



EDUCATION PRACTICE

ALERT

YOUR KID NOT GOING TO SCHOOL? DON'T SUE THE SUPERINTENDENT!

The PA Commonwealth Court published an opinion earlier this month involving a parent with skewed sense of perspective. The case concerned a situation where a district brought truancy charges against a student who had some issues with attending school. There is a requirement to give notice to the parents prior to bringing such an action, and the district forgot to do so. As a result, the truancy charge was dismissed by the court.

However, dismissal was insufficient for the parent and he decided to swear out a private criminal complaint against the Superintendent. This determined parent was not deterred when the DA's office rejected the complaint as "legally insufficient" (meaning it did not allege facts sufficient to bring a criminal action). He appealed to the local court. After the local court examined the case and agreed with the DA's office, the parent appealed to the Commonwealth Court. The parent represented

himself throughout all these phases.

Because it was a legal analysis, both the local court of common pleas and the Commonwealth Court had to review the matter de novo and make their own legal conclusions from the facts offered. Both courts found that a failure to give proper notice made the truancy prosecution unsustainable, but as a matter of law did not make the school officials criminally liable.

Interestingly, had the district opted to take some sort of disciplinary action against its own personnel, the Commonwealth Court indicated the district would have had jurisdiction to do so, but that was not the subject of the case.

If you have any questions about this Alert, please contact Kyle Berman at 610.397.7980 or aberman@foxrothschild.com, or any member of Fox Rothschild's Education Law Group.