’re alternative facts.”

- Every Student Succeeds Act
- PPACA (aka “Obamacare”)
- Fair Labor Standards Act
- Supreme Court Nominee Gorsuch
- Supreme Court Cases
  - *Endrew F.*
  - *G.G. v. Gloucester*
- Department of Education
  - Office of Civil Rights
  - Transgender Guidance
- EEOC
- FMLA and Paid Maternity Leave
- Guidance Documents
  - Behavior Interventions
  - Wellness
  - Homeless
- “Dear Colleague Letters”
  - Transgender
  - Title IX
- Immigration Reform
- OSHA
- EPA Regulations
- National Labor Relations Board
- Federal Court Appointments

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# From the Unicameral

- LB 595: amends SDA to allow restraint (which is already allowed) and requires teacher consent for violent students to reenter classroom
- LB 62: removes prohibition of teachers wearing religious garb (79-898 and 899)

**79-898. Public schools; religious garments; wearing by teachers prohibited; penalty.**

Any teacher in any public school in this state who wears, in such school or while engaged in the performance of his or her duty, any dress or garb indicating the fact that such teacher is a member or an adherent of any religious order, sect, or denomination, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in any sum not exceeding one hundred dollars and the costs of prosecution or shall be committed to the county jail for a period not exceeding thirty days or both.

**79-899. Public schools; religious garb prohibited; enforcement; violation; penalty.**

In case of violation of section 79-898 by any teacher employed in any public school, notice of which having been previously given to the school board or board of education employing such teacher, the board shall suspend such teacher from employment in such school for the term of one year. In case of the second offense by such teacher the board shall disqualify permanently such teacher from teaching in such school. Any member of a board who fails to comply with the provisions of this section is guilty of a Class V misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars and costs of prosecution.

# From the Unicameral

- LB 427/428: remember that sex ed. and pregnant student public records request...
  - “Schools must remove overly restrictive or inflexible absence and leave policies...”
  - Assist in finding daycare; requires NDE to develop policy
- LB 511: cleans up 79-215(9)-(10) and “best interest determination” issues!
  - Sorts out transportation cost as required under ESSA
  - May place student in different school via “best interest determination” only “after consultation with the Commissioner of Education or his or her designee, or the court in charge that, based on facts provided by school officials, continued attendance at such school would not be in the best interest of the child.”

**Recent Cases: The “you can’t  
make this stuff up” edition.**

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# Fresno Unified School District

- Mai Summer Vue filed sex harassment suit
- Nao Pao Xiong had a history of making awful comments about Vue
- Vue was an employee; Xiong was not
- Board allowed Xiong to speak in English and Hmong for 3 minutes during public comment
  - Called Vue a porn star
  - Said he had a copy of videos
  - Brought copies for the board
- Admins knew of past harassment but did not stop Xiong from speaking at the meeting

# Fresno Unified School District

- Vue: school had obligation to stop Xiong's comments, which they knew were false
  - Could have stopped all public comment
  - Should have stopped harassing ones
- FUSD: we can't use "prior restraint"

But [Judge Alan Simpson](#) said in a ruling last week that Vue has issues that should be settled by a jury: "Given the extreme nature of his (Xiong's) statements and their apparent falsity, these appear to be facts from which a jury could conclude that they are outrageous and beyond the bounds of what should be allowed in a civilized community."

Simpson also noted that the school board could have stopped Xiong because its own rules prohibit the public from being "loud, insulting and/or demeaning."

[Link to Complaint](#)

# Lake Zurich Comm. Sch. Dist. 95

- Football hazing lawsuit alleges
  - Players urinating on other players
  - Slaps in the face with genitals
  - Forced oral sex on other teammates
  - "\*\*\*\*\* of the Week" tradition
- Other incidents dating back to 1997, including stripping and sodomizing with broomsticks
- Cross country runners would tape slowest runner naked to a pole
- Wrestlers gave "birthday beatdowns"

# Lake Zurich Comm. Sch. Dist. 95

- Lawsuit seeks
  - \$50,000 in damages
  - Required training across the board
  - Complaint database
- Coaches, Proffitt and Beaver, resigned
  - "I am amazed that because of one or two individuals' claims, the whole program & coaches are given a black eye."

# Stupid Teacher Tricks

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# Daniel Rapp: Math and Sexting

- Rapp is a JH math teacher
- Created a unique algebra lesson

"Tony can send 5 texts and 3 nudes in 19 minutes. He could also send 3 texts and 1 nude in 9 minutes. How long would it take him to send one text and one nude?"

- School gave written reprimand, 2nd in file
- Because I know you're curious:  $T=2$  and  $N=3$

# San Diego Unified School District

- Gonja Wolf was a HS teacher at SDUSD
- Student asked to use the restroom saying it was "urgent"
- Wolf thought the school had a "strict no bathroom policy" so improvised by purchasing a bucket to serve as a make-shift toilet...
- Wolf "had even used the bucket a few times herself"
- After the student asked, Wolf led student to a supply closet
- Told student to pee in a bucket and dump it in the sink

# San Diego Unified School District

- School's attorney: Wolf attempted to find a solution in a lapse of judgment
- Student's attorney: "Something like this never should have happened to a 14-year-old girl just entering HS"
  - Incident led to bullying, PTSD, attempted suicide
- Jury awarded **\$1.25 million** in damages
- "This was one of the more peculiar cases I've ever had."



# Bullying and Threats

# Missouri v. Branham

- Harley Branham (21) was manager of a Dairy Queen
- Kenneth Suttner (17) worked there
- Witnesses claimed Suttner was bullied at school and at work
  - Branham ridiculed and humiliated him
  - Made him clean the floor while laying down
- Suttner committed suicide
- Coroner convened "official inquest"

# Missouri v. Branham

- Branham charged with involuntary manslaughter
- She “was the principal in the cause of death”
- Dairy Queen and Glasgow Public School were “negligent” in failure to train and follow policy
  - Friend testified he only reported once due to inaction
  - 3 parents testified that bullying was “pervasive”
  - School leaders did not respond
- Coroner: “I felt there was bullying going on and things weren’t getting corrected.”

# Brunswick Sch. Dept.

- Student alleged bullying over 2.5 years
- Eventually transferred
- Complaint filed with ME Human Rights Comm.
- MHRC investigated, found
  - 20 acts of bullying
  - "Homophobic" name calling
  - 3 acts of sexual assault
- Student reported bullying, but not assault
- Filed lawsuit against school and principal

# Brunswick Sch. Dept.

- Settlement included
  - \$125,000 (\$25,000 from school directly)
    - \$50,000 for student's college education
    - \$75,000 for the lawyer
  - Required updating of bullying policies
  - Expanded anti-bullying programming
  - Focus on LGBTQ rights
  - Stronger reporting protocols
  - "Searchable" centralized system to record all alleged bullying reports
  - Required staff training and student assemblies
  - Required formation of faculty-supported gay-straight alliance group

# Not a Joke

- High school student sent snap to other students
- "I'm going to make Columbine look like a f\*\*\*\*\* joke."
- Police notified, obtained snap from SnapChat

## Juvenile arrested for terroristic threats

Upon investigating the threat, the male juvenile was arrested by the Neligh Police Department for terroristic threats, a Class 3A felony. The Antelope County Sheriff's Office also assisted.

The suspect was taken to the Juvenile Detention Center in Madison to be held on the charge.

# Criminal Consequences

- NEB. REV. STAT. 28-311.01
- Terroristic Threats: “threatens to commit any crime of violence ...”
  - With the intent to terrorize another
  - With the intent of causing evacuation of a building or public place
  - In reckless disregard of the risk of causing such terror or evacuation
- Class IIIA Felony punishable by up to 3 years in prison

# Sexting and Privacy Issues

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**28-311.08. Unlawful intrusion; photograph, film, record, or live broadcast of intimate area; penalty; court; duties; registration under Sex Offender Registration Act; statute of limitations.**

(1) It shall be unlawful for any person to knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion.

(2) **It shall be unlawful for any person to knowingly photograph, film, record, or live broadcast an image of the intimate area of any other person without his or her knowledge and consent** when his or her **intimate area** would not be generally visible to the public regardless of whether such other person is located in a public or private place.

(3) For purposes of this section:

(a) Intimate area means the naked **or undergarment-clad genitalia, pubic area**, buttocks, or female breast of an individual;

(b) Intrude means either the:

(i) Viewing of another person in a state of undress as it is occurring; or

(ii) **Recording by video, photographic, digital, or other electronic means of another person in a state of undress;** and

(c) **Place of solitude or seclusion means a place** where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, **locker room**, shower room, fitting room, or dressing room.

(c) Violation of this section is a Class IIA felony if video or an image recorded in violation of this section is distributed to another person or otherwise made public in any manner which would enable it to be viewed by another person.

## Gering teen enters admit plea for felony intrusion charges



The Scotts Bluff County courthouse in Gering

By Cearron Bagenda | Posted: Fri 10:03 AM, Jul 29, 2016



**GERING, Neb.** A Gering teenager facing 20 misdemeanor and 20 felony charges for allegedly photographing girls in a Gering High School locker room appeared in court this week.

According to court records on Tuesday, the teen entered an admit plea, similar to guilty, to one count of misdemeanor unlawful intrusion, and three counts of felony unlawful intrusion by photograph. The state dropped the remaining 19 misdemeanors and 17

# Gering

- 16 year old photographed girls in locker room
- Charged in JC with 20 misdemeanors and 20 felonies
- Pled to 1 misdemeanor, 3 felonies
- Sentenced to “probation” until he’s 19
  - Must terminate all social media accounts
  - No electronic devices with portable cameras
  - Required counseling for him and his family
  - Drug testing and GPS tracking
  - Letter of apology to students and parents

# Westside

- “A high school cooking teacher got more than she bargained for during a taste test this week”
- 3 boys mixed semen with frosting and put it on turnovers
- Charged with disturbing the peace
- Change.org petition started: 10,000+ signatures asking the school to “expel the students responsible”
- Raised interesting community perception, SDA, and criminal issues

# Nebraska's Sexting Law

- NEB. REV. STAT. 28-813 *et seq.*
- Makes sexting (images) of a child a class IV felony for offenders **under 19**
  - Up to two years imprisonment per photo
  - Twelve months post-release supervision or ten thousand dollars fine, or both
  - Require sex offender registration
- Class IIA felony for **19 and up**
  - Up to 20 years in prison
  - Require sex offender registration

# Sextortion: it's happening!

## Seward man gets prison time for trying to meet teen for sex

By the Lincoln Journal Star May 17, 2016 (0)



A 53-year-old Seward man who got arrested after going to Lincoln to have sexual contact with a 15-year-old boy went to prison Tuesday.

David L. Armstrong pleaded guilty to enticing by electronic device and told the judge at sentencing that he was sorry. If he could go back, he said, he wouldn't do it.

In court records, Lincoln police say Armstrong began exchanging messages and texts on Nov. 17 with someone he thought was a 15-year-old boy. The exchanges turned sexual.



[Latest news](#)

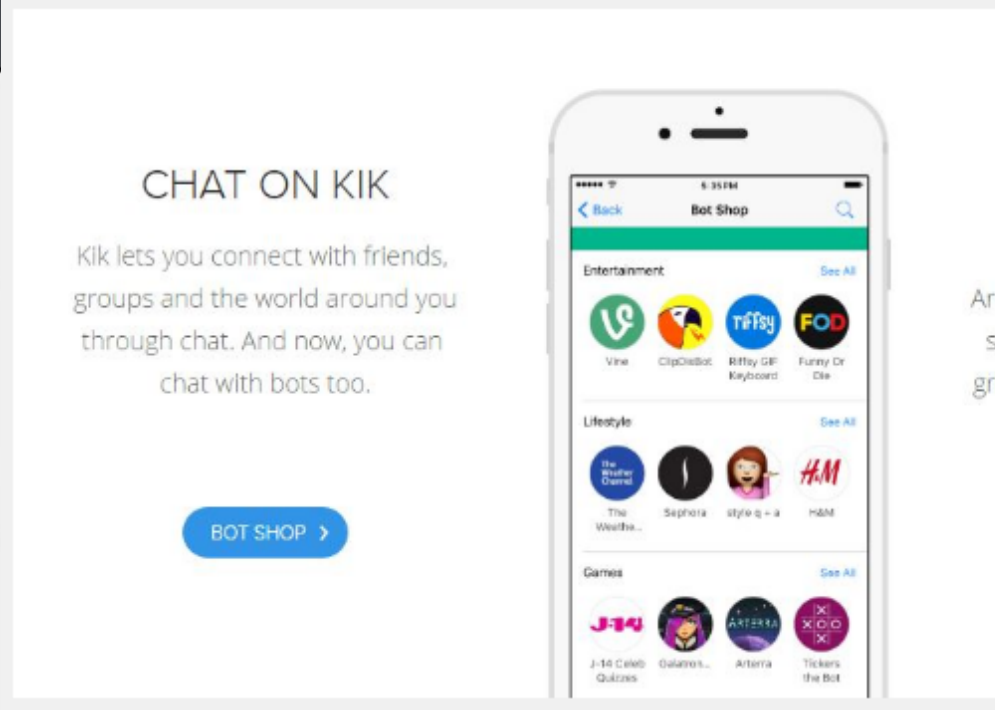
## Amherst man arrested, accused of wanting to meet girl for sex

By the Lincoln Journal Star Nov 21, 2015 (0)

# Utah Man Charged With Sexual Assault Of Falls City Girl

BY Dan Swanson | 10/31/2016

Home › News › Local News



FALLS CITY – A Richardson County judge has issued an arrest warrant for a Utah man charged with 10 counts of sexual assault of a child dating back to 2014.

Judge Curtis Maschman last week ordered the arrest of Isaac D. Kemp, 44, of Draper, Utah, based on a Nebraska State Patrol investigation.

An arrest affidavit says the Buncombe County Sheriff's Office in North Carolina alerted Nebraska officials to Kemp's Internet activity including using the website Kik Messenger.

On Sept. 7, law enforcement conducted a search warrant at Kemp's residence in Utah and the affidavit says evidence linked the man to Falls City, where he allegedly had a relationship with a girl beginning when she was 12.

The affidavit says the girl believed she was conversing with a 14-year-old boy named Josh. Investigators say Josh convinced her to send nude photos and later set up a meeting with someone he identified as his uncle.

## Dad: 12 year-old violated after receiving nude photos on Snapchat



By Meredith Barack | Updated: Thu 2:01 PM, Aug 04, 2016



**MADISON, Wis. (WMTV)** -- A Wisconsin family is sharing their story after a troubling incident involving Snapchat. Now, they want to warn other parents after their 12 year-old daughter received nude photos from a complete stranger.

Snapchat is known for its fun filters, and quick photo and video sharing features. Once you open something in the app, it disappears in 1 to 10 seconds.

Last week, a 12 year-old Madison, Wisconsin girl received disturbing photos, leaving her upset and embarrassed, and her parents feeling helpless.





# Questions?

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