

Legal Update (7/30/08)

By Ellis H. Katz

In our ongoing effort to ensure that you are kept up-to-date on changes in the law, we wish to bring the following items of interest to your attention:

1. In April, the IRS issued final regulations concerning Section 409A (deferred compensation) of the Internal Revenue Code. The regulations were going to be applied to School Districts effective with the 2008-2009 school years. As a result, a lot of work went into preparing elections forms, etc. Very recently, however, the IRS issued an Interim Guidance Notice concerning an anticipated rule which makes it clear that the 409A deferred compensation issue will not, in fact, apply to School Districts. The notice provides that you will be able to rely on this new interpretation immediately.
2. In the Omnibus School Code legislation just passed in Harrisburg, several changes were approved which are worth noting.
 - a. Section 111 of the School Code concerning background checks was amended to require a copy of the report of criminal history record information from the State Police and the Federal Criminal History Record to be made available to an applicant in a manner prescribed by the Department of Education.
 - b. A new Section 1310.1 was added to the School Code which allows, effective with the 2008-2009 school year, a parent or guardian to request that twins or higher order multiples in the same grade level be placed in the same classroom or in separate classrooms. The District shall comply with the request unless, after consultation with the Superintendent or designee, the principal determines that alternative placement is necessary.

The request must be made no later than ten (10) days after the first day of each school year or within ten (10) days after the first day of attendance, if enrollment occurs after the school year commences.

If the principal, in consultation with the teacher of each classroom in which the twins or higher order are placed, determines that the placement is disruptive, the principal may determine the appropriate placement.

The District is not required to place twins or higher order multiples in separate classrooms if the request would require an addition of a class. A parent may appeal the principal's placement in a manner provided by District policy.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.