Legal INSIGHTS

Ottosen DiNolfo Hasenbalg & Castaldo, Ltd.

Volume 33, No. 2 ~ Summer 2026

New Illinois Laws Effective in 2026-27 School Year

by Maureen Anichini Lemon and Sierra Vega

The Illinois General Assembly recently passed several new laws and amendments that will require school districts to revise policies and adjust operations. The legislation enacted this session touches on student discipline, employment matters, and other key areas of school governance. Below is a summary of ten noteworthy measures that school districts should have on their radar.

P.A. 104-0657 (eff. July 28, 2026): Wireless Communication Devices

By the start of the 2027-2028 school year, each school board will need to implement a policy that limits students' use of cell phones, smart watches, and other wireless communication devices during the school day. The law includes exceptions when a device is needed for a student's health, an IEP or Section 504 plan, English learner access, or caregiving responsibilities. Schools may also allow devices for high school lunch or passing periods, approved classroom use, and emergencies. Districts must engage key stakeholders (unions, parents, students, etc.) in developing the policy.

P.A. 104-0628 (eff. July 24, 2026): Service Animal Training

Starting January 1, 2027, school staff training on student protections and accommodations under the federal Americans with Disabilities Act will need to cover service animals.

P.A. 104-0808 (eff. August 7, 2026): Suicide Prevention Information

Starting January 1, 2027, schools serving students in grades 6 through 12 will need to look at their current classes and add age-appropriate, evidence-based suicide prevention curricula "if opportunities for integration exist."

The law authorizes but does not require ISBE to make resource materials about mental health and illness available to school districts.

P.A. 104-0565 (eff. July 10, 2026): Teacher Evaluations and Artificial Intelligence

This law places parameters around the use of AI in teacher evaluation plans. Starting January 1, 2027, evaluators and teachers may use AI to perform basic administrative tasks related to the evaluation. Evaluators and teachers will have to share with one another the name and specific purpose of any AI tool used in the evaluation process. Evaluators will not be able to use AI to perform any evaluative task that requires professional judgment or to assign a numeric score or qualitative rating (excellent, proficient, needs improvement or unsatisfactory). Teachers will not be able to use AI to create evidence of their professional practice as part of the evaluation process. Each joint committee must determine how AI tools may be used as part of the evaluation process.

P.A. 104-0646 (eff. July 24, 2026): Teacher Evaluation Plans

Starting July 1, 2026, if a district and its teachers cannot agree on whether student growth should be part of the teacher evaluation plan, and no collective bargaining agreement requires it, the student growth piece will be removed from the plan.

P.A. 104-0647 (eff. July 24, 2026): Removing/Dismissing Teachers

This law grants new rights to teachers to challenge a Notice to Remedy issued by a school board. As a reminder, tenured teachers must receive a Notice to Remedy publicly issued by a school board before that teacher can be dismissed for conduct that is "remediable". The Notice to Remedy must explain the alleged conduct, and any later dismissal must be reasonably connected to the conduct referenced in the Notice to Remedy. The teacher has a right to respond to the allegations in the Notice to Remedy, either in writing or in person before the board, prior to the board's vote to issue the Notice to Remedy. If the teacher disagrees with the school board's action, the teacher's union or an unrepresented teacher may submit the matter to binding arbitration, following the procedures set forth in the law.

P.A. 104-0723 (eff. July 31, 2026): Religious Hairstyles

P.A. 104-0723 expands the protections first offered to Illinois school children in 2021 by the Jett Hawkins law. That law prohibited schools from enforcing dress code requirements that discriminated against hairstyles historically associated with race, ethnicity or hair texture. P.A. 104-0723 extends those protections to religious hairstyles, hair-related religious practices, or facial hair worn because of a student's or employee's religious beliefs.

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New Illinois Laws
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Schools will still be able to require hair or facial hair to be secured, covered, or controlled for health or safety reasons, but they must use the least restrictive option and cannot require cutting, shaving, or another permanent change. Nonpublic schools are not covered by these requirements.

P.A. 104-0743 (eff. July 31, 2026): Administrative Withdraw – Truancy

Currently, Section 26-12 of the Illinois School Code allows a school district to "expel" a student for nonattendance after the student has been absent for 15 consecutive days without valid cause and cannot be located or, if they have been located, after the school has exhausted all available support services to compel the student to return to school. This amendment changes "expulsion" to an "administrative withdrawal" and requires schools to make at least three documented attempts to notify the student's parent or guardian before executing an administrative withdrawal.

P.A. 104-0831 (Signed on August 10, 2026): DCFS – Abused Child – Grooming

P.A. 104-0831 amends several key Illinois statutes intended to keep students safe from sexual abuse and grooming. First, school websites and all school handbooks (student, staff, and parent) must list available methods to report staff-student boundary violations and the guidelines for employees/agents with respect to transporting students, taking or possessing a photo or video of a student, and meeting with a student or contacting a student outside of the employee's/agent's professional role. Second, there will be several changes to the employment history review process for applicants. Applicants will have to list only those current and past employers where the applicant has/had direct contact with students (as opposed to being sent to all past employers regardless of student contact). Additionally, regional offces of education and intermediate service centers will be authorized to gather and share the information on behalf of substitute teachers seeking employment in more than one school district. Third, the law allows parents to submit a written objection to opt their pre-K through eighth grade students out of participating in classes or courses with lessons on recognizing and avoiding sexual abuse. Fourth, grooming-related behaviors have been added to the definition of 'child abuse' under the Abused and Neglected Child Reporting Act. These changes will take effect on January 1, 2027.

P.A. 104-0546 (eff. July 10, 2026): Suspension/Expulsion

Effective immediately, students as young as kindergarten age who are at risk of 'academic failure' may be placed in an out-of-district alternative learning opportunities program (ALOP). Kindergarten – 2nd grade students may be placed in an ALOP for a maximum of 90 days beginning on the student's first date of attendance. Beginning in the 2028-2029 school year, 1) schools may not expel students in kindergarten through second grade except for possession of a firearm or object used or attempted to be used to cause bodily harm; and 2) kindergarten – 2nd grade students may be suspended from school for longer than three days only with the superintendent's approval and only for as long as necessary to develop a behavior or safety plan.

If you have any questions regarding these new laws, pending bills, or any other legislation, please contact one of Ottosen DiNolfo's school attorneys.

Reminder: Police Officers/Firefighters Held to Different Mental Health Disability Standards

by Meganne Trela

When it comes to psychological disability pensions, police officers and firefighters do not play by the same rules—and the reason comes down to how the Illinois Pension Code defines "act of duty" differently in Articles 3 and 4. Two cases illustrate the practical consequences of that distinction: R*obbins v. Board of Trustees of the Carbondale Police Pension Fund*, 177 Ill. 2d 533 (1997), and *Prawdzik v. Board of Trustees of the Homer Township Fire Protection District Pension Fund*, 2019 IL App (3d) 170024.

In *Robbins*, a police officer reassigned to patrol duty in 1988 experienced job-related stress, including criticism over reports and anxiety about younger, better-trained colleagues. He also witnessed a January 1, 1990, shotgun suicide while on a domestic call. After a 1992 suspension for mental unfitness, the officer submitted an application for both non-duty and line-of-duty pension benefits. The police pension board granted a non-duty disability pension but denied a line-of-duty pension. The Illinois Supreme Court upheld the pension board's decision.

The question in *Robbins* was whether the officer's mental disability "resulted from the performance of an act of duty" under Section 3-114.1 of the Illinois Pension Code. (40 ILCS 5/3-114.1) The court determined that the definition required a special risk unique to police work. With that, the Illinois Supreme Court held that the board's denial of a line-of-duty pension was appropriate because the stress stemmed from generalized job performance anxiety, not a specific, identifiable act of police duty involving special risk. For police officers, the injury or psychological claims to prove a line-of-duty disability must be linked to a specific act of duty unique to police work rather than the general stressful nature of policing.

However, the same result would not have followed if the applicant was a firefighter.

In *Prawdzik*, a firefighter and Air National Guard combat medic developed Post-Traumatic Stress Disorder ("PTSD") and related conditions after service in Afghanistan, returned to duty in 2009, and experienced on duty triggers. On one occasion in 2014 the firefighter became unable to drive fire apparatus and his anxiety worsened after a fire truck lost power while traveling about 45 mph. The board awarded a non-duty pension benefit but denied line-of-duty benefits, finding his PTSD was caused by combat rather than acts of duty as a firefighter. The circuit court affirmed but the appellate court reversed and remanded with instructions to award a line-of-duty pension.

The court reasoned that under Section 4-110 of the Illinois Pension Code, a disability must be "incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty." (40 ILCS 5/4-110.)

The appellate court determined that the 2014 incident was an act of duty that aggravated the firefighter's preexisting PTSD/anxiety and causally contributed to his permanent disability, warranting a line-of-duty pension.

The court further reasoned that firefighters need only show that an act of duty was an aggravating or contributing factor to the disability. The court distinguished the case from *Robbins* by holding that the "special risk" standard did not apply because the definition of "act of duty" was different in Article 4.

Robbins and *Prawdzik* illustrate that mental health disability outcomes turn on the statutory definition of "act of duty." Police applicants must tie psychological disability to a specific act that has a special risk unique to policing; however, firefighter applicants can establish eligibility where acts of duty aggravate preexisting conditions and causally contribute to the disability.

Therefore, it is critical not to hold firefighters and police officers to the same standard. As always, the record applicable to the benefit application impacts the outcome of a disability pension application. Thus, pension funds considering mental health disability cases must do their best to gather appropriate information from the employing department and assign the independent medical evaluations to medical providers capable of understanding and applying the appropriate "act of duty" definition.

What's New: Illinois Legislation Affecting Fire Protection Districts and Local Governments

by John Motylinski

The Illinois General Assembly's most recent session produced a number of new laws relevant to fire protection districts and other units of local government. This Article highlights several of the most significant enactments including ambulance billing, employee protections, financial reporting obligations, and more.

P.A. 104-0599 (eff. January 1, 2027): Fire Protection Districts May Now Transfer Ambulance Fund Surpluses

Fire protection districts that operate ambulance services sometimes find themselves with surplus funds in their ambulance service accounts. Previously, there was no clear statutory authority to move that money to other district funds, even when the surplus was not needed to cover ambulance-related obligations.

P.A. 104-0599 resolves that ambiguity by adding Section 22.2 to the Fire Protection District Act. Under the new provision, a fire protection district may transfer money from its ambulance service fund to another fund controlled by the district, provided three conditions are met: (1) the district has not already made a transfer from the ambulance service fund in the same fiscal year; (2) the funds remaining in the ambulance service fund after the transfer are sufficient to cover all remaining obligations payable from that fund in the current and future fiscal years; and (3) the transfer does not harm the district's finances or public safety mission.

P.A. 104-0611 (eff. January 1, 2027): Pensionable Salary Must Be Maintained While on PEDA

When a firefighter, police officer, or certain other public employee is injured in the line of duty and cannot perform their duties, the Public Employee Disability Act ("PEDA") entitles them to continued pay during their disability period. P.A. 104-0611 strengthens those protections by clarifying that continued pay must be calculated on the same gross pay basis as the employee received before the injury and must include all pensionable salary.

This is a significant clarification. Some public employers had taken the position that PEDA-mandated pay did not need to include certain salary components that factor into pension calculations. P.A. 104-0611 forecloses that argument and ensures that an employee's pension benefit accrual is not diminished as a result of a line-of-duty injury or illness.

P.A. 104-0681 (eff. January 1, 2027): Expanded Confidentiality for Peer Support Services

Illinois law already provides confidentiality protections for communications made in connection with critical incident stress management and peer support services for first responders.

P.A. 104-0681 extends those protections in one important respect: the confidentiality privilege now applies regardless of whether the peer support counselor is employed by or affiliated with the same agency as the first responder seeking support. This means that firefighters and other first responders may seek peer support from counselors outside their own department without fear that the cross-agency relationship will strip away the confidentiality protections that would otherwise apply.

P.A. 104-0623 (eff. July 24, 2026): Electronic Filing of Budget Documents with the County Clerk

P.A. 104-0623 makes a straightforward and welcome administrative improvement. Under an amendment to Section 18-50 of the Property Tax Code, taxing districts may now file their budget and appropriation ordinances electronically with the county clerk. The county clerk is required to accept such filings and to provide an electronic receipt acknowledging them. This law is effective immediately.

P.A. 104-0635 (eff. July 24, 2026): Revised Audit and Financial Reporting Requirements

P.A. 104-0635 amends the Governmental Account Audit Act to revise which local governments must undergo an annual audit beginning with fiscal year 2027. Now, governmental units with less than $1.4 million (formerly, $850,000) in annual revenue will be permitted to file an Annual Financial Report with the State Comptroller in lieu of a full audit.

Governmental units with more than $1.4 million in annual revenue must continue to comply with the Act's existing audit requirements and, in addition, must file an annual financial report with the Comptroller.

Significantly, governmental units in the higher revenue tier must also make copies of both their audit report and their financial report part of their public record immediately upon completion.

P.A. 104-0732 (eff. January 1, 2027): Ambulance Billing Mutual Aid Fix

P.A. 104-0248, enacted last session, made important changes in ambulance billing by requiring health insurers to pay local government ambulance providers at the rate established by their respective governing bodies.

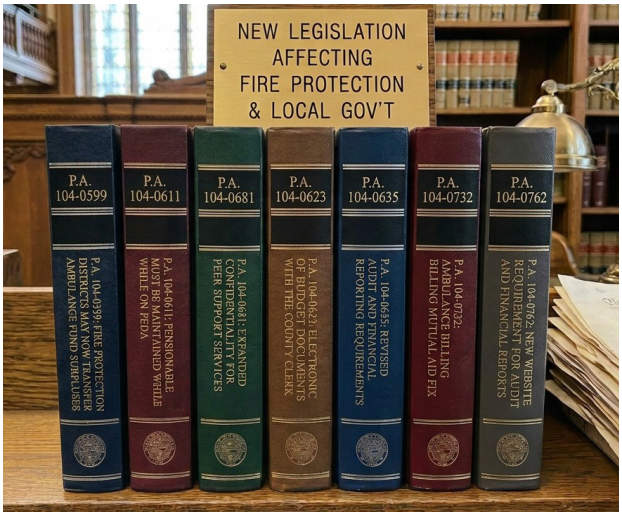
However, the Act was inflexible when it came to mutual aid. Applied literally, a fire department rendering mutual aid in a neighbor's jurisdiction would only receive compensation at the neighbor's rate. P.A. 104-0732 corrects this problem. The new law makes clear that a health insurance issuer must pay the rate set by the governmental ambulance provider rendering mutual aid—not that of their neighbor.

P.A. 104-0762 (eff. January 1, 2027): New Website Posting Requirement for Audit and Financial Reports

Units of local government that maintain a public website will soon have a new obligation under P.A. 104-0762. The law requires such entities to post information on their website describing where their audit reports and financial reports are publicly accessible. The posting must include a link to the Illinois Comptroller's website, where many such reports are already available to the public. Fire protection districts with public-facing websites should review their sites to ensure compliance. Districts that do not maintain a website are not affected.

Conclusion

This legislative session brought meaningful changes across several areas affecting fire protection districts—from expanded fund transfer authority and clarified PEDA pay standards to a needed fix to the ambulance billing framework. Fire districts should work with their legal counsel to assess which of these changes require updates to existing policies, procedures, or public-facing materials.



How Specific Must Your Meeting Agenda Be?

by John Kelly

When you post an agenda, how much do you actually need to say? The Open Meetings Act requires that agendas "set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting." (5 ILCS 120/2.02(c)). That sounds straightforward enough — but what does "general subject matter" actually mean in practice? A recent binding opinion from the Illinois Attorney General's Public Access Counselor ("PAC") sheds some useful light. (Attorney General Opinion 26-995, May 15, 2026.)

In the complaint before the PAC, a village posted an agenda for a board meeting that listed 'Personnel issues' under a heading that covered two divisions. The board went into closed session to discuss personnel matters, came back out, and voted to terminate a police officer. A citizen cried foul, arguing the agenda gave the public no real notice of what was about to happen. The village pushed back, contending that the agenda clearly signaled that personnel action was coming, and since only one of the two divisions listed on the agenda actually had employees, it wasn't hard to figure out who was affected.

The Attorney General was not persuaded. Tracing the legislative history of the Act—and the 2013 amendment that added the "general subject matter" requirement—the PAC concluded that the Act's core purpose of keeping the public informed demands more than a vague catch-all like 'Personnel issues.' As the PAC put it, 'Personnel issues' "broadly encompasses any issue related to personnel," and "does not provide advance notice of the general subject matter of any particular category of personnel or any particular type of action."

At a minimum, an agenda item should tell the public what category of employee is involved and what type of action is on the table. In this case, something along the lines of "disciplinary action involving a police department employee" would have done the job. Notably, the opinion confirmed that public bodies are not required to identify the specific employee by name.

The takeaway for local government officials is straightforward. Before finalizing any agenda, ask whether a member of the public reading it would have a reasonable sense of what action the board is likely to take. For personnel matters specifically, that means identifying the relevant department or employee category and the nature of the action—hiring, promotion, discipline, termination, and so on. However, the subject's name does not need to appear on the agenda. If you have questions about OMA compliance or agenda drafting, please contact one of your attorneys.

Illinois Digital Asset Consumer Protection Act Compliance Deadlines Are Approaching

by Dominick Lanzito and Gianna Spada

Digital assets—including cryptocurrencies, stablecoins, and other blockchain-based tokens—represent a new class of financial instruments that exist and are transferred exclusively in digital form. As the digital asset market has expanded, so too have the threats posed to consumers by unregulated digital asset exchanges. Consumers participating in unregulated digital asset exchanges may face risks including but not limited to cybersecurity attacks, market risks, and fraudulent exchanges.

In 2025, Illinois joined the growing number of states—including New York, California, and Louisiana—that have passed legislation to regulate digital asset businesses and ensure consumer safety. The Digital Assets and Consumer Protection Act, signed into law by Governor JB Pritzker on August 18, 2025, aims to protect consumers by establishing oversight of digital asset businesses in the rapidly evolving digital asset market. The Act's provisions were set to become effective following a transition period, which will soon end.

What the Act Changes

The Act provides that the Illinois Department of Financial and Professional Regulation ("IDFPR") has the authority to regulate and supervise all digital asset business activity in Illinois. Digital asset businesses operating in Illinois must register with the IDFPR, unless exempted. Failure to register can result in fines of up to $100,000 per day that a digital asset business is in violation of the Act.

Businesses that apply for registration must implement plans and programs for addressing various critical risks, including among other things a cybersecurity program, an anti-fraud program, an anti-money laundering program, and an operational security program.

In essence, the requirements imposed on digital asset businesses by the Act mirror current regulations for traditional financial services.

Consumer Protections and Disclosure Obligations

At the heart of Illinois' approach is a commitment to protecting consumers. Digital asset businesses must provide clear pre-transaction disclosures, customer asset safeguards, and customer service standards. Particularly notable is the Act's requirement that digital asset businesses that hold custody or control of a digital asset of an individual must continuously have in their possession enough of each specific digital asset to cover, in full, what the individual is owed in that digital asset.

This requirement serves to protect consumers' interests in digital assets and to ensure that digital asset businesses hold adequate financial resources to operate efficiently.

Exemption for Local Governments

The Act applies to people doing business in Illinois who engage in activities relating to the exchange, transfer, or storage of digital assets. In other words, a covered person under the Act includes digital asset businesses. The Act does not apply to "the United States, a State, political subdivision of a State, agency, or instrumentality of federal, State, or local government." 205 ILCS 731/1-10(c)(1).

When Does the Act's Transition Period End?

The Act provides for a transition period for digital asset businesses to ensure compliance with the Act's requirements. Covered businesses that engage in digital asset activities have until July 1, 2027, to register with the IDFPR, and until January 1, 2027, to provide specified customer disclosures, comply with requirements for the protection of customer assets, make available required customer service information, and comply with requirements for making a covered exchange of digital assets. Those affected should take appropriate action.

Bottom Line

Illinois has joined the growing number of states that have passed legislation to ensure consumer safety in a world with an expanding digital asset market. The Digital Assets and Consumer Protection Act will soon become fully effective. Therefore, businesses engaged in digital asset activities should review their operations and create plans and policies to ensure compliance now.

Wrongdoing Isn't Policy: The Seventh Circuit Reaffirms Monell's Demanding Standard

by Quinn Crowley and Sierra Vega

Public entities defending constitutional tort claims under 42 U.S.C. § 1983 often face a simple but powerful argument: something terrible happened, and it happened on their watch. The Seventh Circuit's recent decision in *Betts v. Boone County* is a reminder that terrible facts alone are not enough to saddle a municipality with liability.

Under *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658 (1978), public bodies cannot be held liable under Section 1983 simply because one of their employees violated someone's constitutional rights. Instead, plaintiffs must show that the violation resulted from an official policy, a widespread and persistent custom, or a decision by an official with final policymaking authority for the government entity.

Betts put that standard to the test against a set of facts that were difficult. The case involved allegations of serious misconduct by a former county coroner that went undiscovered for decades and caused real harm to surviving family members. Even so, the Seventh Circuit held that Boone County could not be held liable. Here is why.

Background

In the 1970s, Wesley Hyland served as the elected coroner for Boone County, Illinois. As coroner, he took possession of human remains when examinations or investigations were required under Illinois law. Instead of returning all remains to the families of the deceased, Hyland secretly kept three skulls from individuals whose bodies had passed through the coroner's office.

Court documents indicate that Hyland kept the skulls for decades as personal trophies, rather than for any legitimate purpose related to his office. The conduct went undiscovered while he served as coroner and for many years after he left office. During that time, the affected families, including the Betts family, did not know that portions of their loved ones' remains were missing.

The misconduct came to light only after Hyland's death, when authorities found the retained remains and arranged for their return to surviving family members. Louise Betts's skull was returned to her descendants approximately 40 years after her death.

The Betts family sued Boone County under Section 1983, alleging that the county violated their rights under the Due Process Clause of the Fourteenth Amendment. They argued that they had a constitutionally protected property interest in their relative's remains and that the county deprived them of that interest without due process.

The Court's Decision

The Seventh Circuit affirmed the dismissal of the claims against Boone County. The court concluded that the plaintiffs had not tied Hyland's conduct to an official county policy, a longstanding county custom, or a decision by an official with final policymaking authority for the county.

The court emphasized that local governments are not automatically liable under Section 1983 for every wrongful act committed by their employees or officials. A county cannot be held liable solely because one of its officials acted improperly.

Instead, municipal liability requires a direct connection between the alleged constitutional violation and the local government itself. That connection may be established through an official policy, a widespread and persistent custom, or the action of an official who has final authority to set policy for the municipality.

Hyland's conduct did not meet that standard. Illinois law required coroners to return remains to family members and to handle remains according to established legal procedures. By keeping the skulls for personal reasons, Hyland acted contrary to state law, not pursuant to county policy.

The court also rejected the argument that Hyland's status as an elected coroner automatically made his actions county policy. Although coroners may exercise discretion in carrying out their duties, discretion is not the same as authority to set policy for the county.

For those reasons, the Seventh Circuit affirmed dismissal of the claims against Boone County.

Key Takeaways

Betts reinforces several important principles for public entities facing Section 1983 claims.

First, wrongful conduct by an individual official does not automatically create municipal liability, even when the conduct occurs in the general context of official duties. The court recognized the seriousness of Hyland's conduct, but it made clear that the severity of the alleged misconduct did not alter the legal standard under *Monell*.

Second, the decision underscores the difference between discretion and policymaking authority. Public officials often have discretion in how they perform their duties, but discretion alone does not make their actions municipal policy. Plaintiffs must show that the official had authority to make policy for the municipality and that the challenged conduct reflected that authority.

Third, state law matters. The court looked to Illinois law to determine whether Hyland's conduct could fairly be treated as authorized county action.

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Qualified Immunity Remains Strong as Courts Continue to Define Constitutional Boundaries

by Stephen DiNolfo

The Seventh Circuit Court of Appeals' recent decision in *Smith v. Kind,* 140 F.4th 359 (7th Cir. 2025) offers an important reminder about how qualified immunity operates in federal civil rights litigation. Even when a court identifies conduct that could violate the Constitution, officers may still be protected from personal liability if the law was not "clearly established" at the time. The U.S. Supreme Court recently declined to review the case, leaving the Seventh Circuit's decision in place and reaffirming qualified immunity remains strong.

The Facts

Smith arose from events at a correctional institution during an inmate's prolonged hunger strike. After the inmate repeatedly refused orders to leave his cell for medical evaluations, prison officials used pepper spray during a cell extraction. The inmate, who had asthma, alleged that officers knew he had a medical contraindication to pepper spray. Following the extraction, officers placed him in a control cell for approximately 23 hours. According to the inmate's version of events, he remained naked in a cell exposed to temperatures ranging roughly from 25 to 57 degrees Fahrenheit without clothing, bedding, or other means of keeping warm.

The inmate filed suit under 42 U.S.C. § 1983, alleging excessive force and unconstitutional conditions of confinement.

The Seventh Circuit's Decision

The Seventh Circuit began by reiterating the familiar two-step qualified immunity inquiry, where courts ask: (1) Whether the facts show a constitutional violation; and (2) Whether the constitutional right was clearly established at the time of the conduct.

Significantly, the court chose to address both questions rather than decide the case solely on qualified immunity grounds. The panel explained that doing so helps develop constitutional precedent and provide guidance for future cases.

On both the pepper-spray claim and the conditions-of-confinement claim, the Seventh Circuit concluded that a reasonable jury could find an Eighth Amendment violation. The court observed that the inmate presented evidence that he posed little immediate threat, had been extracted successfully on prior occasions without pepper spray, and was in a weakened condition due to his hunger strike. A jury could therefore conclude that the use of pepper spray lacked a legitimate purpose.

The court reached a similar conclusion regarding the confinement claim. It reiterated that inmates have a constitutional right to protection against extreme cold and that warmth qualifies as a basic human need. Viewing the evidence in the inmate's favor, a jury could find that officers knowingly left him exposed to freezing temperatures without clothing or bedding despite requests for assistance.

Despite finding that a jury could identify constitutional violations, the Seventh Circuit held that qualified immunity barred recovery on both claims. The court stressed that clearly established law must place the constitutional question "beyond debate." In excessive-force cases especially, courts must examine the specific facts confronting the officer rather than rely on broad legal principles.

As to the pepper-spray claim, the court found no controlling precedent that would have made it clear to every reasonable correctional officer that using pepper spray under these particular circumstances violated the Eighth Amendment.

Likewise, on the cold-cell claim, the court acknowledged prior cases recognizing inmates' rights to protection from extreme cold. However, it found no sufficiently analogous case involving confinement for approximately 23 hours in temperatures ranging from 25 to 57 degrees without clothing or bedding. Because the court concluded that existing precedent did not squarely govern the specific facts, qualified immunity applied.

Judge Hamilton penned a sharp dissent. He agreed that the inmate had presented evidence of an Eighth Amendment violation but disagreed with granting qualified immunity on the cold-cell claim. In his view, existing precedent had already made clear that deliberately exposing a naked prisoner to extreme cold was unconstitutional. He criticized what he viewed as an overly rigid search for factually identical precedent and argued that some constitutional violations are sufficiently obvious that no case on all fours is required.

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INSIDE INSIGHTS

MEET ATTORNEY JOHN H. KELLY

John H. Kelly has built a remarkable career of service, leadership, and trusted counsel in local government law and public safety. As a partner with Ottosen DiNolfo Hasenbalg & Castaldo, Ltd., he has devoted his practice to helping municipalities, police departments, fire departments, 9-1-1 centers, and public safety communications agencies navigate complex issues involving employment, labor, pensions, regulations, liability, discipline, and operations.

Mr. Kelly's career is especially meaningful because it is grounded in firsthand public service. Before entering the legal profession, he served for 10 years as a suburban police officer, experience that gave him a deep understanding of the realities facing first responders and public safety leaders. Over the decades, he has transformed that experience into steady, practical, and respected guidance for commissions, police chiefs, fire chiefs, emergency communications leaders, public employers, and pension boards.

Throughout his long career, Mr. Kelly has made a lasting impact on the 9-1-1 community and the broader public safety field. He has represented 9-1-1 centers throughout Illinois, served as defense counsel for a major insurer of 9-1-1 agencies, and provided leadership and legal counsel to nationally recognized public safety organizations. His work reflects a sustained commitment to strengthening emergency communications, supporting those who serve the public, and improving the systems communities rely on in moments of need.

Career Highlights and Accomplishments

- Honored as one of the "Top 50 in 50 Years of 9-1-1" in recognition of his lasting contributions to the emergency communications field.
- Recognized as an Emergency Number Professional and inducted into the National Emergency Number Association Hall of Fame.
- Served as general counsel for the National Emergency Number Association and as counsel to leading Illinois public safety communications organizations.
- Provided trusted legal guidance to 9-1-1 centers statewide on regulation, governance, personnel, liability, consolidation, and operational matters.
- Helped shape emergency communications in Illinois by assisting numerous Emergency Telephone System Boards with creation and consolidation, including Northwest Central Dispatch, CENCOM, SEECOM, QuadCom, KanComm, and Macon County.
- Shared his expertise widely through presentations at state and national 9-1-1, public sector labor, and public safety conferences, including twenty national 9-1-1 conferences.
- Educated and trained public safety professionals across Illinois and nationally on 9-1-1 law, use of force, discipline, personnel management, liability, social networking, and fire prevention legal issues.
- Contributed to the field through numerous articles on personnel administration and co-authored "Multi-Year Collective Bargaining Agreements and the AFSCME/State of Illinois Dispute" for the Illinois Public Employee Relations Report.
- Demonstrated long-term civic commitment through more than 25 years of service on the Lake Zurich Fire and Police Commission.
- Received the Ervin H. Warren Award for Excellence from the University of Illinois Police Training Institute.

FIRM HIGHLIGHTS

Ottosen DiNolfo Hasenbalg & Castaldo, Ltd. would like to congratulate Dominick Lanzito for his recent jury trial victory in the case of *Elliott v. Garrelts*, et al. 16-cv-2749, pending in the United States District Court for the Northern District of Illinois. In that matter the plaintiff alleged that he was the victim of excessive force at the hands of the officer. The jury returned a verdict in favor of the officer in less than 30 minutes, vindicating the officer from the salacious allegations made by plaintiff.

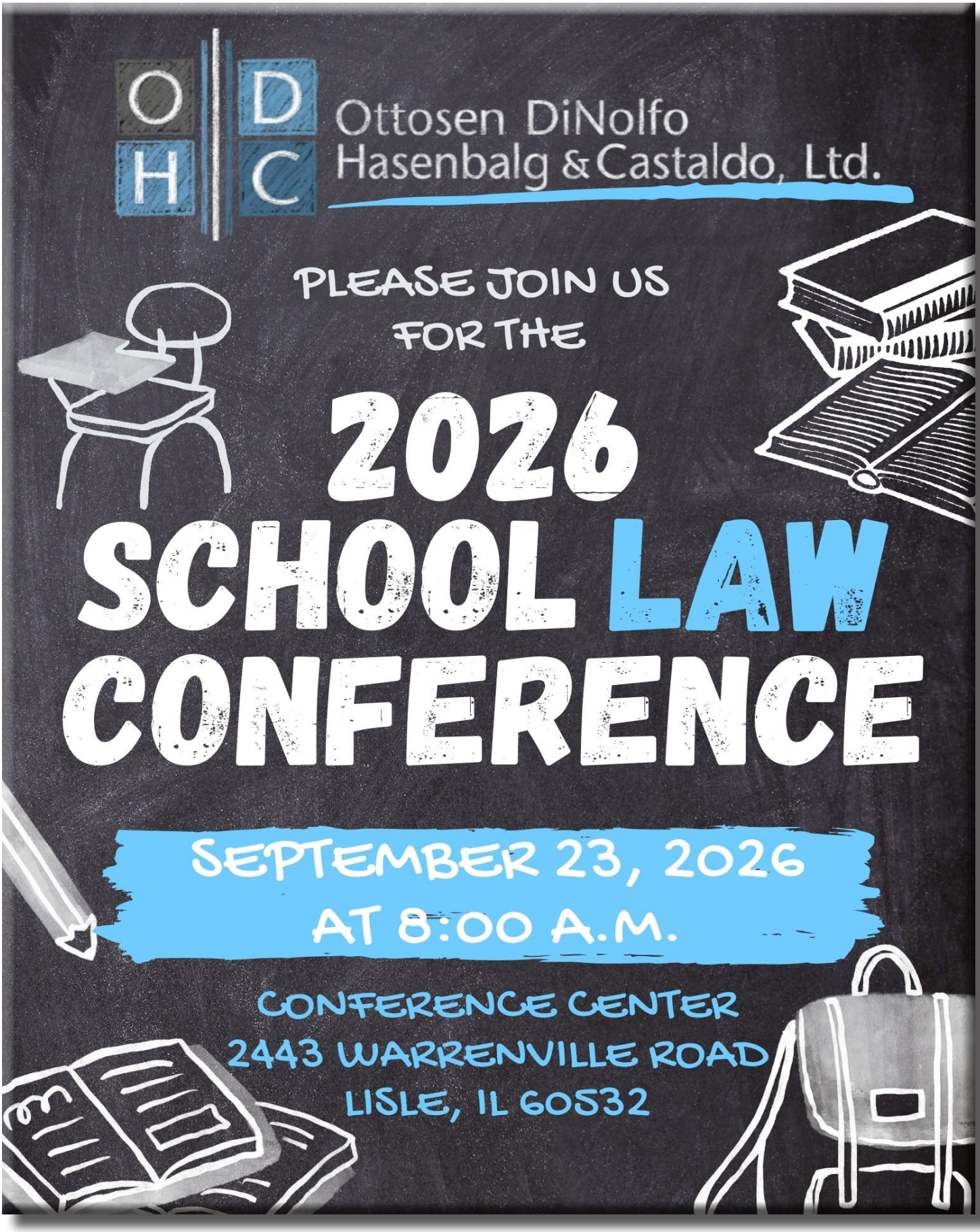
We are pleased to share Quinn Crowley's recent defense victory in the U.S. District Court for the Northern District of Illinois. The Court granted our retailer client's motion for summary judgment in a negligence and premises liability action, holding that the plaintiff failed to present sufficient evidence to establish actual or constructive notice of an alleged hazardous condition. The Court also rejected the plaintiff's argument that an entrance mat was negligently placed. This result underscores the value of early case evaluation, thorough factual development, and targeted dispositive motion practice. Notably, this decision marks our 54th win on dispositive motions for this retailer client, reflecting a sustained record of success in efficiently resolving claims before trial.

We are also pleased to announce that Carolyn Welch Clifford has been appointed to the Executive Board of the National Association of Public Pension Attorneys (NAPPA). Carolyn's appointment reflects her longstanding commitment to public pension law and her continued leadership within the public pension legal community. We are proud to see her serve in this important role and congratulate her on this well-deserved recognition.

We are proud to share that Meganne Trela of Ottosen DiNolfo Hasenbalg & Castaldo was a panelist at the National Association of Public Pension Attorneys (NAPPA) June 2026 Legal Education Conference in Grand Rapids, Michigan, on "Public Safety Disability: An Overview of Current Trends and Hot Topics." Meganne's panel, which included chief officers from Michigan fire departments, offered a timely and practical look at disability benefits for police officers and firefighters. The panel addressed important workforce management considerations, including recruitment and retention, preemployment screening, fitness and wellness initiatives, documentation, and member education. The session closed with a discussion of emerging issues affecting public safety personnel, including PFAS exposure from turnout gear and firefighting foams, increased firefighter cancer risks, wildfire-related health hazards, and PTSD.

Please join all of us at Ottosen DiNolfo Hasenbalg & Castaldo, Ltd. in congratulating Brian Johnston, our law clerk since 2023, on being sworn into the Illinois State Bar. We're proud of the hard work and dedication that brought Brian to this moment, and we're excited to see the impact he'll continue to make for our clients and our team in this next chapter. Congratulations, Brian!

Follow us on LinkedIn to stay up to date on all firm highlights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Seventh Circuit Reaffirms Monell
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> ***Wrongful conduct by an individual official does not automatically create municipal liability***

Because state law required coroners to return remains and follow established procedures, Hyland's conduct was contrary to law rather than an expression of county policy.

Finally, the decision shows that Section 1983 claims may fail even where serious harm occurred if the plaintiff cannot connect that harm to a government policy, custom, or final policymaking decision. The case therefore illustrates the difficulty of holding a municipality liable for isolated misconduct by an individual official.

The ruling may be significant in future cases involving coroners, medical examiners, and other public officials who exercise substantial independence. Courts are likely to look closely at whether the municipality authorized, tolerated, or was deliberately indifferent to the challenged conduct before imposing liability.

At the same time, the decision does not necessarily leave affected families without any remedy. Depending on the facts, plaintiffs may still be able to pursue claims against individual officials or seek relief under state law. The decision instead confirms that constitutional claims against municipalities require more than proof of serious individual wrongdoing.

For public entities, *Betts* is a useful reminder that *Monell* remains a demanding standard. Plaintiffs must show not only an alleged constitutional violation, but also a direct link between that violation and an official policy, custom, or final policymaking decision attributable to the local government.

Qualified Immunity Remains Strong
Continued from Page 8

The Supreme Court Declines Review

The inmate asked the United States Supreme Court to take up the case. However, on June 29, 2026, the Supreme Court denied his application. Interestingly, this routine decision generated a dissent from Justices Sotomayor, Kagan, and Jackson. They believed that the officers should not have received qualified immunity on the cold-cell claim. As they saw it, longstanding Supreme Court and Seventh Circuit precedent already established that prison officials may not deliberately deprive inmates of basic human needs such as warmth. In their view, the Seventh Circuit erred by requiring a prior case matching the exact combination of temperature, duration, and conditions present in *Smith*.

Why This Matters for Law Enforcement

For law enforcement officers and correctional personnel, *Smith v. Kind* underscores two important points.

First, qualified immunity remains a powerful defense. Even where a court believes conduct may have crossed a constitutional line, officers are entitled to immunity unless existing precedent clearly established the unlawfulness of the conduct at the time.

Second, constitutional law continues to develop through these decisions. Although the officers ultimately prevailed, the Seventh Circuit expressly held that a jury could find the alleged conduct unconstitutional. Future officials confronting similar circumstances may not receive the same protection if subsequent cases further clarify the constitutional boundaries.

In sum, *Smith v. Kind* is both a qualified-immunity victory and a warning. The officers prevailed because the law was not clearly established in 2017. After *Smith*, however, the constitutional limits on the use of force against medically vulnerable inmates and exposure to severe cold have been defined with far greater specificity.

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