



*"Dedicated to promoting strong, professional leadership"*

# LOUISIANA ASSOCIATION OF SCHOOL EXECUTIVES

July 2007

Lee Faucette, Editor

Volume 29, Number 2

## *Education Wins Big in the 2007 Regular Session of the Louisiana Legislature*

The 2007 Regular Session of the Louisiana Legislature substantially increased state support for public education from Pre-Kindergarten to the University level with the approval of Governor Blanco's \$29.7 billion State Operating Budget for fiscal year 2007-2008.

Included are across the board raises of \$2,375 per year for public school teachers. This should bring Louisiana teachers to the elusive Southern Regional Education Board average for the first time in history. Also included are raises of \$1,000 for school support workers.

With the adoption of House Concurrent Resolution 208, the new Minimum Foundation Program (MFP), 52 of the 69 Louisiana public school districts will have new MFP dollars, 50% of which may fund further salary enhancements. Teacher raises are estimated to fall between \$2,375 and \$4,375 among the various school systems, depending on the local system's mandated costs.

Key expenditures are as follows:

\$2.994 Billion	Initial MFP for 2007-2008
\$443 Million	Colleges & Universities
\$600 Million	One time road repairs
\$100 Million	Incentive insurance fund
\$157 Million	Tax breaks for taxpayers

- \$15 Million Needs-based college scholarship
- \$150 Million Economic development
- \$1 Billion Road Home program
- \$13.5 Million Health Clinics
- \$74.5 Million New Charity Hospital in N.O.

Other Legislative Actions:

- Increase punishment for guns and drugs on campus
- Eliminate waivers for providing alternative Education beginning FY 08-09
- Establish a State H & PE Coordinator
- Foster arts and music in public schools
- Require crossing arms on all school busses
- Set final boundaries for the new Central School District

A detailed review of the legislation affecting education is included in this issue.

### *What's Inside*

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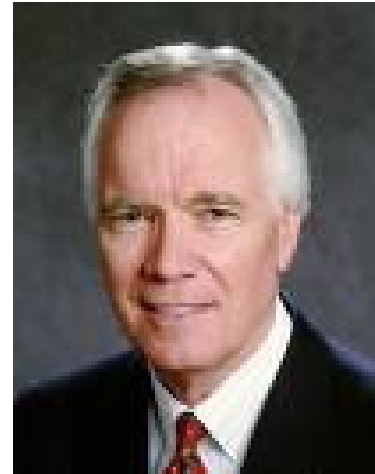
*30<sup>th</sup> Annual LASE Conference*  
*“School Administrators: Models of Leadership  
for Educational Challenges”*



**Dr. Willard “Bill” Daggett**



**Dr. Joe Martin**



**Dr. Loren Scott**

Nationally renowned experts on the cutting edge of today’s educational efforts will share their insights and observations with Louisiana educators who attend the 30<sup>th</sup> Annual LASE Conference in Baton Rouge, LA November 11-13, 2007. The diverse nature of the professional development opportunities offered by the slate of presenters surely offers something for everyone who chooses to attend. The Holiday Inn Select Executive Center, I-10 and College in Baton Rouge, will host the conference November 11-13, 2007, beginning with registration Sunday, November 11, from 4:00 p.m. to 6:00 p.m.

Dr. Willard “Bill” Daggett will be the featured speaker for the first full day of the conference, Monday, November 12, 2007. Bill Daggett, President of the International Center for Leadership in Education, is recognized worldwide for his proven ability to move education systems towards more rigorous and relevant skills and knowledge for all students. He has addressed the Louisiana High School Redesign Commission and is no stranger to Louisiana and its efforts to improve educational outcomes for all students. His insights, observations and recommendations for change in education are sought internationally. For all Louisiana educators and their partners, this is a special opportunity to hear Dr. Daggett deliver a

message that is thought-provoking, motivational, engaging, and “in our own backyard.”

The LASE business meeting will be conducted following lunch on the first day of the session at 1:15 p.m., Monday, November 12, 2007. All conference participants will be welcomed to the President’s Reception from 7:00 p.m. to 10:00 p.m. on Monday evening.

Tuesday, November 13, 2007, features two presentations sure to inform and motivate conference participants. Dr. Loren Scott, Louisiana State University Professor Emeritus and former chairman of the LSU Economics Department, will lead the day’s events with the economic forecast for Louisiana and its implications for education in Louisiana.

Dr. Joe Martin, recognized nationally as “America’s #1 Educator Motivator,” will deliver the closing keynote address on Tuesday, November 13, 2007. Joe’s the author of several books and is the host of the highly successful weekly radio talk show, “Good Teachers.” His presentation will close the 30<sup>th</sup> Annual LASE Conference.

Registration and program information are on the following pages.

# Conference Brochure

**30th  
ANNUAL  
CONFERENCE**

**L A S E**

Louisiana Association of School Executives

**All Teachers, Administrators, and Partners in Education are invited to attend the conference.**

***“School Administrators:  
Models of Leadership  
for  
Educational Challenges”***

**2007  
November 11-13  
Holiday Inn Select Executive Center  
(I-10 and College Drive)  
Baton Rouge, Louisiana**

# LASE 30<sup>th</sup> ANNUAL CONFERENCE

## Agenda-at-a-Glance

### Sunday, November 11, 2007

- LASE Legal Counsel Pre-Conference Session.....2:30 p.m.-4:00 p.m.
- Registration.....4:00 p.m.-6:00 p.m.
- Reception.....5:00 p.m.-7:00 p.m.

### Monday, November 12, 2007

- Conference Sessions.....8:30 a.m.-12:00p.m.
- LASE Business Meeting.....1:15 p.m-2:15 p.m.
- Conference Sessions.....2:15 p.m.-4:30 p.m.
- President’s Reception.....7:00 p.m.-10:30 p.m.

### Tuesday, November 13, 2007

- Conference Sessions.....8:30 p.m.-12:00 p.m.

### Hotel Information

The Holiday Inn Select Executive Center has set the following rates for the LASE Conference for reservations made by October 11, 2007:

Single: \$85                      Double: \$90

Hotel accommodations are to be made directly with the hotel. Please specify that you are attending the LASE Conference when making reservations by calling the hotel at (225) 925-2244.

Mail the completed Registration Form and payment of Registration Fees to LASE, P.O. Box 40217, Baton Rouge, LA 70835-0217 for receipt in the LASE office no later than 11/09/07.

For additional information, call the LASE office at (225) 791-0365.

# LASE 30th ANNUAL CONFERENCE

## Registration Form

<b>Name</b>	
<b>Address</b>	
<b>City, State, Zip</b>	
<b>School/District</b>	
<b>Position</b>	
<b>Work Telephone</b>	(        )
<b>Home Telephone</b>	(        )
<b>E-mail Address</b>	
<b>Spouse/Guest Name (optional)</b>	

## Registration Fees

**LEGAL COUNSEL PRE-CONFERENCE SESSION..\$50** \_\_\_\_\_

**LASE MEMBERS REGISTRATION**

Registration Fee (prior to 11/07/07).....\$125 \_\_\_\_\_

Onsite Registration Fee (after 11/07/07).....\$150 \_\_\_\_\_

One Day Conference Fee.....\$ 80 \_\_\_\_\_

Onsite One Day Conference Fee.....\$ 90 \_\_\_\_\_

Spouse/Guest (Sunday Evening Event).....\$ 25 \_\_\_\_\_

**NON-MEMBERS REGISTRATION**

Registration Fee (prior to 11/07/07).....\$150 \_\_\_\_\_

Onsite Non-members Registration Fee.....\$160 \_\_\_\_\_

Onsite One Day Conference Fee.....\$ 90 \_\_\_\_\_

**LASE MEMBERSHIP DUES..... \$150** \_\_\_\_\_

**TOTAL PAYMENT ENCLOSED** \_\_\_\_\_

# Program

## SUNDAY, NOVEMBER 11, 2007

- Legal Counsel Pre-Conference Session.....2:30 a.m. – 4:00 p.m.
- Conference Registration.....4:00 p.m. – 6:00 p.m.
- Reception (Guest Sponsor).....5:00 p.m. – 7:00 p.m.

## MONDAY, NOVEMBER 12, 2007

- Registration/Exhibits.....7:00 a.m. – 8:30 a.m.
- First General Session.....8:30 a.m.-12:00 noon

### Welcome/Introductions

### Memorial Service

LASE members who have died since November of 2006 will be honored in a ceremony to celebrate their lives and contributions to education.

**Presenter:**     **Dr. Willard “Bill” Daggett**  
                          **President**  
                          **International Center for Leadership in Education**



**Dr. Willard “Bill” Daggett**, President of the International Center of Leadership in Education (ICLE), is recognized worldwide for this proven ability to move education systems towards more rigorous and relevant skills and knowledge for all students. He has assisted a numbers of states and hundreds of school districts with their school improvement initiatives, many in response to *No Child Left Behind* and its demanding adequate yearly progress (AYP) provisions.

Dr. Daggett has also collaborated with education ministries in several countries and with the Council of Chief State School Officers, the Bill & Melinda Gates Foundation, the National Governors Association, the U.S. Chamber of Commerce, and many other national organizations.

Before founding ICLE in 1991, Dr. Daggett was a teacher and administrator at the secondary and postsecondary levels and a director with the New York State Education Department, where he spearheaded restructuring initiatives to focus the state’s education system on the skills and knowledge students need in a technological, information-based society.

Program

MONDAY, NOVEMBER 13, 2005 (cont'd)

Break/Exhibits.....10:15 a.m. – 11:00 a.m.

Lunch.....12:00 p.m. – 1:15 p.m.

Second General Session.....1:15 p.m. – 4:30 p.m.

LASE BUSINESS MEETING.....1:15 p.m.-2:15 p.m.

➤ Election of new officers and Executive Committee Members

Break/Exhibits.....2:15 p.m.-3:00 p.m.

Presenter: Dr. Bill Daggett (cont'd).....3:00 p.m.-4:30 p.m.

President
International Center of Leadership in Education

Exhibits and Drawing.....4:30 p.m. – 5:30 p.m.

\$500 in Door Prizes awarded Monday afternoon.

LASE President's Reception.....7:00 p.m.-10:30 p.m.

Hors d'oeuvres Libations



# Program

**TUESDAY, NOVEMBER 13, 2007**

Registration.....8:00 a.m. – 8:30 a.m.

Third General Session.....8:30 a.m. – 12:00 p.m.

**Introduction of Affiliate Organizations**

**Presenter:**     **Dr. Loren C. Scott.....8:30 p.m.-10:15 p.m.**  
*President*  
*Loren C. Scott and Associates, Inc.*



*Dr. Loren C. Scott*

Dr. Loren Scott, who gives more than 50 speeches annually on the state of—and the outlook for—the economy, is the President of Loren C. Scott and Associates, Inc., a 24-year old economic consulting firm whose clients include such large national firms as Bell South and ExxonMobil.

Break.....10:15 a.m.-10:30 p.m.

**Presenter:**     **Dr. Joe Martin.....10:30a.m.-12:00 p.m.**  
*Education/Motivational Consultant*



Professor Joe Martin is an educator who administrators and teachers will never forget. Born and reared in one of the toughest inner-city ghettos in Miami, Florida, he eventually went on to graduate at the top of his class. At age 24, he became the youngest professor ever hired to a tenured earning position in the state of Florida.

Ever since he became an educator, Joe has been on a personal mission to make sure good teachers don't quit and talented students don't drop out. In his twelve years as an educator and seven years as an author, Joe has personally trained thousands of educators and students.

*Dr. Joe Martin*

Drawing for \$500 in Door Prizes.....12:00 p.m.  
Adjournment

July 2007

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## **Memorial Service**

**Please notify the LASE office if you know of any LASE members who have died since November of last year so we may include them in the memorial service at our upcoming conference November 11-13, 2007. The memorial service will be held at the opening session Monday, November 12, at the Holiday Inn Select Executive Center, Baton Rouge, Louisiana.**

# Have You Paid Your LASE Membership ?

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**30<sup>th</sup> Annual LASE Conference**  
**November 11-13, 2007**  
**Holiday Inn Select Executive Center.....Baton Rouge**

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## **Paul H. Fouquier Educational Leadership Award**

Nominations are now being accepted for the prestigious “LASE Educator of Distinction Award.” LASE annually recognizes outstanding educators for their contributions to their profession.

**The Selection Criteria for the award shall include evidence of:**

Leadership for learning,  
Professionalism, and  
Community.

**The Qualifications for Nominations for this award are a person who:**

Is currently serving in an educational leadership position,  
Has a minimum of five years experience in an educational setting,  
Is currently a member of LASE, and  
Is nominated by a member of LASE.

**The following Nomination Notice must be attached to the Nomination:**

## Nomination Notice

### 1. Information about the Nominator:

Nominator's Name

School System

Mailing Address

Telephone: (      )

FAX: (      )

### 2. Information about the Nominee:

Nominee's Name

School System

Mailing Address

Telephone: (      )

FAX: (      )

### 3. Permission for Nomination

\_\_\_\_\_ I have spoken with this educator who agrees for me to place his/her name in nomination.

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**30<sup>th</sup> Annual LASE Conference**

**November 11-13, 2007**

**Holiday Inn Select Executive Center.....Baton Rouge**

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## Paul H. Fouquier Educational Leadership Award

1. Attach the Nomination Notice.
2. Limit your letter to two (2), double-spaced, typed pages.
3. Attach two (2) letters of support. Each letter is to be one (1) double-spaced, typed page. No other material will be accepted.
4. Address the following:
  - Action taken by the nominee in the last three years to improve teaching and learning,
  - Obstacles encountered and how they were overcome,
  - Evidence of success in terms of the vision for education,
  - Participation in professional and civic organizations (status, roles responsibilities), and
  - Other exceptional awards, contributions, or facts.
5. Send an original and 5 copies to:

Debi K. Faucette, Conference Planner  
12615 Stoneway Place  
Baton Rouge, Louisiana 70818

**DEADLINE FOR RECEIVING NOMINIATIONS IS 4:00 P.M., THURSDAY, OCTOBER 4, 2007.**

<b>Selection Process:</b>	Selection will be made by the Professional Growth and Recognition Committee. No nomination materials will be returned. A request to reweiw the selection may be made to Debi Faucette within 10 working days of the announcement.
<b>Scoring Process:</b>	Leadership for Learning..... 60 points Professionalism ..... 20 points Community Involvement ..... 20 points

**For additional information and instructions to nominate an educational leader for this award,  
call Debi K. Faucette at (225) 342-3336.**

# Congratulations New LASE Members

Allen Bozeman  
Director, Secondary Education  
Rapides Parish

Otis Jones, Jr.  
Director of Transportation  
Caddo Parish

Charles Strong  
Regional Director  
LTC-Webster Parish

Edward Brown  
Principal  
St. Landry Parish

Pamela Mackie  
Principal  
East Baton Rouge Parish

Carol Tall  
Acting Special Ed Supervisor  
Acadia Parish

Christie Crooks  
Assistant Principal  
Ascension Parish

Marjorie Meyers  
Assistant Principal  
Ascension Parish

Wendy Thibodeaux  
Assistant Principal  
Acadia Parish

Sharon Glascock  
Assistant Principal  
Bossier Parish

Lakesha Miller  
Administrative Assistant  
St. Landry Parish

Linda ThornLewis  
Supervisor  
Bossier Parish

Rosalind Howard  
Assistant Principal  
Bossier Parish

Marquet Rideau  
Assistant Principal  
St. Landry Parish

Tim Ward  
Administrator  
Vernon Parish

Bridgett Hudson  
Assistant Principal  
Ascension Parish

Carol Savage  
Regional Coordinator  
Special School District #1

Vickie Wyatt  
Principal  
Desoto Parish

Sharon Stewart  
Federal Programs Director  
Union Parish

**Disposition of Bills Tracked by LASE  
During Regular Session of 2007  
As of Final Adjournment (Sine Die 6/28/07)**

HB 1	Alario	Provides for ordinary expenses of government. Passed & Sent to Governor.
HB 389	Smith	Relative to interest paid on DROP accounts. Bill Deferred.
HB 424	White	Technical revisions to Central Community School System boundaries. Passed & Signed by Governor, Act 47.
SB 116	Theunissen	Cost of Living Increase for Retired Teachers. Passed & Signed by Governor, Act 67.
SCR 3	Gautreaux	Cost of Living Increase for Retired Teachers Passed.
SB 265	Ullo	Changes mandatory expulsion periods for certain student offenses & ends waivers for alternative schools. Passed & Sent to Governor.
HB 157	Walsworth	School bus safety arms. Passed & Sent to Governor.
HB 221	Morrell	Reimbursement of unemployment benefits for state and local government. Passed & Sent to Governor.
SB 362	Cassidy	Establishes H & PE Coordinator for State DOE. Passed & Sent to Governor.
SB 299	Broome	Arts/Music Education. Passed & Sent to Governor.

**SCHOOL VOUCHERS**

HB 623	Scalise	Establishes Vouchers for Students' Pilot Program. Died in House Education Committee.
HB 761	Burns	Establishes Vouchers for Students Pilot Program in certain parishes. Died in House Education Committee.

**RECOVERY SCHOOL DISTRICT**

HB 179	Morrell	Requires BESE to establish a committee to advise the board on matters related to certain public elementary and secondary schools under the jurisdiction of the Recovery School District. Died in House Education Committee.
HB 822	Richmond	Terminates the jurisdiction of the Recovery School District over certain schools and returns such schools to the transferring system. Died in House Education Committee.
HB 851	K. Carter	Provides an individual income tax credit for certain individuals employed with the Recovery School District. Died in House Ways and Means Committee.
HB 887	K. Carter	Provides relative to governance, powers, duties, and operations of the Recovery School District. Died in House Education Committee.
SB 60	Cain	Permits re-employment of retired school bus drivers. Passed & sent to Governor.
SB 84 SB 363	Bajoie	Requires the Recovery School District to return certain school property to the Orleans Parish School Board on July 1, 2008. Became SB 363 – Died.
SB 154	Ullo	Grants the Recovery School District the same authority to procure services afforded to local school districts. Passed, Act 207.
SB 297	Shepherd	Requires the Recovery School District to reopen certain schools by the beginning of the 2007-2008 school year. Died in Senate Education Committee.

**TAXES & TAX CREDITS**

HB 191	Greene	Provides for a deduction from state income taxes for certain educational expenses associated with nonpublic schools. Died in House Ways & Means Committee.
HB 847	Jefferson-Bullock	Provides for an individual income tax credit for certain teachers re-employed by a school board in certain parishes which have been impacted by Hurricanes Katrina and Rita. Passed, Sent to Governor.

SB 45           Marionneaux           Grants a tax deduction against individual income tax for elementary and secondary education tuition.  
Passed, Sent to Governor.

#### **OTHER BILLS**

HB 598           M. Powell           Requires BESE rules to prohibit the administration of LEAP tests to fourth and eighth grade public school students prior to May first of each year.  
Died in House Education Committee.

HB 745           K. Carter           Provides for the purchase of service credit for teachers whose employment was terminated or furloughed due to a federally declared disaster.  
Died in House Retirement Committee.

HB 775           Jefferson-Bullock           Provides that certain school fund accounts for schools closed due to natural catastrophe or disaster shall be placed under the control of local school boards and provides relative to expenditure of monies in such accounts.  
Passed & Sent to Governor.

SB 121           Murray           Authorizes a political subdivision to execute design-build contracts in the construction or repair of any public building or structure or other public work in an area where a gubernatorial declared state of emergency exists.  
Passed & Sent to Governor.

SB 191           Murray           Dedicates state funds for the purpose of providing for health insurance premiums of certain plan members in hurricane affected areas.  
Funding included in the Supplemental Appropriations Bill, HB 765, Sent to Governor.

HB 126           LaFonta           Scrap metal dealers.  
Passed & Sent to Governor, ACT 65.

HB 969           Downs           Creates crime of sexual contact between teachers and students.  
Passed & Sent to Governor.

HB 634           Scalise           TOPS/Home Study/ACT Scores  
Passed & Sent to Governor.

SB 86           Quinn           Limits tenure in New Orleans for non-tenured employees.  
Passed & Sent to Governor.

SB 299           Broome           Arts/Music Education  
Passed & Sent to Governor.

***EXECUTIVE LEGAL COUNSEL***

***LOUISIANA ASSOCIATION OF SCHOOL EXECUTIVES***

***MARK D. BOYER***  
***BOYER & HEBERT, LLC***  
***ATTORNEYS AND COUNSELORS AT LAW***

***LAW QUARTERLY***  
***-JULY 2007-***

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UNDER THE DUTY-RISK

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AGNOR VS. CADDO PARISH SCHOOL BOARD

936 SO.2D. 865

LOUISIANA 2<sup>ND</sup> CIRCUIT COURT OF APPEALS

AUGUST 1, 2006

A REVIEW OF SCHOOL AND SCHOOL EMPLOYEE LIABILITY  
UNDER THE DUTY-RISK ANALYSIS AND IMMUNITY UNDER  
LSA-R.S. 9:2789.1

AGNOR VS. CADDO PARISH SCHOOL BOARD  
*936 SO.2D. 865*  
LOUISIANA 2<sup>ND</sup> CIRCUIT COURT OF APPEALS  
**AUGUST 1, 2006**

*Issue:*

**How does the duty-risk analysis of La. Civil Code Article 2315 extend to slip and fall accidents at school?**

**To what extent is a school board and its employees immune from a tort action under the text of LSA-R.S. 9:2789.1?**

*Summary:*

*This suit arose out of an incident that occurred on February 14, 2001, when Delana Spinks, a third grade student at Forest Hills Elementary School, fell in the girls' restroom. The pencil she was holding in her hand lodged into the area immediately beneath her right eye when she tried to break her fall. The pencil was later removed during surgery.*

*Although the incident was quite traumatic at the time, as shown by the pictures introduced at trial, Delana did not suffer any vision loss or permanent damage. Delana's mother, Daphne Agnor, as Tutrix, filed suit against the Caddo Parish School Board seeking damages for her daughter's injuries. This matter was tried as a bench trial on September 8, 2005. The Court heard testimony from (1) Michael Puyear (Delana's third grade teacher); (2) Sara Ebarb (the school principal); (3) Brooke Levendikis (Delana's friend and classmate); (4) Daphne Agnor (Delana's mother and tutrix); (5) Delana and (6) Oscar Killian (the assistant principal). Numerous exhibits were introduced into evidence. The parties filed comprehensive pre-trial briefs and post-trial memoranda.*

*Holding:*

***The trial court found in favor of the plaintiff, allocating 75% of the fault for the incident to the CPSB. The appellate court affirmed the trial court's decision.***

*Brief:*

**A. Background Facts:**

*Delana was 8 years and 10 months old and in the third grade at the time of the accident. She and twenty (20) other students were in Mr. Michael Puyear's class for most of each school day. The class was located in a "temporary classroom building," away from the main school buildings. Twice a week the students attended a science enrichment lab in the main building at either 1:00 p.m. or 12:15 p.m., depending on the day. The students walked along a sidewalk towards the "inside" school building. The students would have a restroom stop on the way to the lab. The bathrooms usually used by Mr. Puyear's students were referred to as "the outside bathrooms," as the doors were located on the outside of the main school buildings. There was another set of bathrooms inside the main building with inside doors, and these were referred to as the "inside bathrooms." Mr. Puyear testified the inside bathrooms were usually being used by a fourth grade class and so his class primarily used the outside bathrooms. Mr. Puyear testified he routinely warned the children that the outside bathroom floors were slippery and slick and to use caution.*

*On the date of the accident, the weather was described by all as misting rain. The tile floor of the outside girls' bathroom was damp and wet in some places. Delana and her friend Brooke both testified that the floor was always wet near the sink area due to students splashing water from the sinks. The evidence is undisputed that at the time of the incident the school required the students to carry their own pencils to the science enrichment lab. However, it developed at trial that the procedure pertaining to what was to be done with the pencils en route while the children were in the restrooms was less than clear.*

**B. Plaintiff's Contentions:**

*The plaintiff contended that the School Board was negligent in having the procedure of requiring the students to carry their pencils from the temporary building to the main building for the science lab; in failing to close the outside bathrooms during rainy days; in failing to warn the students that the floor of the bathroom was slippery, and/or in failing to clean and dry the floor; and in having a third grade student monitor and be in charge of supervising the girls in the bathroom.*

**C. Defendant's Contentions:**

*The procedure of requiring the students to take their pencils with them from the T-building to the main*

*building was reasonable, especially considering the alternative, which would have been to allow the students to use community pencils in the science lab, which facilitates the spread of germs. There had been no prior accidents resulting from the students taking their pencils with them from the T-building to the main building.*

*Further, the protocol was for the pencils to be collected by a monitor designated by the teacher, Mr. Puyear, while the students were using the bathroom. The day in question, 2/14/01, Mr. Puyear warned the students that the floor in the bathroom would be slippery and sweaty because of the misting rain and cautioned the students not to play, run or slide in the bathroom. There was a school rule against playing in the bathroom.*

*Delana Spinks violated the school rule against playing in the bathroom and admittedly was sliding in the girls' bathroom while still having her pencil in her hand. She lost her balance, fell, while playing, and the pencil jammed into her face just below her right eye. Defendant contends the sole cause of the accident was the negligence of Delana Spinks in violating the school rule. Defendant contends that had Delana Spinks not been sliding and playing, even with the pencil in her hand, an accident would not have occurred. Reasonable supervision existed at all times. Alternatively, defendant contended that R.S. 9:2798.1, discretionary immunity, applied to the facts of this case.*

**D. Applicable Law**

*This case involved the application of two Louisiana statutes. The first legal evaluation made by the court was of the duty-risk analysis of LA C.C. Article 2315. The following is the general principles of the duty-risk analysis:*

*The duty-risk analysis under La. C.C. art. 2315 is as follows:*

- (1) Was the conduct of which the petitioner complains a cause in fact of the resulting harm?*
- (2) What, if any, duties were owed by the respective parties?*
- (3) Whether the requisite duties were breached?*
- (4) Was the risk, end harm caused, within the scope of protection afforded by the duty breached?*
- (5) Were actual damages sustained?*

*The other Louisiana statute at issue is LSA-R.S. 9:2789.1. The text of that statute reads as follows:*

- A. As used in this Section, "public entity" means and includes the state and any of its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political subdivisions and the departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, and employees of such political subdivisions.**
- B. Liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their lawful powers and duties.**
- C. The provisions of Subsection B of this Section are not applicable:**

(1) To acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking or discretionary power exists; or

(2) To acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct.

\* \* \*

*In reviewing the applicable statutes, the court stated that before liability can be imposed upon a school board for failure to adequately supervise the safety of students, there must be proof of negligence in providing supervision and also proof of a causal connection between the lack of supervision and the accident. Injury from horseplay between discerning students which, at some stage may pose an unreasonable risk of harm to the participants, does not automatically and of itself render the supervising authority liable. Furthermore, before a school board can be found to have breached the duty to adequately supervise the safety of students, the risk of unreasonable injury must be foreseeable, constructively at actually known, and preventable if a requisite degree of supervision had been exercised.*

#### **E. Ruling on Liability**

*The following is the full text of the Court's ruling relative to the liability analysis under Article 2315:*

*The Court had the opportunity to watch Mr. Puyear, the teacher, while he testified. The Caddo Parish School Board is fortunate to have someone of his caliber teaching in our schools. He served in the United States Air Force from 1991-1995 and received his degree in Elementary Education in 1999. He began teaching at Forest Hills in September 1999. He obviously is a good teacher and a kind and caring person. Through circumstances beyond his control, he was put in a very difficult \*873 position here. Due to overcrowding in our schools, his classroom is a "t-building" far removed from the "inside buildings." He was required to escort 21 children from this building to the main building in all types of weather. The school had the long-standing policy of requiring the third, fourth and fifth graders to take their own pencils with them to the science lab. The younger children at the school apparently do not go to this lab, as this procedure of "changing classes" begins in the third grade. The third graders are on the lower end of the maturity scale for the students who are allowed to "change classes."*

*The children, of course, need a bathroom break. Mr. Puyear, being a male, cannot go into the girls' bathroom. Mr. Puyear had to utilize the outside bathrooms because the fourth graders were using the inside bathroom. Because state law mandates the number of required instructional minutes per day, Mr. Puyear cannot go in search of another inside bathroom. Unfortunately for Mr. Puyear, the school did not have a procedure in place addressing what was to be done with the pencils while the third graders were in the bathroom. The principal testified that she was unaware the pencils were being carried into the bathroom during the trip to the science lab. Although Mr. Puyear developed a plan, the plan was flawed because the monitor, who changed daily, was only a third grader. The children, under the supervision of a classmate, were given an option of what to do with their pencil. The rule was never enforced and was completely ignored. Mr. Puyear acknowledged at trial that he surrendered control over the children in trusting the monitor and students to follow the rules.*

*The Court fully understands that pencils are necessary tools of learning, and children routinely carry around school supplies. This is an unusual case because of the presence of so many different factors that contributed to this accident. The combination of the following factors results in the finding by the Court that the Caddo Parish School Board was negligent in this case:*

*1. The damp and wet condition of the title bathroom floor was caused by both the misting rain condition outside and the water from the sinks. These conditions were known to the teacher and*

*the administration, according to the testimony of the teacher and the school administrators.*

*2. This was a third grade class. This was the first year these elementary school students "changed classes." They were on the lower end of the maturity level of children being given more responsibility and freedom in elementary school. Mr. Puyear, Mrs. Ebarb and Mr. Killian all acknowledged third graders are playful, have to be constantly reminded of rules, and they ignore the rules.*

*3. The bathroom monitor was a third grader and a classmate who would not be likely to tattle on her classmates or enforce a rule. The monitor changed on a daily basis.*

*4. There was no set rule as the children were given the option of either handing the pencil to the monitor or putting it on the sink.*

*5. The school personnel were aware that pencils can cause injuries. The principal testified she warned children not to run with pencils in their hands because they could fall and injure themselves. The assistant principal testified when he was a fifth grade teacher at an elementary school he instructed his students to \*874 put their pencils in their pockets to avoid injuries.*

*6. The pencils could have easily been collected by the teacher or a monitor outside of the bathroom. The teacher testified that not all the students would need to use the restroom and these students would remain outside the restroom. The teacher also remained outside both the boys' and girls' bathrooms.*

*The Court finds that under all of the circumstances that presented themselves on February 14, 2001, as outlined above, the School Board failed to provide adequate supervision and failed to protect against injuries from the unreasonably dangerous condition of the wet and slippery floor. **The defendant breached its duties of care to Delana under both the supervision cases and the slip and fall cases. Had Delana not had the pencil in her hand in this slippery and wet bathroom under the supervision of one of her classmates, this particular accident would not have occurred. This accident was easily preventable, as explained above.***

#### **F. Ruling on Immunity**

*The full text of the Court's ruling relative to the asserted immunity of the school board is as follows:*

*The Court also finds that the School Board is not exempt from liability under La. R.S. 9:2798.1. This statute does not immunize schools from tort suits pertaining to the responsibility to supervise children.*

#### **CONCLUSION:**

*Although it was clear that neither the trial court nor the appellate court felt that either party was 100% at fault for the subject accident, both agreed that the school board breached a duty of care owed to its students. The Court apparently felt that the school board breached that duty of care on two fronts: (1) The duty of care to protect against slip and fall accidents, and (2) The duty of care relative to its supervision of its students. Additionally, the court found that the latter breach also created an exemption to the immunity provided for in LSA-R.S. 9:279.1.*