

## LEGAL ALERT

### **Police Officer Employed as SRO Not Eligible for Benefits as a “Law Enforcement Officer” Under Public Employee Disability Act or Public Safety Employee Benefits Act**

A school security officer suffered an on-the-job injury while working for the Peoria Public Schools. When he returned to work he was only able to perform clerical and administrative work. He was terminated by the School District 2 years later. Upon his termination, he sued the School District seeking benefits under the Public Employee Disability Act (entitlement to full salary and benefits for up to a year after injury) and the Public Safety Employee Benefits Act (entitlement to lifetime health insurance benefits). The Court held that the School District did not (and could not) employ the security officer as a “law enforcement officer” of the School District, authorized to perform law enforcement functions, as defined by those Acts and therefore the security officer was not entitled to such benefits. *Stimeling v. Peoria Public School District* 1502018 IL App (3d) 170567 (July 27, 2018).

A full copy of the case decision is available at:

[Stimeling v. Peoria Public School District 1502018 IL App \(3d\) 170567 \(July 27, 2018\)](#)

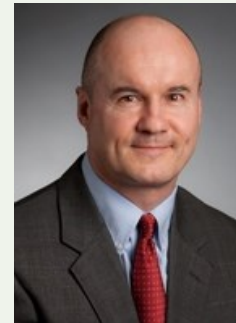
A detailed summary of the case decision is set forth herein.

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## CASE SUMMARY

### Facts

Steven Stimeling was employed as a “school resource officer” (“SRO”) for Peoria Public School District 150 (“District”). As an SRO his responsibilities included patrolling school hallways and restrooms, checking hall passes, clearing school buildings of unauthorized visitors, directing traffic in school parking lots, “assisting as directed by school authorities in stopping disturbances and undue distractions” on school grounds, and “assisting all law enforcement officers whenever possible.” The District did send Mr. Stimeling to police training and he completed and received his certification through the Illinois Law Enforcement Training and Standards Board (ILETSB). His certification was as a police officer for the “Peoria Public School Police Department.” He would go on to work as a police officer for the Peoria Park District, the Eureka Police Department, and the Marquette Heights Police Department.

After he completed his training and had worked as a police officer, the District adopted a new policy on school resource officers in the District, which changed the name of “campus police officers” or “security agents” to “school resource officers.” The policy established resource officers as “district truant officers” under the Illinois School Code. Under this new policy a resource officer could only arrest a student for truancy violations and could not issue citations or investigate any crime other than truancy. A year after the adoption of this policy by the District, the ILETSB informed the District that SROs were not eligible for police training and certification unless the District could show legal authority to operate a police department. The ILETSB then declared the “Peoria Public School Police Department” to be inactive and no longer allowed police training for School District resource officers.

Against this backdrop, while employed as an SRO with the District, Mr. Stimeling suffered an injury at work when a student attacked him elbowing him in the eye and injuring his neck. When he returned to work with the School District he performed only clerical and administrative functions. He remained in that role for 2 years and was then terminated.

After he was fired, he sued the School District claiming he was entitled to benefits as a “law enforcement officer” under the Public



Employee Disability Act (“PEDA”) which provides for full salary and benefits for a year following an on duty injury and the Public Safety Employee Benefits Act (“PSEBA”), which provides for lifetime health insurance benefits if a law enforcement officer suffers a catastrophic injury responding to an emergency or while engaged in certain law enforcement activities.

Either of these benefits can create significant cost for a public body.

### **Analysis**

The school resource officer in this matter claimed that the School District employed him as a law enforcement officer. On that basis, he contended that he would be entitled to benefits regardless of any question about the School District's legal authority to employ him as a law enforcement officer. He also asserted that the School District does have authority to hire law enforcement officers under the School Code, since school districts can hire and use truant officers who should qualify as law enforcement officers eligible for PEDA and PSEBA benefits.

### **Employer Authority To Hire Law Enforcement Officer Required**

PEDA defines an “eligible employee,” as “any full-time law enforcement officer ... who is employed by ... any unit of local government, any State supported college or university, or any other public entity granted the power to employ persons for

such purposes by law.” PEDAs requires covered employers to provide employees with up to one year of full-salary and benefits paid leave if they suffer disabling injuries “in the line of duty.” .

The school resource officer here claims that regardless of the District's authority to employ law enforcement officers, the School District sent him to police training to become a certified officer of the “Peoria Public School Police Department.” He also contends the School District required him to act as a law enforcement officer during his period of employment with the School District.

The Court noted that a mandated condition for PEDA benefits requires that the employer must be “granted the power to employ persons for such purposes by law.”. The School District then had to have legal authority to hire law enforcement officers in order to be subject to PEDA. The Court concluded that the school resource officer's training, certification, and job duties were irrelevant regarding the School District's legal authority to hire a law enforcement officer.

Similarly, PSEBA requires employers “who employ[ ] a full-time law enforcement officer ... or firefighter, who ... suffers a catastrophic injury or is killed in the line of duty” to pay health insurance premiums for the injured employee and his or her family. Eligibility for PSEBA benefits requires that “the injury or death must have occurred as the result of the officer's response to fresh pursuit, the officer or firefighter's response to what is reasonably believed to be an emergency, an unlawful act perpetrated by another, or during the investigation of a criminal act.”.

The Court found that the purpose of PSEBA is to continue employer-sponsored health insurance coverage for “officers and the families of officers who, due to a line-of-duty injury, have been forced to take a line-of-duty disability pension.” and it applies only to employers “who employ a full-time law enforcement officer ... or firefighter, who ... suffers a catastrophic injury or is killed in the line of duty.”.

The Court stated that simply completing law enforcement training and then suffering a catastrophic injury on the job does not make a person eligible for Benefits Act benefits, regardless of the employer or job title. PSEBA benefits must be based on the School District authority to hire a particular employee, here a law enforcement officer.

### **School District Has No Authority To Hire Law Enforcement Officer**

The Court found the key issue was whether a school district possesses the legal authority to hire a law enforcement. The Court concluded that there are no school district positions, other than truant officers, that demonstrate school district authority to employ law enforcement officers. The Court then stated that school district truant officers are not “law enforcement officers” that would be entitled to PEDA or PSEBA benefits.

The Court noted that the Illinois Police Training Act defines a “[l]aw



enforcement officer' ” as “any police officer of a local governmental agency who is primarily responsible for prevention or detection of crime and the enforcement of the criminal code, traffic, or highway laws of this State or any political subdivision of this State.”. That statute establishes the basic duties of law enforcement officers employed by “municipalities ... State controlled universities, colleges, and public community colleges, and other local governmental agencies.” .

The duties of a truant officer are to “investigate all cases of truancy or non-attendance at school in their respective jurisdictions” whenever notified of a violation by “the Superintendent, teacher, or other person.”. Truancy is a violation of the School Code, not the Criminal Code. Truant officers also “shall in the exercise of their duties be conservators of the peace and shall keep the same, suppress riots, routs, affray, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view and cause them to be brought before proper officials for trial or examination.”.

The Court noted these provisions created some uncertainty about truant officer authority to investigate nontruancy crimes or enforce “the criminal code, traffic, or highway laws of this State” noting that a school principal or superintendent who receive a report from any school official or school personnel regarding firearms, drugs, or a battery committed against “teachers, teacher personnel, administrative personnel or educational support personnel” on school premises are required to report the incident to “the local law enforcement authorities.” without any mention of truant officers. The Court reasoned then One that the failure to mention truant officers means that truant officers do not have authority to investigate criminal offenses involving drugs, firearms, or battery in schools which clearly distinguishes truant officers from “local law enforcement authorities.”

In this case, the School District's Board Policy did classify resource officers as truant officers. That Board Policy expressly provided that the newly-classified truant officers were not authorized to investigate or issue citations for nontruancy crimes. The District's truant officers therefore did not have many of the crime-prevention and law enforcement duties held by municipal police officers.

The Court also found that the School Code did not provide that truant officers were equal to or the same as municipal police or other law enforcement officers while higher education statutes are expressly granted authority for campus police at public colleges or universities which “shall ... have all powers possessed by policemen in cities, and sheriffs, including the power to make arrests on view or warrants of violations of State statutes, University rules and regulations and city or county ordinances.” See 110 ILCS 660/545(11), 670/15-45(11), 675/20-45(11), 685/30-45(11); see also 110 ILCS 305/7(a), 520/8(10).



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The provisions of the higher education laws are consistent with the language in PEDA as PEDA states that law enforcement officers employed by “any State supported college or university” are eligible for benefits. 5 ILCS 345/1 (a). That same law does not list truant officers or any other employee of a public school district as an employee covered by PEDA. The Court concluded that the clear, explicit language in PEDA and in the higher education statutes, coupled with the School Code's ambiguous language about truant officers, should be read to distinguish truant officers from campus, municipal, and other types of police officers who are entitled to PEDA and PSEBA benefits.

Finally, the Court noted that the School Code does not include any training requirements for truant officers. Illinois law provides for specific police training requirements prior to serving as a full-time law enforcement officer in a college or university police department, as it does for law enforcement officers at other public police departments. See, e.g., 50 ILCS 705/1, 8.1; 20 ILCS 2610/9. There are no Illinois legal requirements establishing police training or certification standards for truant officers.

The Court ultimately concluded that the powers and duties of truant officers distinguish them from law enforcement officers. The Court stated that the plain language of the School Code does not include express provisions that truant officers' powers and duties extend beyond the investigation of truancy matters. When compared and contrasted with the language of the other police statutes (i.e., the Police Training and State Police Acts and the higher education laws), the School Code does not set forth authority for truant officers to investigate and issue citations for other crimes or for any traffic violation. Given its conclusions, the Court found that the School District never had any legal authority to employ law enforcement officers to perform law enforcement duties. Since the school resource officer was never a law enforcement officer for the District, he was not entitled to PEDA or PSEBA benefits from the School District.

*Stimeling v. Peoria Public School District 150*  
2018 IL App (3d) 170567 (July 27, 2018)