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SWIER LAW FIRM, PROF. LLC

Nationally Recognized Legal Solutions



Swier Law Firm Establishes SASD Legislative Leadership Award

Swier Law Firm, Prof. LLC is pleased to announce that it has established the Swier Law Firm-School Administrators of South Dakota **Legislative Leadership Award.**

The award recognizes a SASD member who has provided exceptional service in governmental advocacy on behalf of education in South Dakota.

The inaugural award will be presented at the SASD Outstanding Administrator Banquet/Superintendents' Legislative Day in Pierre on February 3, 2016.





Q: How does a school board properly give public notice of its official meetings?

A school board must provide public notice with a proposed agenda that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately before any official meeting.

A copy of the notice must be posted, visible to the public, at the school district's principal office. The proposed agenda must include the date, time, and location of the meeting.

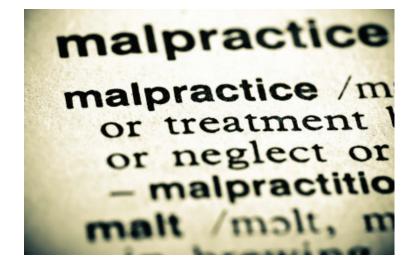


Q: Who is considered a "child with a disability" under the Individuals with Disabilities Education Act?

A: To be considered a "child with a disability" under IDEA, a student must have one or more of the following disabilities which must adversely affect the student's educational performance:

- intellectual disability
- hearing impairments (including deafness)
- speech or language impairments
- visual impairments (including blindness)
- serious emotional disturbance
- orthopedic impairments

- autism
- traumatic brain injury
- health impairments (including ADHD, epilepsy, a heart condition)
- specific learning disabilities



Q: What is "educational malpractice"?

Generally, educational malpractice claims fall into one of three different categories: (1) the student alleges that the school negligently failed to provide him with adequate skills; (2) the student alleges that the school negligently diagnosed or failed to diagnose the student's learning or mental disabilities; or (3) the student alleges that the school negligently supervised his training. (See *Moore v. Vanderloo*, 386 N.W.2d 108, 114 (Iowa 1986)).













Q: Is educational malpractice recognized as a valid legal claim in South Dakota?

A: The South Dakota Supreme Court has not considered whether a claim for educational malpractice is valid in South Dakota, However, the South Dakota Federal District Court recently predicted that the South Dakota Supreme Court would not recognize educational malpractice as a proper claim.

Specifically, the Federal District Court rejected a claim for educational malpractice because (1) the lack of a satisfactory standard of care by which to evaluate an educator; (2) the inherent uncertainties about causation and the nature of damages in light of such intervening factors as a student's attitude, motivation, temperament, past experience, and home environment; (3) the potential for a flood of litigation against schools; and (4) the possibility that such claims will embroil the courts into overseeing the dayto-day operations of schools.







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