

FRANCZEK

300 SOUTH WACKER DRIVE, SUITE 3400 | CHICAGO, IL 60606
T: 312.986.0300 | F: 312.986.9192 | FRANCZEK.COM

JENNIFER SMITH
312.786.6589
jas@franczek.com

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VIA ELECTRONIC MAIL

Amy Meek, Civil Rights Bureau Chief
Judith Levitan, Disability Rights Bureau Chief
Alison Hill, Supervising Attorney
Elizabeth Jordan, Assistant Attorney General
Office of the Illinois Attorney General
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Amy.Meek@ilag.gov
Judith.Levitan@ilag.gov
Alison.Hill@ilag.gov

Re: Response to Findings in District 211 Ticketing Investigation by the Office of the Illinois Attorney General

Dear Ms. Meek:

As you are aware, our firm represents Township High School District No. 211 (“District”). The District is in receipt of your office’s July 31, 2024, letter and the information you shared via video conference on August 5, 2024. You requested a response to the recommendations within one day with no opportunity to correct the factual and legal errors that pervade the letter. To meet that deadline, this letter provides a summary of the concerns the District shared with you during the video conference and a preliminary response to the recommendations.

Concerns Regarding Report

The District has several concerns regarding the information in the OAG’s letter. The District went to great lengths to protect student privacy and student records confidentiality in the information it provided to the OAG. It appears the OAG received personally identifiable information about students from other parties. The District contests the accuracy of this information and was not provided any opportunity to correct errors. More significantly, however, the District has grave concerns about the public dissemination of this sensitive information regarding minor students as

it violates student record confidentiality and privacy if it was taken from any records provided by the District. For example, the vignettes provided on pages 12 and 15 are and may allow the public, parents, and students to personally identify student disciplinary information, witnesses, and confidential reports. We restate our request that detailed and identifiable information be removed from a public report.

Furthermore, many of the findings are not supported by the investigation. For example, none of administrators interviewed indicated that they “directed” the School Resource Officers or other police officials to issue tickets or make arrests. Even if administrators *had* “directed” the School Resource Officers or other police officers to do so, administrators did not have the authority to do so. The only body with the authority to issue tickets or make arrests is the Village and law enforcement. The only time the School Resource Officers or police officials issue such tickets or make arrests is when school-based conduct also constitutes a violation of local ordinance or criminal law. At no point did the District issue any fines or fees as part of a school-based consequence, which is what is prohibited by the *School Code* except for in limited circumstances to allow for restitution. The *School Code* does not prohibit police officials from exercising their authority to issue tickets or make arrests consistent with municipal ordinances, criminal laws, or juvenile law.

Finally, the OAG’s letter does not address the numerous Illinois laws that mandate the District report certain conduct to law enforcement. School officials are **required** to report the following incidents involving a student to law enforcement:

- Any written complaint of a battery committed against teachers, teacher personnel, administrative personnel, or educational support personnel (105 ILCS 5/10-21.7)
- A verified incident involving drugs on school property, within 1,000 feet of the school or on a school bus (105 ILCS 5/10-27.1B and 105 ILCS 127/2)
- A firearm on school property or on a school bus – firearm is defined as any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however, paint ball, bb guns, spring gun, pneumatic gun. (105 ILCS 5/10-27.1A)
- Report to Department of State Police when a student is determined to pose a clear and present danger to himself, herself, or to others (430 ILCS 66/105 and 405 ILCS 5/6-103.3)
- Reporting a student who committed a criminal offense (105 ILCS 5/10-20.14(b))
- Hazing that results in death or great bodily harm (720 ILCS 5/12C-50.1)
- Failure of a parent/guardian to provide birth certificate or proof of child’s identity (325 ILCS 50/5 and 325 ILCS 55/5)
- Report that student or other person poses a clear and present danger to themselves or others for consideration for FOID card issuance (430 ILCS 66/105 and 405 ILCS 5/6-103.3)

The OAG report makes recommendations and conclusions that are inconsistent with other provisions of Illinois law and the Illinois *School Code* relative to reporting student conduct to law enforcement. We respectfully request that the OAG reconcile its findings with the reporting mandates.

Recommendations

The District's mission is to serve the needs of the District's diverse community by providing relevant and rigorous learning experiences, opportunities for involvement, and strong support systems that empower all students to reach their full potential. A foundational requirement for providing such opportunities is to offer students a positive and safe school climate. The District is in agreement with continuous improvement and collaboration that supports this mission. To that end, the District is open to collaboration with the OAG regarding the recommendations in the July 31, 2024 letter.

As an initial matter, many of the practices in the recommendations are established practices in the District or existing policies. The ongoing collaboration would need to address the concerns expressed to you on the August 5, 2024, conference and in this letter—particularly where the recommendations offered by the OAG are inconsistent with the law or other mandates.

Recommendation 1: Formalize the reduction in ticketing via written policies at the District and school level, and require SROs to adopt and document alternative approaches (such as peer jury or substance abuse programming) before ticketing students for behavior at school.

The District is willing to collaborate with the Village on amendments to the student handbook. The District is willing to review its Handbook language relative to the involvement of SROs in school-based consequences generally and to work with the Village on this language and its practices to ensure there is a clear separation of law enforcement duties and school officials' duties.

The District is also willing to revisit its MOU with the Village of Palatine. However, the District must comply with the legal mandates for reports to law enforcement and to provide safety to the school environment. Any revisions to the MOU must emphasize the seriousness of school safety and the importance of addressing threats to safety. Weapons, drug sales, and physical violence have no place in a school. The District cannot limit necessary information sharing with law enforcement to allow protection on campus and in the community. Additionally, any revisions to the MOU must recognize that the only body with the authority to issue tickets or make arrests is the Village, its School Resource Officers, and police officials.

Recommendation 2: Expand delayed adjudication to all tickets issued to District 211 students, and end efforts to collect on fines or debts from such tickets.

The District has no objection to revisiting its MOU with the Village of Palatine and discussing language regarding delayed adjudication arrangements. The District is happy to collaborate relative to delayed adjudication in any way that may be helpful to the Village. However, the District has no authority over this process.

Recommendation 3: Bring truancy enforcement into compliance with state law by amending District MOUs, repealing or amending applicable truancy ordinances, and instituting District policies to document the provision of supportive services before truancy tickets are issued.

The District has already reviewed its Student Handbooks and Board Policies relative to student truancy and has provided extensive professional development regarding the same. Notwithstanding, the District is willing to agree to conduct a comprehensive review of all of its Student Handbooks and relevant Board Policies to ensure that the definitions of truancy and the District's interventions for the same align with state law if the OAG believes that is required for the current documents. Additionally, the District, in alignment with the recent changes to the *School Code* relative to student truancy, does document interventions and supportive services provided to truant students.

As far as the recommendation that all municipalities amend or repeal their truancy ordinances, the District does not have the authority to take this action. The District notes that this investigation only addressed the Village of Palatine. It is the District's understanding that the OAG did not engage in an investigative process or undertake any investigative efforts with the other municipalities the District covers. Nevertheless, the District has no authority to order that any village or municipality amend its Village Code. Such a decision is in the sole discretion of the Village Board. The District is, however, happy to cooperate with the Village of Palatine (and any other village it serves) in amending its Village or Municipal Code to the extent assistance is sought to collaboratively meet the needs of its students.

Recommendation 4: Adopt standardized data collection requirements on student ticketing and contact with SROs, including demographic information.

Currently, the District does not have access to the information the OAG requests that it track. While the OAG is correct that the District tracks data on law enforcement referrals for the Office for Civil Rights report, that data is different than what the OAG is requesting. The District is willing to revisit its MOU with the Village to consider whether the Village/Police Department could share this data with the District.

Recommendation 5: Identify students who have repeated disciplinary incidents or contacts with SRO and evaluate for an IEP or Section 504 Plan eligibility.

Based on our discussion during the video conference, the OAG acknowledged that this recommendation for an automatic evaluation after a certain number of referrals is problematic and could lead to disproportionality in special education referrals and eligibility determinations. Furthermore, this recommendation is inconsistent with the individualized and case-by-case nature of the referral requirements embedded in the *Individuals with Disabilities Education Act* and Section 504 of the *Rehabilitation Act of 1973*. The District has and will continue to make individualized recommendations for case study evaluations as is legally required based on a student's case-specific circumstances. District teams consider all relevant information, which may include discipline incidents and law enforcement involvement.

Recommendation 6: Implement policies and provide ongoing professional development to all school personnel and school resource officers that support the behavior-related needs of students without resorting to suspension and/or expulsion.

The OAG requested, and the District provided, extensive documentation on the training and professional development it conducts relative to student discipline and special education. Notably, that documentation provided only a snapshot of all of the District's offerings. The District provides robust trainings for school personnel on students with special education needs, behavior needs, and alternatives to discipline generally. Those resources have only grown more robust in the past two years. While we appreciate the OAG's recommendation, this professional development has already been underway for quite some time and will continue to constantly improve and hone our practice in the interest of serving students.

Conclusion

As the OAG itself recognized, the District is successfully utilizing alternative interventions and practices. The District is and continues to be transparent and collaborative. At all times during this investigation, the District has offered to work alongside the OAG in an effort to timely and effectively improve any practices.

Sincerely,



Jennifer A. Smith

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