Education Law

by Jerry A. Lumley*

Georgia experienced many changes in the area of school law during the last survey period, primarily because of the Education Reform Act of 2000. Although fewer changes occurred during this survey period, significant legislation was passed, and several appellate decisions in the area were made. This Article will discuss that legislation and those decisions.

I. LEGISLATION

A. *House Bill 656*

The Education Reform Act of 2000 brought many changes to Georgia's education system. In 2001, the General Assembly passed, and the Governor signed into law, House Bill 656, which amended the Education Reform Act of 2000 and brought about even more changes. The following is a summary of some of these changes.

1. Early Intervention Programs. Before being amended by House Bill 656, section 20-2-153 of the Official Code of Georgia Annotated ("O.C.G.A.") required the State Board of Education to "create a special instructional assistance program to assist students [enrolled in grades kindergarten through five] with identified developmental deficiencies which are likely to result in problems in maintaining a level of performance consistent with expectations for their respective ages."[1] Even though the State Board of Education was required to create a special instructional assistance program, local school systems were not required to provide such programs to their students.[2]

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1. O.C.G.A. § 20-2-153 (1996 & Supp. 2000), *amended by* O.C.G.A. § 20-2-153 (2001).
2. *Id.*

The State Board of Education is no longer required to create a special instructional assistance program. Rather, "[t]he State Board of Education shall create and each local board of education shall provide an early intervention program to serve students in kindergarten through grade five."[3] The special instructional assistance program required by former O.C.G.A. section 20-2-153 was to "assist" students in grades kindergarten through five.[4] The early intervention programs now required by O.C.G.A. section 20-2-153 must "serve" students in grades kindergarten through five.[5] Further, the special instructional assistance programs under former O.C.G.A. section 20-2-153 were only for "students enrolled in grades kindergarten through five with documented developmental levels below expectations for their respective ages that are not attributable to an identified disabling condition and who are not enrolled in either the remedial education program[6] or any of the special education programs . . . ."[7] The early intervention programs now required are to be provided to all

> students who are at risk of not reaching or maintaining academic grade level, including but not limited to students who are identified through the first grade readiness assessment required by Code Sections 20-2-151 and 20-2-281 and students with identified academic performance below grade levels defined by the Office of Education Accountability in Code Section 20-14-31 for any criterion-referenced assessment administered in accordance with Code Section 20-2-281 for grades one through five.[8]

The new legislation requires local school systems to devise a monitoring process using a variety of indicators, such as classroom performance and scores on previous assessments, to identify students who are at risk of not reaching or maintaining academic grade level.[9] Students are to be assigned to the early intervention program as soon as practicable after they are identified as at risk or after the results of assessments are known.[10] The school is required to provide timely notice and an opportunity for a conference with the students and their parents to

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3. *Id.* § 20-2-153 (2001) (amending O.C.G.A. § 20-2-153 (1996 & Supp. 2000)).
4. *Id.* § 20-2-153(1996 & Supp. 2000).
5. *Id.* § 20-2-153 (2001).
6. O.C.G.A. section 20-2-154 was also amended to eliminate students in grades four and five from eligibility for remedial education services.
7. O.C.G.A. § 20-2-153 (1996 & Supp. 2000).
8. *Id.* § 20-2-153(b) (2001).
9. *Id.*
10. *Id.*

discuss the students' academic performance and the role of the early intervention program.[11]

Students are not to be assigned to early intervention programs on a continuing or permanent basis. "[E]arly intervention program[s] shall be designed with the intent of helping the student to perform at expectations and exit the program in the shortest possible time. Students shall be moved into [the] program, provided assistance, and moved out of [the] program upon reaching grade level performance."[12]

"Funding for the early intervention program shall have a full-time equivalent teacher-student ratio of one teacher to eleven students."[13]

2. Social Promotions. One of the most publicized components of House Bill 656 was its stated intent to end "social promotions."[14] The legislation declared that the policy of the State of Georgia is

> that the placement or promotion of a student into a grade, class, or program should be based on an assessment of the academic achievement of the student and a determination of the education setting in which the student is most likely to receive the instruction and other services needed in order to succeed and progress to the next higher level of academic achievement.[15]

This policy is to be known as the "Georgia Academic Placement and Promotion Policy."[16]

Under O.C.G.A. section 20-2-283(a), the State Board of Education is required to adopt criteria for the development of a placement and promotion policy by each local board of education consistent with the Georgia Academic Placement and Promotion Policy no later than January 1, 2002.[17] The criteria adopted by the State Board of Education must require the following for students in the third, fifth, and eighth grades: (a) no student can be promoted to the fourth grade if that student does not achieve grade level as defined by the Office of Education Accountability on the third grade criterion-referenced reading assessment and meet the promotional standards and criteria established by the State Board of Education and local board of education; (b) no student can be promoted to the sixth grade if that student does not achieve grade level as defined by the Office of Education Accountability

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11. *Id.*
12. *Id.* § 20-2-153(d).
13. *Id.* § 20-2-153(e).
14. 2001 Ga. Laws 148, 177.
15. O.C.G.A. § 20-2-282(a) (2001).
16. *Id.* § 20-2-282(b).
17. *Id.* § 20-2-283(a).

on the fifth grade criterion-referenced mathematics and reading assessments and meet the promotional standards criteria established by the State Board of Education and local board of education; and (c) no student can be promoted to the ninth grade if that student does not achieve grade level as defined by the Office of Education Accountability on the eighth grade criterion-referenced mathematics and reading assessments and meet the promotional standards and criteria established by the State Board of Education and the local board of education.[18]

When a student does not perform at grade level on any of the criterion-referenced assessments specified in O.C.G.A. section 20-2-283(b)(1), the student is required to be retested with a criterion-referenced assessment or an approved alternative assessment instrument.[19] "The student [must also] be given [the] opportunity for accelerated, differentiated, or additional instruction in the applicable subject."[20] The school principal or the principal's designee is also required to provide written notice to the student's parent or guardian by first-class mail of the student's performance on the "assessment instrument, the retest to be given to the student, the accelerated, differentiated, or additional instruction program to which the student is assigned, and the possibility that the student might be retained at the same grade level for the next school year."[21]

When a student does not perform at grade level on any of the criterion-referenced assessments specified in O.C.G.A. section 20-2-283(b)(1) after being given a second opportunity, the school principal or the principal's designee is required to retain the student for the next school year unless a placement committee decides otherwise.[22] The school principal or the principal's designee is required to provide written notice of the decision to retain the student to the student's parent or guardian by first-class mail.[23] The notice must advise the parent or guardian of his or her right and the right of the student's teacher to appeal the decision.[24] The notice must also "describe the composition and functions of the placement committee, . . . including the requirement

18. *Id.* § 20-2-283(b)(1).
19. *Id.* § 20-2-283(b)(2)(B).
20. *Id.* § 20-2-283(b)(2)(C).
21. *Id.* § 20-2-283(b)(2)(A).
22. *Id.* § 20-2-283(b)(3).
23. *Id.* § 20-2-283(b)(3)(B).
24. *Id.*

that a decision to promote the student must be a unanimous decision of the committee."[25]

If a parent, guardian, or teacher appeals the decision to retain the student, the school principal or the principal's designee must establish a placement committee to hear the appeal.[26] The placement committee is to be "composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of the assessment instrument on which the student failed."[27] The placement committee for special education students is required to be the Individualized Education Plan Committee.[28] The principal or the principal's designee shall provide to the parent or guardian by first-class mail written notice of the time and place for convening the placement committee.[29]

Upon considering an appeal of a decision to retain the student, the placement committee is required to

> review the overall academic achievement of the student in light of the performance on the criterion-referenced assessment and the standards and criteria as adopted by the local board of education and make a determination to promote or retain. A decision to promote must be a unanimous decision and must determine that if promoted and given accelerated, differentiated, or additional instruction during the next school year, the student is likely to perform at grade level . . . by the conclusion of the school year.[30]

Regardless of the decision, the placement committee must prescribe for the student accelerated, differentiated, or additional instruction needed for the student to perform at grade level by the end of the subsequent school year, prescribe assessment that may be needed for the student in addition to assessments that are already to be given, and provide for a plan of continuous assessment during the subsequent school year in order to monitor the progress of the student.[31] "The decision of the placement committee may be appealed only as provided for by the local board of education."[32]

While O.C.G.A. section 20-2-283 provides for the retention of students who fail to perform at grade level on criterion-referenced assessments,

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25. *Id.*
26. *Id.* § 20-2-283(b)(3)(C).
27. *Id.*
28. *Id.* § 20-2-283(b)(3)(E).
29. *Id.* § 20-2-283(b)(3)(C).
30. *Id.* § 20-2-283(b)(3)(D)(i).
31. *Id.* § 20-2-283(b)(3)(D)(ii).
32. *Id.* § 20-2-283(b)(3)(F).

it does not preclude a school principal or the principal's designee from retaining a student who performs satisfactorily on such assessments.[33] Similarly, O.C.G.A. section 20-2-283 expressly provides that it does not create a property interest in promotion.[34]

The State Board of Education is required to provide a timetable for the implementation of the Georgia Academic Placement and Promotion Policy.[35] That timetable is required to include: "(1) The third grade beginning with the 2003-2004 school year; (2) The fifth grade beginning with the 2004-2005 school year; and (3) The eighth grade beginning with the 2005-2006 school year."[36]

The State Board of Education is also required to "develop a model placement and promotion policy which may be utilized by a local board of education."[37] Local boards of education are required to develop and adopt a placement and promotion policy no later than July 1, 2003.[38]

3. The Georgia Closing the Achievement Gap Commission. House Bill 696 also provided for the creation of the Georgia Closing the Achievement Gap Commission ("the Commission").[39]

> The purpose of the [C]ommission is to provide a public policy focus on closing the student achievement gap that exists for at-risk students, including groups of students disaggregated by ethnicity, sex, disability, language proficiency, and socioeconomic status. The [C]ommission is to develop successful strategies, reports, and recommendations that will assist in closing this student achievement gap. The [C]ommission shall focus on disaggregated student achievement data and shall research programs and strategies utilized in schools in Georgia and nationally to reduce the achievement gap. The [C]ommission shall provide reports and recommendations to the Education Coordinating Council and the General Assembly regarding closing the gap in student achievement in Georgia.[40]

The Commission is given broad authority to gather information about at-risk students in the Georgia public school system and about programs and efforts that have been, or could be, successful in yielding positive results for at-risk students.[41] The Commission is also given authority

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33. *Id.* § 20-2-283(c).
34. *Id.* § 20-2-283(d).
35. *Id.* § 20-2-285.
36. *Id.*
37. *Id.* § 20-2-284(c).
38. *Id.* § 20-2-284(a).
39. *Id.* § 20-2-286(a).
40. *Id.* § 20-2-286(b).
41. *Id.* § 20-2-286(c).

to make findings and devise recommendations, including proposed legislation, to the Office of Education Accountability and the General Assembly regarding steps that should be taken to address the concerns of at-risk students by a variety of entities.[42] The Commission is to consist of a chairperson and six members to be appointed by the Governor, six members to be appointed by the President of the Senate, and six members to be appointed by the Speaker of the House of Representatives.[43] "The Commission's existence shall be terminated on June 30, 2006, unless continued existence is authorized by statute."[44]

B. Other Legislation

In addition to House Bill 656, other legislation relating to school issues was signed into law during the survey period. The following highlights some of that legislation.

1. Sick Leave for Injured Teachers. Teachers are no longer to be charged with sick leave for the first seven days of an absence resulting from an injury caused by a physical assault occurring while the teacher was engaged in the performance of his or her duties.[45] Additionally, a teacher who is absent for up to seven days because of such an injury shall not have his or her compensation reduced because of the absence or be required to pay the cost of a substitute.[46]

2. Diplomas for World War II Veterans. Local boards of education are authorized to issue high school diplomas to veterans who failed to receive diplomas due to an interruption of their education by service in World War II if certain conditions are met.[47] Veterans who otherwise qualify and have earned a general educational development (GED) diploma are eligible for a high school diploma, and diplomas to qualifying veterans may be awarded posthumously.[48] "The local board of education is encouraged to present such diplomas to World War II veterans on or near Veterans' Day to bring to the attention of students the importance of such day and the great sacrifices made by World War II veterans."[49]

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42. *Id.* § 20-2-286(e).
43. *Id.* § 20-2-286(a)(1).
44. *Id.* § 20-2-286(h).
45. *Id.* § 20-2-850(a)(2).
46. *Id.*
47. *Id.* § 20-2-69.
48. *Id.*
49. *Id.*

3. Registration to Vote. In April of each year, the school administration is required to arrange an opportunity to register to vote for each eligible student.[50]

4. Lease of School Property. School systems were previously prohibited from leasing any schoolhouse or other school property that was no longer needed for school purposes for more than fifteen years. O.C.G.A. section 20-2-600 has been amended to allow "school districts or school systems of this state . . . to lease any schoolhouse or other school property that it has determined is no longer needed for school purposes to any person, group of persons, or corporation, provided that the lease shall be for a period not longer than 50 years."[51]

5. Open Records. Amendments to Georgia's Open Records Act[52] create additional exemptions to the disclosure requirements placed upon school systems with respect to information concerning employees. "Records that reveal the home address, the home telephone number, or the social security number of or insurance or medical information about teachers and employees of a public school" are now exempt from disclosure.[53] Additionally, records containing the "mother's birth name, credit card information, debit card information, bank account information, financial data or information, and insurance or medical information . . . and if technically feasible at reasonable cost, day and month of birth" of a teacher or other employee of a public school are also exempt.[54] All of the protected information must be redacted before any requested record containing such information is disclosed.[55] Exceptions to the exemption from disclosure exist including: (1) disclosures necessary to comply with legal or regulatory requirements; (2) disclosure to the individual in respect of whom the information is maintained; and (3) disclosures in accordance with an order of a court of competent jurisdiction upon a showing of good cause.[56]

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50. *Id.* § 20-2-310.
51. *Id.* § 20-2-600.
52. *Id.* § 50-18-70 to -77 (1998 & Supp. 2001).
53. *Id.* § 50-18-72(a)(13.1) (Supp. 2001).
54. *Id.* § 50-18-72(a)(11.3)(A).
55. *Id.*
56. *Id.* § 50-18-72(a)(11.3)(B).

II. APPELLATE DECISIONS

A. *Sovereign Immunity*

Two decisions from the Court of Appeals of Georgia addressed the issue of sovereign immunity for school districts. In *Brock v. Sumter County School Board*,[57] the parents of a seven-year-old child sued the Sumter County School District and several individual employees of the school district after their child was killed in an accident while she was waiting for the morning school bus. The child was killed when she ran into the path of a truck operated by an individual who had no connection with the school district. The school bus had not arrived at the time of the accident and was not even in sight.[58]

The school district moved for summary judgment on the ground that it was protected by sovereign immunity. The parents contended that the school district waived sovereign immunity in accordance with O.C.G.A section 33-24-51 because it had purchased liability insurance coverage for damages arising by reason of ownership, maintenance, operation, or use of its school busses.[59] Finding no evidence that the incident arose from use of one of the school district's busses, the court of appeals affirmed the trial court's grant of summary judgment in favor of the school district.[60]

The family contended that the accident involved use of a school bus for two reasons. First, the family contended that the driver's failure to arrive on time constituted misuse of the bus, and that misuse is a form of use.[61] The court of appeals rejected this argument, because there was no evidence that the driver had failed to arrive on time and because it determined that failure of the bus driver to arrive on time did not constitute a misuse of the bus.[62] The family also contended that the accident involved the use of a school bus because their child was loading the bus at the time of the accident.[63] Again, the court of appeals rejected this argument, finding that there was no evidence that the child was loading the bus. "[T]he bus had not yet arrived, was not in sight,

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57. 246 Ga. App. 815, 542 S.E.2d 547 (2000).

58. The school district was substituted as a party in place of the school board. *Id.* at 815-16, 542 S.E.2d at 548.

59. *Id.* at 817, 542 S.E.2d at 549.

60. *Id.* at 818, 542 S.E.2d at 550.

61. *Id.* at 817, 542 S.E.2d at 549.

62. *Id.* at 817-18, 542 S.E.2d at 549.

63. *Id.* at 818, 542 S.E.2d at 549-50.

and the fact that [the child] was crossing the road was unrelated to the arrival of the bus."[64]

In *Hunt v. City of Atlanta*,[65] the plaintiff's son, while walking to school, died after being struck by a car that ran a red light near the school. The plaintiff's son was on his way to participate in the school's breakfast program at the time of the accident. The collision occurred at approximately 7:10 a.m. At that time, the school zone speed limit sign was not yet flashing, and the school crossing guard had not yet reported for duty. The plaintiff sued the Atlanta Board of Education and the City of Atlanta for the wrongful death of her son, alleging that the defendants were negligent and that they maintained a nuisance. The trial court granted summary judgment in favor of the board of education on the ground of sovereign immunity. The court of appeals affirmed.[66]

In its decision, the court of appeals determined that the essence of the plaintiff's complaint was that the board of education had "'failed to exercise sound judgment in allowing what plaintiff alleges to be a hazardous condition to exist.'"[67] Because the "provision and maintenance of school facilities involve discretionary acts,"[68] the court of appeals agreed that the plaintiff's claims were barred by the doctrine of sovereign immunity.[69] The plaintiff argued that nuisance claims against municipalities are not barred by sovereign immunity. The court of appeals agreed but noted that school boards are not municipalities.[70] Accordingly, the court of appeals ruled that the municipal nuisance exception to sovereign immunity did not apply to school boards.[71]

B. Libel Action by School Employee

The court in *Cartwright v. Wilbanks*[72] considered the issue of whether a memorandum concerning an employee of a school district that was prepared by a school district's superintendent, distributed to the members of the board of education, and placed in the employee's personnel file could constitute actionable libel. Cartwright was a teacher in the Gwinnett County School District and Wilbanks was the school district's superintendent. After Cartwright complained to the chairman

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64. *Id.*, 542 S.E.2d at 549.
65. 245 Ga. App. 229, 537 S.E.2d 110 (2000).
66. *Id.* at 229, 537 S.E.2d at 110.
67. *Id.* at 230, 537 S.E.2d at 111 (quoting Davis v. Dublin City Bd. of Educ., 219 Ga. App. 121, 122, 464 S.E.2d 251, 252 (1995)).
68. *Id.*
69. *Id.*
70. *Id.*
71. *Id.*
72. 247 Ga. App. 187, 541 S.E.2d 393 (2000).

of the board of education about the school district's handling of threats made against him, the chairman directed Wilbanks to review the matter and submit his findings to the board of education. Subsequently, Wilbanks circulated a memorandum containing his findings to the board members and had a copy of the memorandum placed in Cartwright's personnel file. Cartwright took offense to the contents of the memorandum and sued Wilbanks for libel based upon the memorandum.[73]

Publication is an essential element of a claim for libel.[74] The court of appeals determined there had been no publication of the memorandum and affirmed the trial court's grant of summary judgment to Wilbanks.[75] In doing so, the court noted that "no publication occurs where one member of a group shares information with another whose duties or authority give him or her reason to receive such information."[76] Because there was no question that Wilbanks sent his memorandum only to the members of the board of education and the members of the board had reason to receive the information, the court of appeals ruled that there had been no publication of the memorandum.[77]

Cartwright argued that the memorandum was published when it was placed in his personnel file, because it became a public record at that time under Georgia's Open Records Act.[78] The court of appeals disagreed, stating, "[W]here a supervisor has a duty to report a matter, his report is not considered published for purposes of the tort of libel merely because it has been placed in the subject employee's personnel file."[79]

C. *Discipline of School Employee*

The court in *Clinch County Board of Education v. Hinson*[80] considered the issue of whether a local board of education acted properly in terminating the employment contract of a school administrator who placed a video camera in a girls' locker room during high school basketball games.[81] During a girls' basketball game at Clinch County High School, a thief gained entrance to the visiting girls' locker room and stole money and jewelry worth almost $2000. School administrators

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73. *Id.* at 187-88, 541 S.E.2d at 394-95.
74. *Id.* at 188, 541 S.E.2d at 395 (citing O.C.G.A. § 51-5-1 (2000)).
75. *Id.* at 189, 541 S.E.2d at 395.
76. *Id.*
77. *Id.*
78. *Id.* at 190, 541 S.E.2d at 395.
79. *Id.*, 541 S.E.2d at 396.
80. 247 Ga. App. 33, 543 S.E.2d 91 (2000).
81. *Id.* at 33, 543 S.E.2d at 93.

later requested that Hinson, the board of education's media and technology coordinator, place a video camera in the locker room in an attempt to apprehend the thief. Hinson agreed to do so and was told by the administrators that the camera should be focused on the entrance to the locker room. When the camera was placed in the locker room, however, it was focused so as to record benches and lockers used by players and cheerleaders, as well as the locker room entrance. The videotapes showed some of the female students removing their outer garments and dressing for the game. Some students were captured by the camera in underclothing.[82]

Following disclosure of the tapes' existence, the county school superintendent recommended that Hinson's contract be terminated. A hearing was conducted by a tribunal in accordance with the Fair Dismissal Act.[83] Finding that Hinson's conduct constituted "incompetency" and that "other good and sufficient cause" existed, the tribunal recommended that Hinson's contract be terminated.[84] The Clinch County Board of Education followed the tribunal's recommendation, and the State Board of Education, acting in its appellate capacity, affirmed the decision of the local board. The Superior Court of Clinch County, however, reversed. The court of appeals reversed the superior court's decision.[85]

The court of appeals noted that the superior court, sitting as appellate body,

> is bound to affirm the decision of the local board if there is any evidence to support it. In matters such as this, the superior court should not interfere with a local board's administration of its school unless the board has grossly abused its discretion or acted arbitrarily or contrary to law.[86]

The court of appeals determined that the evidence showing that Hinson focused the camera at dressing areas, even though he had been instructed to focus the camera at the entranceway, was sufficient evidence to support the local board's decision.[87]

The superior court, relying upon authority from another state, held that Hinson could not be dismissed for incompetence unless the evidence showed that his actions disrupted or impaired discipline or teaching or

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82. *Id.* at 34, 543 S.E.2d at 93.
83. O.C.G.A. § 20-2-940 to -947 (2001).
84. 247 Ga. App. at 35, 543 S.E.2d at 94.
85. *Id.* at 33, 543 S.E.2d at 93.
86. *Id.* at 36, 543 S.E.2d at 94.
87. *Id.* at 36-37, 543 S.E.2d at 95.

that he posed significant danger to others.[88] The court of appeals ruled that such a showing is not required under Georgia law.[89] Further, the court of appeals determined that the authority relied upon by the superior court was inapplicable, because it applied to charges of incompetence against teachers. As noted by the court, Hinson was an administrator.[90] Moreover, the court stated that, even if the evidence was insufficient to establish incompetence, the board of education also determined that "other good and sufficient cause" existed to terminate Hinson's contract. According to the court of appeals, the evidence was sufficient to establish "good and sufficient cause."[91] Thus, the decision of the board of education was proper.[92]

D. Responsibility for Highway Improvements in the Vicinity of Schools

In *Fulton County v. Fulton County School District*,[93] the court of appeals was asked to determine whether a county or a school district is responsible for highway improvements required by the construction of new schools. The Fulton County School District had built eighteen new schools within the past ten years and planned to build an additional seventeen new schools within the next five years. A dispute arose between the school district and Fulton County concerning responsibility for the costs of certain improvements made, and to be made, to the public streets and highways in the vicinity of the schools. The school district filed a petition for declaratory judgment against the county seeking a declaration that the cost of the improvements was the county's responsibility. The trial court granted the school district's motion for summary judgment, and the county appealed.[94]

The court of appeals agreed that the school district could not constitutionally expend its tax funds to pay for road improvements, but vacated the order of the trial court because the case was not a proper action for declaratory judgment.[95] According to the court of appeals, the school district did not need a declaration of its rights because the issue had been squarely addressed by the Supreme Court of Georgia six

88. *Id.* at 36, 543 S.E.2d at 95.
89. *Id.*
90. *Id.*
91. *Id.*
92. *Id.*
93. 246 Ga. App. 631, 542 S.E.2d 507 (2000).
94. *Id.* at 631-32, 542 S.E.2d at 508-09.
95. *Id.* at 635-36, 542 S.E.2d at 510-11.

years earlier in *DeKalb County School District v. DeKalb County*.[96] The court of appeals felt that it was made clear in *DeKalb County* that, under the Georgia Constitution and O.C.G.A. section 20-2-411, school districts are without authority to expend school funds for traffic improvements.[97] Further, according to the court of appeals, the supreme court made it clear in *DeKalb County* that road improvements to the county road system, even when necessitated by a new school, fall within the services to be provided by the county.[98] In closing, the court of appeals noted its distaste for the entire matter:

> We note that despite the existing law in this area, we once again have two branches of county government choosing to litigate over their respective responsibilities at taxpayers' expense rather than resolving their differences within the county government structure. It would appear that the Fulton County Commission should assume some responsibility for the actions of these two branches of Fulton County government. Sadly, it is the county taxpayers who must pay the cost and expense of such litigation, and the children and teachers of Fulton County are deprived of needed funds that are being needlessly expended on attorney fees and other litigation expenses.[99]

III. CONCLUSION

Although less active than the previous year, this past year saw much activity in the area of school law. The full impact of legislation passed in 2000, such as the Education Reform Act of 2000 and the Equity in Sports Act, remains to be seen. As these laws and others continue to be implemented, it is likely that the law will see many developments in this area.

96. *Id.* at 634, 542 S.E.2d at 510 (citing 263 Ga. 879, 440 S.E.2d 185 (1994)).
97. *Id.*
98. *Id.*
99. *Id.* at 636, 542 S.E.2d at 511.