

CASB BRIEF - January 7 Vol. 20



Legal Newsletter

Caselaw Update - CORA

Two recent Colorado cases address the impact of the Colorado Open Records Act (CORA) on school districts. The first, [Migoya v. Wheeler](#), a Colorado Court of Appeals decision, clarified the rules for handling requests under CORA involving personnel evaluation records. The case centered on a broad CORA request made to a school district, seeking all disciplinary records for administrators created in 2021. The court found that these records were not exempt from disclosure under CORA's personnel files provision. However, they were protected under a separate law, the Licensed Personnel Performance Evaluation Act (C.R.S. 22-9-101). This law governs the evaluation process for licensed school district personnel and specifically prohibits the disclosure of evaluation reports and any documents used to prepare those reports.

The court took a broad view of the protection of evaluation reports and associated documents. If a school district typically uses certain types of documents to prepare evaluation reports, these documents would likely be exempt from CORA disclosure. This decision reinforces that evaluation-related records are confidential, even if not considered a personnel file. Custodians should carefully review CORA requests and consider whether the Licensed Personnel Performance Evaluation Act applies, particularly when it comes to records connected to evaluations.

Secondly, in [Archuleta County v. Matt Roane](#), the Colorado Supreme Court considered CORA requests in litigation, determining that litigation against a public entity does not prevent a litigant from using CORA to inspect that entity's public records. As background for the decision, Matt Roane was in litigation with the Archuleta County Board of Commissioners, and filed a CORA request during the dispute, seeking a copy of a recent Board meeting recording. Roane had not requested files in the traditional way required in litigation. The Board refused the request, arguing that it unlawfully circumvented litigation rules that require parties in lawsuits to file requests for documents in a specific way. Ultimately, the Court determined that "Roane didn't give up his right to inspect public documents in the Board's possession just because he sued the Board." This highly-anticipated decision provides guidance on a previously undetermined question, and should help the litigation process run smoother in the future. However, it makes litigation more difficult for school districts, because document requests can be requested and obtained in multiple ways.

Immigration Resources

With the upcoming inauguration, CASB has received many questions and concerns regarding immigrant and refugee students and families. CDE has issued guidance, which includes reassuring families that schools are safe places and that students are ensured access to free public education regardless of their immigration status. Adams 14 has also shared their card describing immigration rights and a message to the community regarding immigration, both of which are available [here](#). Additionally, [LYRIC](#) or the [Colorado Immigrants Rights Coalition](#) may be able to help with training impacted students and families on their rights.

We hope to provide further guidance as more information becomes available.

Upcoming Events

NEW! Friday, 21 February

[Elections Seminar w/ Colorado Secretary of State's Office](#)

Denver, Colo. | 8:30 a.m. - 12:00 p.m.

This Elections Seminar is open to anyone interested in learning more about the school board election process. Look for an email with more information on registration, to be sent soon.

Thursday, 13 February

[CASB Student Day at the Capitol](#)

Denver, Colo. | 7:30 a.m. - 1:30 p.m.

Students will have their chance to meet with their legislators and experience the legislative process

Thursday, 6 February

[CASB Days at the Capitol](#)

Denver, Colo. | 7:30 a.m. - 1:30 p.m.

School board members will have their chance to meet with their legislators and experience the legislative process

Thursday-Friday, 27-28 February

[Winter Legislative Conference](#)

Denver, Colo.

CASB's Winter Legislative Conference registration is **OPEN** and will have an early bird discount until January 31