



IN BRIEF

The Standard for the Paralegal Profession

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Winter 2023



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PRESIDENT'S MESSAGE

Dear Members,

As I am hoping everyone has had a chance to review the PAF 2023 Annual Report sent out last week, I want to take this space to say:

THANK YOU!!

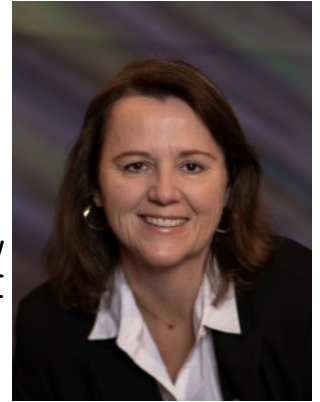
While not everyone is comfortable in the spotlight (including me), on every level from the State Executive Board, the Chapters, and Individual members have assisted in ensuring that PAF remains a leader. While everything is not perfect 24/7/365, we are continuing to adjust and reassess as needed. With that said, I ask that you continue to reach out to me with any suggestions, ideas, and/or constructive criticism.

I will remind everyone that no part or contribution is too small, if you would like to assist on a committee, with a specific task, write an article, or be the next Editor of *In Brief* ~ please let us know.

Wishing all of you and your families the Happiest of Holidays. May 2024 bring you nothing but health, wealth, and endless blessings!

Humbly,

Sherry



**EXTRA SPECIAL APPRECIATION TO OUR EDUCATIONAL
WONDERFUL, INFORMATIVE SPEAKERS**

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Honorable David Frank
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19th Circuit (Indian River County)

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18th Circuit (Brevard County)

Honorable Cassandra Tesche-Arkin
13th Circuit (Hillsborough County)

Chief Honorable Jack Tuter
17th Circuit (Broward County)

Clerk of Court Lonn Weissblum
4th District Court of Appeals



Spotlight on *ParaLeader of the Year*

KRISTEN A. REMLING, FRP



I currently work as a Family Law Paralegal for Margaret Keys McCain, P.A. Before working in a law firm, I worked in retail. In 2000, while I was in college pursuing my business management and marketing degree, a part-time job to work in a small law firm fell in my lap and I knew I didn't want to continue working in retail. I did all sorts of random tasks like courthouse runs, stuffing & sealing envelopes, answering phones, filing, and normal office-like tasks. I even picked up my boss' kids from school, walked their dogs, babysat their kids, etc. I was just the "Girl Friday" living my best life. Eventually, the paralegal in the office began to ask me to do more, such as type up written correspondence, organize discovery documents and schedule appointments. Once I graduate college in 2005, I decided to pursue a paralegal correspondence program through the University of Florida and completed that. During that time, I became involved in case files and lots of interaction with clients. I also became a little more involved with the Paralegal Association of Florida, Inc. Treasure Coast Chapter (PAFTCC) attending meetings and helping on committees. In 2008, I became a Florida Registered Paralegal with the Florida Bar.

I've been happily working in family law for all these years. Family law can be really tough at times but also, I get a sense of gratification helping others through a very difficult time in their life with divorce, paternity, dependency, etc. Occasionally when I do an adoption, that can be joyful! I spend a lot of time getting to know our clients to help them reach the best solution for their situation. Even to this day, I still have clients who reach out after years to let me know how they are doing or with good news about their children. Such a good feeling! My least favorite thing about my job is discovery! Some cases simply have so many moving parts that I find myself putting the discovery off until the last minute, which is not a good because I have a deadline. However, I work well under pressure and I can thank the paralegal and attorneys who taught me everything I know over the years to make me successful today.

So, between 2008 and 2012, I became more involved with PAFTCC by taking numerous Board positions and really getting to know how the organization worked. I shadowed Jodee Buck when she was President for a year and in 2012, I was nominated President of PAFTCC. Pretty sure some of the women mentioned that I was one of the youngest Presidents we had to date, so I had some big shoes to fill. I can't say it's been easy, but I've enjoyed my time with PAF. Still today and going into 2024, I am the President of PAFTCC. I have a fabulous group of women on my Board who back me up and are the best assets to our organization and I look forward to them filling my shoes in the near future! I could never do it without them and their support and input.



Some fun facts about me: I'm allergic to cats.

Favorite TV shows: I love anything murder/mystery/crime related. I also love to read the same.

My favorite pig-out food: Sour candy! I could eat it all day, every day if my teeth, stomach and my weight would allow me! HAHA

A philosophy I live by: Be humble. **Keep it simple. Follow the Golden Rule (treat others the way you want to be treated).**

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Spotlight on Up & Comer Award Winner *SHANNON M. HAINES, ACP, FRP*



I am currently the head Paralegal at Robert C. Gindel, Jr., P.A.

* Why I decided to work in the paralegal field: It was a profession that seemed to best fit my skill sets! I am very well organized, I have strong computer skills, and I enjoy communicating with people. Working alongside attorneys and court staff at the Courthouse made me interested in being more involved in the legal field.

* What I did before I did this: Before I was a Paralegal, I was a Deputy Clerk at the PBC Clerk's Office and prior to that, I was employed in the salon industry for several years.

* One of the craziest situations I ever ran into at work was: Sometimes a client will provide me with too much information about their personal life and/or medical condition and I will quickly have to change the subject!

* One of my favorite things about working on paralegal projects: Helping a client build their case by gathering information and documents and acquiring anything that would help prove their case.

* One of my least favorite things about working in the paralegal field: Being that I work mostly virtually, it is often hard to separate my work from my personal life especially when work is always pouring in. I still struggle with turning off my phone and not monitoring my emails in the evening and on weekends.

* One of my proudest career-related moments: Comforting clients who are scared of the legal system or who are under a lot of emotional stress as a result of their legal issue. It's rewarding to hear when a client tells me that he/she can now sleep at night knowing that I gave them peace with their situation and to remain hopeful that we can help!

* One of my most embarrassing career-related moments: Speaking to a client and not remembering what their case was about...this is why detailed notes are imperative!

* My early role models were: Erin Brockovich

* My favorite TV shows are: Shark Tank and shows about unique medical conditions

* If I hadn't chosen my current career I might be: My past career interests while growing up included: Cosmetologist, Psychologist, and Fashion Designer...somehow I ended up as a Paralegal!

* Not many people know I'm also good at: Playing the flute and staying physically active.

* My favorite musical artists include: Whatever suits my mood! I could listen to today's hits and yesterday's favorites.



* My favorite pig-out food is: Hibachi

* The coolest vacation spot I can imagine is: Any place by the ocean or a cabin in the woods.

* My idea of perfect happiness: Well-behaved kids! I also love to explore new places and indulge in history.

* A talent I wish I had: It would be cool to have the skill of an aerialist!

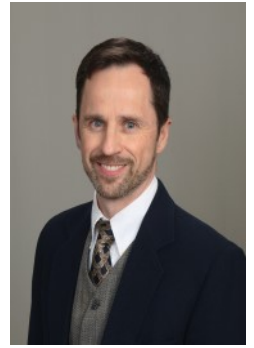
The greatest extravagance I enjoy on a regular basis is: Coffee, yoga, and air fresheners

* They should hire me as a spokesperson for: Advocating for children with learning disabilities

* A philosophy I live by: "Let the light within you be the light for others."

The Struggle to Get to the Ballot Box: Voting Rights for African Americans in 2023

By: John Berube, Professor
Purdue University Global



Introduction

One critical way citizens impact their community and effect change is through the right to vote. African Americans have overcome substantial barriers to obtain the right to vote, and yet, they regularly and systematically face added burdens that limit their effect upon our governing bodies. The Civil Rights Amendments were countered with Jim Crow laws. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 are now being countered by case law and new state legislation, which in effect suppress their right to vote.

Over the course of US history, both direct and indirect challenges to African Americans' voting rights have succeeded in placing roadblocks. Recent direct attacks on their ability to cast votes occurred in Georgia and Texas, to restrict voters' participation. Even neutrally written laws such as the ones enacted have disparate impact, and this is the goal for many state legislators.

We have also seen indirect attacks on the rights of African Americans to vote. In 2018, Florida passed a state constitutional amendment to ensure that felons who had served their time would regain their right to vote. The goal and language of the amendment was clear to the voters of Florida, and its importance was crucial to African Americans, as the US criminal justice system is incarcerating African Americans at higher rates than their representation in the overall population. However, the state legislature and governor took steps to re-impose burdens on those individuals to delay or (more accurately) deny the parolee's right to vote. The 11th Circuit ultimately endorsed the state's actions, in the case of *Jones v. DeSantis*.

Each time progress is made, some in power seek to impair or limit that progress. It is essential that the community, led by civil rights activists, engage the community to continue the positive progress forward.

Voting Rights Act

Despite the inconsistent history of US voting rights, Congress and the Johnson Administration recognized the need to act in the wake of the Civil Rights Act, ensuring that every citizen could easily exercise their right to vote. Michelle C. Whittaker, *On This Day: The Voting Rights Act of 1965*, FairVote (Aug. 3, 2016), https://www.fairvote.org/on_this_day_the_voting_rights_act_of_1965. In August 1965, Congress enacted the Voting Rights Act, with both chambers of Congress voting overwhelmingly in support of fair voting laws for all Americans (House of Representatives - 328-74; Senate - 77-19). *Id.*

The Voting Rights Act (VRA) was designed to allow the federal government to review and regulate what the various states did in terms of voting laws, which up until that point, had been exclusively a state power. Anissa Paredes, *Shelby County v. Holder: Out with the old & in with the new, time for a new formula*, 44 Okla. City U. L. Rev. 183, 184 (2019). Given such a dramatic change in authority, many states challenged the VRA, but all court decisions supported the constitutionality of the legislation. *Id.*

The purpose of the Voting Rights Act was to identify specific jurisdictions, called "covered jurisdictions," which would be regulated by the federal government; in particular,

[u]nder section 4(b) of the original *VRA*, a state and/or political subdivision was considered a covered jurisdiction if: (1) less than fifty percent of its voting age residents were registered as of November 1, 1964, or they voted in the 1964 presidential election according to the United States Census Bureau; and (2) the jurisdiction employed a *test* or device for voting.

Id. at 189. The act would also specifically identify what would be considered a test or device for voting purposes. These would include such things as literacy tests, grandfather clauses, vouchers, economic terrorism, voter intimidation, violence, and other forms of voter suppression. *Id.*

Once a jurisdiction was identified as "covered", then section 5 would apply. Section 5 of the *VRA* mandated *preclearance* for states and/or counties that failed the previously described formula. *Id.* at 190. In order for these jurisdictions to make any changes to voting laws, they would need to send these laws to the US District Court for the District of Columbia or the Department of Justice; it was up to either of these two entities to determine whether or not these changes would have a negative impact on the voting rights of African Americans. *Id.* Over the years, the formula has changed slightly, but the formula still had the same purpose of protecting minority voters. Lyle Dennison, *Voting rights case: Made simple*, SCOTUS Blog (Feb 8, 2013), <https://www.scotusblog.com/2013/02/voting-rights-case-made-simple/>. However, states have consistently continued to object to these requirements, complaining that they are now being "singled out" for this treatment. *Id.* This ultimately led to the case of *Shelby County v. Holder*.

Shelby County v. Holder

The case of *Shelby County v. Holder*, decided in 2013, inflicted a critical blow to voting rights protections, and in particular, Sections 4 and 5 of the *VRA*. This federal legislation had been successful in protecting voters' rights with the concept of preclearance. States continued to protest the imposition of these tests. Claims were made that parity had been achieved (or at least pretty close); this claim was adopted by the majority in the *Shelby County* case. *Shelby County, Ala. v. Holder*, 570 U.S. 529, 547 (2013).

The majority adopted a much looser standard for what it considered constitutional infringements of voting rights. Chief Justice Roberts proffered that, "[r]egardless of how to look at the record, however, no one can fairly say that it shows anything approaching the 'pervasive,' 'flagrant,' 'widespread,' and 'rampant' discrimination that faced Congress in 1965, and that clearly distinguished the covered jurisdictions from the rest of the Nation at that time." *Id.* at 554. Therefore, since the present efforts to limit access do not strike the majority as being "pervasive" or "rampant," the states are free to return to their former processes.

The majority recognized earlier in their opinion that in the past, that "[c]ase-by-case litigation had proved inadequate to prevent such racial discrimination in voting, in part because States 'merely switched to discriminatory devices not covered by the federal decrees,' 'enacted difficult new tests,' or simply 'defied and evaded court orders.'" *Id.* at 545. However, the majority determined that voting policies were *so fair* in all jurisdictions that they were content that this *ineffective* process should again be used; *now*, these processes would be more successful in trying to resolve any possible, additional problems that may arise when states would clearly return to their former policies.

Consequences of Shelby

So, despite Chief Justice Robert's assertion that "[o]ur country has changed," *id.* at 557, we did not need to wait very long to see how much it had not changed. Immediately following *Shelby County* decision, in 2014, the Brennan Center for Justice reported that 22 states had adopted voting legislation that restricted access. Wendy R. Reiser, *The State of Voting in 2014*, Brennan Center for Justice (June 2014), <https://www.brennancenter.org/our-work/research-reports/state-voting-2014>.

States such as Arizona, Arkansas, Kansas, North Carolina, Ohio, Texas, and Wisconsin had adopted laws to limit access. *Id.* It did not stop there, either. This push has continued through to today.

In the first half of 2021, almost 20 states have enacted 30 new laws that restrict the freedom to vote, and there have more than 400 bills that have been introduced in 49 states in the 2021 legislative sessions, with measures that would limit a voter's ability to cast their vote. *Groups Call on US Representatives to Support H.R. 4, the John Lewis Voting Rights Advancement Act*, Human Rights Watch (2021), https://www.hrw.org/news/2021/08/23/groups-call-us-representatives-support-hr-4-john-lewis-voting-rights-advancement?gclid=CjwKCAjwiuuRBhBvEiwAFXKaNB3aS-ILSuhdTn0-N6Is-EbfI4qxMvNoKkwuPlet_dlxJB4CqaCn-hoCFR4QAvD_BwE. A wide variety of requirements and/or limitations have been made in many states.

For instance, in Georgia, there will now be fewer drop boxes utilized; there will be shortened timeline for requesting ballots as well as a reduction in the likelihood that someone going to the wrong precinct will have their vote counted. Laura Olson, U.S. *Justice Dept. suit says new Georgia voting law rules violate rights*, Louisiana Illuminator (2021), <https://lailluminator.com/2021/06/28/u-s-justice-dept-suit-says-new-georgia-voting-law-rules-violate-rights/>. The state has also criminalized the handing out water or snacks to voters and discontinued mobilized voting (polling sites on wheels); ballot drop off boxes must be placed inside the polling places (as opposed to outside of the building, which had been allowed in the past), and the state is now requiring a driver's license or the last four digits of Social Security number on ballot envelope. Michael Waldman, *Georgia's Voter Suppression Law*, Brennan Center for Justice (2021), <https://www.brennancenter.org/our-work/analysis-opinion/georgias-voter-suppression-law>.

Texas has also recently followed this same path. They have banned drive-through voting, which had been a very effective means to vote because of the pandemic. Cassandra Pollock, *Justice Department sues Texas over new voting law, targeting restrictions on mail-in ballots and voter assistance*, Texas Tribune (2021), <https://www.texastribune.org/2021/11/04/texas-voting-law-justice-department-lawsuit/>. They have also implemented limitations on voting by mail, on assistance for voters with disabilities, or language issues in navigating voting process and have required driver's license or last four digits of Social Security number on ballot envelope. *Id.*

Now, both states added on the requirement for driver's license or last four digits of your social security for the ballot envelop. This may not sound egregious, but not all voters may have a valid driver's license. The most egregious issue is that if the voter does not remember which number they have identified for security purposes (they give their driver's license when they initially gave the last four digits of their Social Security number), their vote *will not count*. *Id.* As always, these seemingly innocuous rules can lead to votes being thrown out. This generally impacts the elderly and others who may rely on voting by mail, due to any other number of limitations.

2022 Midterm Election results

Despite these efforts, the Georgia 2020 and 2022 elections (including runoffs) still led to significant voter turnout overall. However, one study in particular, focusing on the 2022 elections, saw an **increase** in the racial turnout **gap**. Sara Loving & Kevin Morris, *Georgia's Racial Turnout Gap Grew in 2022*, Brennan Center for Justice (December 16, 2022) <https://www.brennancenter.org/our-work/analysis-opinion/georgias-racial-turnout-gap-grew-2022>. These efforts to impose barriers to the ballot box for African American voters are working. In particular, Loving and Morris state: "In fact, although overall turnout didn't change much from 2018, this high-level statistic obscures the fact that white turnout went up while nonwhite turnout went down, cancelling one another out, as the figure below makes clear." *Id.* They continue that "[t]his gap was driven largely by a much wider gap between white and Black voters this year.

This gap was also higher than any point in the past decade — and roughly double the gap observed in 2014 and 2018.” *Id.* They also acknowledge that we cannot prove with certainty that the statutory enactments were the one and only cause of this increased gap, but this clearly can be a factor. *Id.*

So, despite the outcomes of these elections and the resulting runoffs working out in favor of the candidates supported by minority voters – at least at the federal level – the margins were very tight. It is not difficult to imagine that the results of these elections could have been more decisive victories without these efforts to limit access to the ballot box.

Criminal Justice Policies and Voter Suppression

In addition to direct attacks on voting rights, states are also taking other steps to also infringe upon the voting rights of African Americans and other voters of color. Florida is a prime example of how a state governor and their legislative branch can implement laws, apart from voting laws, which can then *suppress* the vote of minorities within their state. In 2018, Florida voters passed Amendment 4; this amendment was supposed to **return** voting rights to felons who completed the terms of their sentence and probation. Connor Maxwell, *Florida’s modern-day poll tax*, Center for American Progress (June 28, 2019), <https://www.americanprogress.org/issues/race/news/2019/06/28/471082/floridas-modern-day-poll-tax/>.

Unfortunately, the legislature and the Governor rejected the will and desire of the people of Florida, adding requirements that voting rights would not be restored until all fees, restitution, and penalties had been paid in full. A federal case was filed challenging the statute. Although the citizens prevailed in earlier proceedings, *Jones v. DeSantis* (2019), the state policy won at the appellate court level.

The 11th Circuit ultimately ruled that the state’s laws and process *were* constitutional. *Jones v. Governor of Florida (Jones II)*, 975 F.3d 1016 (11th Cir. 2020). They determined that once felons are disenfranchised constitutionally of their right to vote, it is no longer a fundamental right, thereby justifying their use of rational basis standard, not strict scrutiny. *Id.* They argue that there is no suspect class here; everyone must meet all requirements of their sentence, including financial obligations, regardless of race, religion, or national origin. *Id.* at 1029. Although they admitted that there were “problems” in the Florida system, the majority found that this process was sufficient to meet the constitutional requirements. They claimed that the process and standards were not vague.

However, the minority persuasively argued that once the state has created a process to return the voting rights to those who have been disenfranchised, that process ***must be constitutional***. “Once a State promises its citizens restoration of their right to vote based on defined, objective criteria, it has created a due-process interest. This seems obvious based on a few distinct, though related, principles of law.” *Id.* at 1059.

It is also important to see that these laws are attacks on minority voting rights. As the Maxwell article highlights, the incarceration rate for African Americans is 3.6 times higher for African Americans than for Caucasians, even though they comprise only 17% of the state’s population. Maxwell, *supra*, at para 4. As such, “they make up nearly 48 percent of the prison and jail population. As a result, in 2016, nearly half a million African American Floridians were disenfranchised due to prior felony convictions.” *Id.* This is not accidental.

Given the laws that Florida has enacted, these intentional choices are leading to the disenfranchisement of minorities in the state, primarily African Americans. By defying the will of the Florida voter to change the overall state policy of permanent disenfranchisement of felons, those in power continue to deny the right to vote for minorities within the state.

It is clear that the right to vote is an essential part of being a citizen. Only by having a stake in the community can the individual truly be a part of it. Certainly, if parolees have again violated the standards of their community, a loss of this right to participate certainly is justified. On the other hand, once their

sentence has been completed and they have shown a good faith effort to meet the required social standards, these rights should be reinstated, to assist them with re-entering society and being a productive member of the community.

Again Maxwell, *supra* at para. 9, explains: “In 2016, the American Probation and Parole Association (APPA), which supports voter restoration, stated, ‘Civic participation is an integral part of this transition [back into the community].’” If the goal is to help parolees transition back into the community and be contributing members of society, the re-establishment of this critical constitutional right is essential. If the goal is to keep them out of the community that choice is also clear.

Many studies identify a clear relationship between disenfranchisement and the recidivism rate. Hamilton-Smith and Vogel noted:

Underlying the many collateral consequences of a conviction, especially that of disenfranchisement, is the implicit assumption communicated to the offender that the collateral consequences are permissible because total rehabilitation is impossible. ... If one has no stake in his or her community, then one has little incentive to behave in a pro-social manner other than to avoid punishment.

Guy Padraic Hamilton-Smith & Matt Vogel, M., *The violence of voicelessness: The impact of felony disenfranchisement on recidivism*, 22 Berkeley La Raza Law Journal 407, 413 (2012). Hamilton-Smith and Vogel substantiated several important conclusions. They effectively argue that there is a clear connection between the recidivism rate and the ability regain suffrage. *Id.* at 429. Additionally,

the study considered whether variation in state disenfranchisement policies accounted for the observed variation in recidivism across states. A transformation of the coefficient for a state’s disenfranchisement law reveals that individuals who are released in states that permanently disenfranchise are roughly nineteen percent more likely to be rearrested than those released in states that restore the franchise post-release.

Id. at 426. Even factoring into the analysis, the race and gender of the parolee, as well as criminal history and state unemployment rate, the likelihood of becoming a repeat offender increased by 10% if he or she were in a state that did not allow for the restoration of voting rights. *Id.*

Conclusion

The road has been long. The fight has been challenging. There have been positive changes made to ensure that all citizens have the right to vote. There have been roadblocks built by some to limit the ability of those viewed as unworthy of the right to vote. Some in power claim, “we have changed.” Yet, when we look around, we see that this is *not the case*. When given the chance, many will again take the opportunity to prevent others from making their opinion known, casting a vote, and effecting change. There are communities that still need the protection of both federal and state laws to ensure that they can continue to practice one of our most prized civic responsibilities: the right to vote. We only need to see the response by numerous states across the nation to see what the VRA is still very much needed!



Happy Holiday Savings



December Highlights

Universal Orlando Resort: Buy 3 day ticket, get 2 days free
Lenovo: Find select products 76% off during the Black Friday sale
From You Flowers: Gift your loved ones with flowers 25% off sitewide
Rental Cars: Save 25% on the perfect ride
Hotels: Get up to 60% off regular rates



Shopping for Gifts

Create lasting memories this holiday season by enjoying discounts on all your shopping essentials.

- **Samsung:** Get holiday savings up to 50% off
- **Apple:** Receive special pricing on select Apple products



Winter Escapes

Whether you're embracing the winter slopes or unwinding on a beach, rejoice this holiday season with travel savings.

- **Ski Resorts:** Save up to 45% off ski resorts nationwide
- **Flights:** Take flight with 20% off international and domestic flights



Healthy Holidays

Get a headstart on the new year by enhancing your mental, physical, and financial well-being.

- **Spa Week:** Get 17% off spa and wellness gift cards
- **Future:** Save 50% off your first month of fitness coaching

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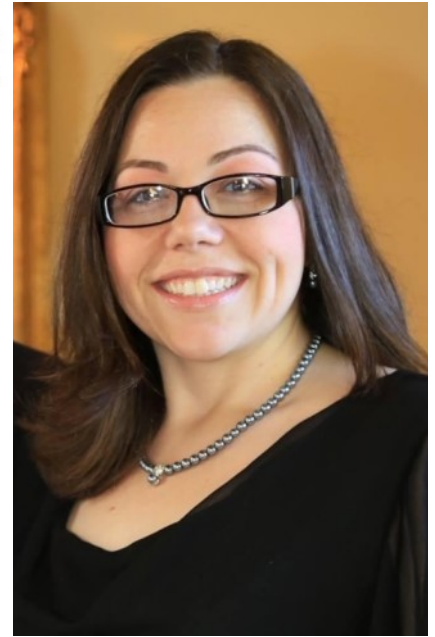
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Spotlight on Up & Comer Award Winner *JAMIE HIRSCH, CP*



I am currently a Forensic Accountant with the U.S. Attorney's Office

Why I decided to work in the paralegal field: After working in accounting for several years, I realized that paralegal training would bridge the gap to pursue my passion. I went back to school at Palm Beach State for a post-bachelor paralegal studies certificate and later obtained my CP. These skills allowed me to transition into the forensic realm where I am today.

What I did before I did this: Auditor

One of the craziest situations I ever ran into at work was: Pulling weekend all-nighters during trial prep.

One of my favorite things about working on paralegal projects: When the team works together and tackles jobs that seem insurmountable.

One of my least favorite things about working in the paralegal field: Poor communication.

My first paralegal role model was: Patricia DeRamus mentored me when I began paralegal training. She was encouraging, inspiring, and never hesitated to answer questions or share advice. I'm so grateful for her!

My favorite TV show is: The reality show Below Deck is my current must-see.

My favorite musical artists include: A mash up of 90's ladies Tori Amos and Ani DiFranco plus current Taylor Swift and Harry Styles, with occasional reggae or ska (originated in Jamaica in the 1950s and was the precursor to rocksteady and reggae) thrown in.

My favorite pig-out food is: Doritos

My dream vacation is: Iceland



My idea of perfect happiness: Sitting or leisurely walking along the Appalachian trail. It's my happy place.

A talent I wish I had: Playing a musical instrument.

The greatest extravagance I enjoy on a regular basis is: Massages. I carry stress in my neck and shoulders so massages reduce headaches.

A philosophy I live by: ***This too shall pass.***

CHANGES IN FLORIDA EDUCATION LAWS

Education House Bill 1

Ch. 2023-16 L.O.F. (effective July 1, 2023)

Effective July 1, 2023, Chapter 2023-16 (L.O.F.) makes numerous changes to the current education laws. Below is a summary of some of the more noteworthy changes, including those concerning scholarships for private schools, as well as other modifications to the educational system.

Scholarships for Private Schools

Florida offers scholarship programs that allow parents of eligible students to register and attend private schools that may better serve a student's particular needs or to provide educational options for students with disabilities. Private schools must meet specific criteria in order to be eligible to participate in Florida's scholarship programs and the Department of Education (DOE) and Commissioner of Education (commissioner) are tasked with implementation and oversight responsibilities. Florida's scholarship programs are administered by Scholarship-Funding Organizations (SFO) approved by the DOE.

The three scholarship programs, include:

The Family Empowerment Scholarship Program, consisting of a scholarship for students attending private school (FES-EO) and a scholarship for students with a disability (FES-UA); Florida Tax Credit Scholarship Program (FTC); and The Hope Scholarship Program (HOPE).

The new law made substantive changes to the FES and FTC scholarships, as explained below.

Florida Tax Credit Scholarship Program

Created in 2001, the Florida Tax Credit Scholarship Program provides scholarships to eligible students that have limited financial resources for the cost of tuition and fees at an eligible private school or transportation expenses to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned. The program is funded by donations from taxpayers who receive certain tax credits equal to 100 percent of the eligible contributions.

The more noteworthy changes to the FTC concern (a) student eligibility; (b) the establishment of personalized education programs; and (c) expansion of the authorized uses of the scholarship funds. Each issue is summarized below.

Expanded Student Eligibility

Of primary impact, the new law expands the eligibility of students to receive a FTC scholarship. Before the changes, the FTC provided scholarships to students, with priority given to children from low-income families and those who are in foster care or out-of-home care. Contingent upon available funds, a student was initially eligible for a FTC scholarship if he or she met one or more of the following criteria:

The student is on the direct certification list or the student's household income level does not exceed an adjusted maximum percent of the federal poverty level (FPL), which is set at 400 percent of the FPL (\$111,000.28 for a family of four) for the 2022-2023 school year;

The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care; or

The student is a sibling of a student participating in the FTC scholarship and the siblings reside in the same household.

Now, under the new law, eligibility has been expanded. The bill expands eligibility for FTC scholarships to include any student who is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school. The parent of an eligible student will receive an empowerment savings account to choose among a variety of options to customize their child's K-12 education.

The new law retains the requirement that priority for FTC scholarships be given to those students whose household income does not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care. The bill adds a second priority group for students whose household income is greater than 185 percent of the federal poverty level, but less than or equal

to 400 percent of the federal poverty level. Additionally, the bill expands the eligibility for public school transportation scholarships to all students eligible for a scholarship.

Finally, the bill establishes a cap of \$24,000 as the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FTC scholarship.

Personalized Education Programs Eligible

The new law also establishes the personalized education program. This program is a parent directed educational choice option that must be registered with a SFO that administers FTC scholarships. The bill authorizes students in personalized education programs to participate in the FTC scholarship program and establishes personalized education programs as a mechanism to satisfy mandatory school attendance requirements. Students in a personalized education program are provided access to the same programs and services as home education program students.

The new law establishes the following responsibilities for parents and students receiving a FTC scholarship while participating in a personalized education program:

1. Apply to an eligible SFO to participate in the program by a date set by the SFO. The request must be communicated directly to the SFO in a manner that creates a written or electronic record of the request and the date of receipt of the request.
2. Sign an agreement with the SFO and annually submit a sworn compliance statement to the SFO to satisfy or maintain program eligibility, including eligibility to receive and spend program payments.
3. For a scholarship student participating in a personalized education program, a SFO must: (1) maintain a signed agreement from the parent which constitutes as complying with the state's attendance requirements; (2) receive eligible student test scores, and beginning with the 2027-2028 school year, annually report the assessment data to the state university selected by the DOE to analyze such data; (3) provide parents with information, guidance, and support to create and annually update a customized

student learning plan for their student. The SFO must maintain the plan and allow parents to electronically submit, access, and revise the plan continuously; and (4) upon submission by the parent of an annual student learning plan, fund a scholarship for a student determined eligible

The law imposes the following limits on the awarding of scholarships in personalized education programs:

(a) For the 2023-2024 school year, no more than 20,000 scholarships may be funded; and (b) For the 2024-2025 through 2026-2027 school years, the number of funded scholarships may increase by 40,000 each year.

Expanded Authorized Uses

Finally, of noteworthy impact, the new law expands the authorized uses of the FTC scholarship. Specifically, the new law expands the authorized uses to include:

- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition and fees associated with full-time or part-time enrollment in a home education instructional program, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, an approved pre-apprenticeship program, a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholar-



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ship eligibility purposes but rather attending a public school on a part-time basis.

- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.

The bill clarifies that for a scholarship awarded to a student enrolled full-time in a private school, a parent agrees to have the SFO commit scholarship funds for tuition and fees at the private school before using account funds for any other authorized use and that a parent is responsible for all eligible expenses in excess of the amount of the scholarship.

Family Empowerment Scholarship Program

The new law also makes changes to the Family Empowerment Scholarship Program ("FES"). The FES includes two types of scholarships where one assists eligible students to pay for the tuition and fees associated with attendance at a private school or transportation to another public school (FES-EO), and the other provides access to additional education options for a student with a disability by covering the cost of a variety of approved items. Each scholarship has unique student eligibility requirements, program requirements, award calculation methodologies, and allowable expenditures.

The more noteworthy changes to the FES concern (a) student eligibility; (b) expansion of the authorized use of the scholarship funds; and (c) changes in the administration of the program. Each issue is summarized below.

Expanded Student Eligibility

Of primary impact, the new law expands the eligibility of students to receive a FES scholarship. Before the changes, a student was eligible for a scholarship to attend private school if the student met the following criteria:

1. The student is on the direct certification list or the student's household income level does not exceed 185 percent of the FPL;
2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care;
3. The student's household income level does not exceed an adjusted maximum percent of the FPL, which is set at 400 percent of the FPL (\$111,000.28 for a family of four) for the 2022-2023 school year;
4. The student is a sibling of a student who is participating in the FES-EO and the siblings reside in the same household;

5. The student is a dependent child of a member of the United States Armed Forces, including a reservist; or
6. The student is a dependent child of a law enforcement officer.

Now, under the new law, eligibility has been expanded. The bill expands eligibility for FES scholarships to include any student who is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school. The parent of an eligible student will receive an empowerment savings account to customize their child's K-12 education.

The new law retains the requirement that priority for FES scholarships be given to those students whose household income does not exceed 185 percent of the FPL or who are in foster care or out-of-home care. The bill adds a second priority group for students whose household income is greater than 185 percent of the FPL, but less than or equal to 400 percent of the FPL. Additionally, the bill expands the eligibility for public school transportation scholarships to all students eligible for a scholarship.

Finally, the new law establishes a cap of \$50,000.00 as the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FES-UA scholarship

Expanded Authorized Uses

The new law also expands the authorized uses of the FES scholarship. Specifically, the new law expands the authorized uses to include:

1. Instructional materials, including digital materials and Internet resources.
2. Curriculum, which is a complete course of study for a



particular content area or grade level, including any required supplemental materials and associated online instruction.

3. Tuition and fees associated with full-time or part-time enrollment in an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, an approved pre-apprenticeship program, a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
4. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
5. Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
6. Tuition and fees for part-time tutoring services or fees for services by a choice navigator.

The bill clarifies that for a scholarship awarded to students enrolled full-time in a private school, funds must be used for tuition and fees at the private school prior to any other authorized use and that parents are responsible for all eligible expenses in excess of the amount of the scholarship. The bill requires the parent of a recipient of a FES scholarship to agree to have the SFO commit scholarship funds on behalf of his or her student for tuition and fees prior to using scholarship funds for other authorized services.

Administrative Changes

To increase the number of eligible students with disabilities served by the scholarship, the new law increases the scholarship capacity from 1 to 3 percent of the state's total ESE student membership annually.

The new law also expands the authorized uses of a FES scholarship to include pre-apprenticeship programs or fees for services provided by a choice navigator. Additionally, FES students may now use scholarship funds for distance learning at postsecondary educational institutions with reciprocity agreements. The new law clarifies that a FES recipient receiving contracted services provided by a public school or

school district shall be considered to be attending public school on a part-time basis.

The new law requires private schools accepting FES scholarships to discuss with a parent, before enrollment, the school's academic programs, and policies and specialized services which may meet a student's individual needs.

The new law provides school districts with additional flexibility when developing a matrix of services for a nonpublic school student receiving an FES scholarship, by authorizing the school district to rely on the evaluation reports and plans of care developed by a licensed professional when completing the matrix of services.

Other Educational Modifications

In addition to the aforementioned scholarship changes, the new law modifies various other aspects of education laws, as set forth below.

Dep't of Education and Scholarship-Funding Organizations Oversight

The new law adds oversight to both the DOE and SFOs. With regard to the DOE, among other things, the bill requires the DOE to include coordination with and the reporting by SFOs of personalized education student assessment data in the grant award issued to a state university for the compiling and analysis of scholarship recipient assessment data. The bill expands the required report under this grant to cover all private schools at which a scholarship student attended rather than only those schools where 51 percent or more of the students received scholarships. Additionally, the bill requires the report to include performance on an individual school basis for the FTC, FES-EO, and Hope scholarship programs. Beginning with the 2027-2028 school year report, and annually thereafter, the report must include assessment data from personalized education students on a statewide basis reported by SFOs. Additionally, the bill requires that the DOE have at least two application periods for charitable organizations to apply to be SFOs in Florida.

With regard to SFOs, among other things, to provide guidance to scholarship recipients on allowable expenditures under Florida's scholarship programs, the bill requires SFOs to participate in a joint development of agreed-upon purchasing guidelines. The jointly developed purchasing guidelines must be provided to the commissioner and published to the SFO's website by December 31, 2023, and annually thereafter. The

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guidelines remain in effect until there is unanimous agreement to revise the guidelines and the revisions must be provided to the commissioner and published within 30 days of any such revisions. Additionally, the new law requires SFOs to notify parents that participation in the FTC or FES-EO scholarship programs does not guarantee enrollment at any particular private school. Additionally, the bill requires a SFO to commit funds on behalf of the student for tuition and fees for which the parent is responsible at the private school before using the funds for other authorized services.

Part-time Enrollment in Public Schools

Additionally, the new law expressly authorizes any public school in the state, including charter schools, to enroll a student on a part-time basis, subject to space and availability. Students that attend public school part-time generate FTC student membership consistent with the definition of “part-time student” currently in law. However, a student that receives a scholarship and attends public school on a part-time basis through contracted services provided by the public school or school district may not be reported for funding. The bill clarifies that students enrolled in public school part-time are not considered to be in regular attendance at a public school.

Transportation of Students

The bill provides additional flexibility to district school boards in the transportation of students by removing the blanket requirement that all regular transportation occur on school buses and authorizing the use of other vehicles. The bill removes the specified circumstances by which students may be transported in privately owned vehicles, allowing broader authority to district school boards to use such transportation. However, the district school board must still authorize such transport on a case-by-case basis and with the authorization of each student’s parent.

Deregulation of Public Schools

The new law, requires the SBE, no later than November 1, 2023, to develop and recommend to the Governor and Legislature for adoption during the 2024 legislative session repeals and revisions to the Florida Early Learning-20 Education Code, chapters 1000-1013, Florida Statutes. As part of this review the DOE must review the entirety of the Florida Early Learning-20 Education Code for potential repeals and revisions. The state board must make recommendations addressing repeals and revisions to the statutes governing the

transportation of students. The SBE must consider input from teachers, superintendents, administrators, school boards, public and private postsecondary institutions, home educators, and other entities identified by the SBE in undertaking this effort.

District School Tax

The bill adds payment of salaries and benefits for employees whose job duties support activities funded by the discretionary 1.5 mills levy as an authorized use for district capital improvement funds.

Educator Certification

The bill provides a waiver of the mastery of general knowledge requirement for an individual who has been provided 3 years of support and instruction by the school district and who has been rated effective or highly effective for each of the last 3 years. The bill permits an individual to demonstrate mastery of professional preparation and education competence by documentation of 3 years of being rated effective or highly effective and successful completion of professional preparations courses or a professional preparation and education competence program. Finally, the bill extends the duration of a nonrenewable temporary educator certificate from 3 to 5 years.

Requirements for a Standard High School Diploma

The bill removes the requirement for at least one course within the 24 credits required for a standard high school diploma to be completed through online learning.

Abbreviations:

DOE — Department of Education

SFO — Scholarship-funding Organizations

FES-EO — Family Empowerment Scholarship Program

FES-UA — Scholarship for students with a disability

FTC — Florida Tax Credit Scholarship Program

HOPE — The Hope Scholarship Program

FPL — Federal Poverty Level

Maintenance and Transfer of School Records

To lessen the administrative burden on school districts while also ensuring records are transferred in a timely manner, the bill requires that the transfer of records must occur within 5 school days.



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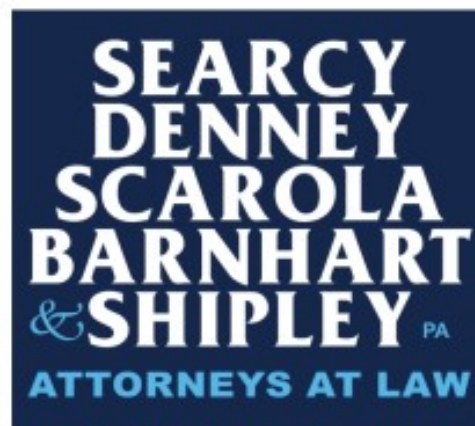
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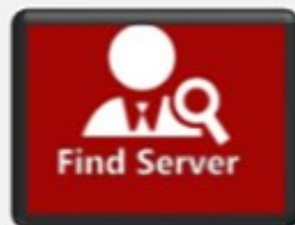
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