



DISCHELL | BARTLE | YANOFF | DOOLEY
RESULTS MATTER

THE DBYD DIFFERENCE – EDUCATION LAW
FEBRUARY 28, 2009

Know Your Courts: A Special Edition of the *DBYD Difference*

If you are reading this, odds are that you are an educator. You are a school administrator, board member or teacher, and you need clear, concise legal advice. The problem is that educators and lawyers do not often speak the same language. This special edition of the *DBYD Difference* is part of a larger attempt to bridge that language gap. Knowing the basic workings of the federal court system will help you understand the cases we report in this newsletter. So many educational issues are federal – free speech, religious freedom, contraband searches and (for the most part) special education, just to name a few – that we will not dissect the state courts for the time being. Nevertheless, future issues of the *DBYD Difference* will refer back to this edition, which we will make available online, whenever the importance of a particular court is an issue.

What Do Pennsylvania, New Jersey, Delaware and the U.S. Virgin Islands Have In Common?

As we will see, sometimes the court itself is as important as the case. When a new education case is decided, school districts must figure out what, if anything, that case compels them to do. Knowing what court the case came from is a factor in that decision.

The United States is geographically divided into 13 federal judicial circuits. Pennsylvania sits in the Third Circuit, along with New Jersey, Delaware and the U.S. Virgin Islands. Pennsylvania is also subdivided into three federal judicial districts – the Eastern District, the Middle District and the Western District – each with their own federal district court. New Jersey, Delaware and the Virgin Islands are not subdivided, but each does have one district court.

Federal education cases are tried in these federal district courts. In Pennsylvania, school districts near Harrisburg go to the Middle District, while school districts near Philadelphia go to the Eastern District. Pittsburgh and its neighbors go to the Western District.

Anybody who has watched a TV courtroom drama knows that at the end of a trial, a judge reads the verdict, and the winning attorney rejoices as the losing attorney whispers, “don’t worry, we’ll appeal.” Cases from the district courts in the Third Circuit are

appealed to the Third Circuit Court of Appeals. When lawyers talk about “the Third Circuit,” they are talking about the appeals court, not the geographical area. Appeals from the Third Circuit go to the United States Supreme Court, but cases rarely go that far.

All of this is important because cases from the United States Supreme Court establish a national precedent and from the Third Circuit establish statewide precedent in PA, NJ, DE and the Virgin Islands. If the Supreme Court or the Third Circuit says bananas must be served every day, each school district in Pennsylvania had better start re-writing menus. The same is *not* true for the federal district courts. If the Western District says bananas must be served every day, school districts in eastern Pennsylvania have no obligation to change their menus. District court cases do not create mandates outside their geographical territory.

These Splits Are Bananas

District courts influence, but do not bind each other. Continue with the example of the Western District’s decision that schools must serve bananas every day. If a case about serving bananas came up in the Eastern District, the judge would very likely take a careful look at what the Western District already decided. This does not mean that the Eastern District must rule the same way. In the end, schools could be left with two perfectly valid, but contradictory decisions.

Of course, serving bananas every day is a silly example. Student discipline is not. As mentioned in a prior edition of the *DBYD Difference*, the Western District decided that schools may not discipline students for creating imposter profiles of their principals on MySpace. The Middle District then decided that discipline was acceptable in a nearly identical case.

This means that schools in western Pennsylvania’s hands are tied when students humiliate their principals online, while schools in central Pennsylvania can impose reasonable discipline. If you think that dichotomy is maddening, put yourself in the shoes of a school administrator in eastern Pennsylvania.

If a student creates a disgusting, derogatory MySpace profile of his principal, it is very difficult to know what is legal. If that administrator (or her solicitor, for that matter) turns to prior cases for guidance, she is left with conflicting advice.

Fortunately, the Circuit level court is designed to resolve conflicts between the district courts. When two district courts give contrary decisions on nearly identical facts, it is likely that the Circuit court will, sooner or later, get involved. This is exactly what is happening in the MySpace cases. Soon, we will have a decision from the Third Circuit that sets the law of the land, thereby resolving the district split. Similarly, the Supreme Court resolves conflicts between the 13 circuits. Court watchers track splits between the 13 circuits as one way to predict what cases will end up in the U.S. Supreme Court. Of

course, filing an appeal is not predicated on any sort of split, but the splits highlight trends to watch.

Legal Lingo

Knowing the difference between the federal district courts is not the road to popularity at cocktail parties. Nevertheless, this legal lingo will likely come up in your conversations with solicitors and in future issues of the *DBYD Difference*. The take-home messages for Pennsylvania school districts are these:

Pennsylvania sits in the Third Federal Judicial Circuit and is divided into three federal districts: the Eastern, Middle and Western Districts.

District level cases stay within their own boundaries.

Districts influence, but do not bind each other.

The Third Circuit Court of Appeals sets circuit-wide precedent throughout Pennsylvania, resolving conflicts between districts.

The United States Supreme Court sets national precedent, resolving conflicts between circuits.

School districts, in consultation with their solicitors, must understand these concepts to know what they must do when new, federal education cases are decided.

The *DBYD Difference* is published by Dischell Bartle Yanoff & Dooley, P.C. It does not, and is not intended to, constitute legal advice. Your receipt of this publication does not create or constitute an attorney-client relationship. You should not consider this publication to be an invitation for an attorney-client relationship, you should not rely on the information provided in this publication without first obtaining separate legal advice, and you should always seek the advice of competent legal counsel in your own state. This publication should not be viewed as an offer to perform legal services in any jurisdiction other than those in which DBYD's attorneys are licensed to practice. **DO NOT** send DBYD any information concerning a potential legal representation until you have spoken with one of DBYD's attorneys and obtained authorization to send that information.