

LABOR LAW ALERT

By Ellis H. Katz

1. Be Careful When School Starts

A recent ruling in the Court of Common Pleas of Luzerne County and the recent increase in the number of Districts starting school earlier than Labor Day, have combined to create a problem with significant consequences.

The scenario that developed was that the District's 2000 to 2005 Collective Bargaining Agreement expired on September 1, 2005 with negotiations for a new collective bargaining agreement continuing. The 2005-2006 school year began on August 25, 2005, before the collective bargaining agreement expiration date.

The conventional wisdom has always been that once the collective bargaining agreement expires, the obligation to maintain the "status quo" means that there is no step and column movement on the salary schedule for the school year that starts after the collective bargaining agreement expires. Accordingly, the District did not advance the teachers one step on the salary schedule for the 2005-2006 school year as it was thought the 2005-2006 school year was beyond the term of the collective bargaining agreement which expired on September 1, 2005.

The Union grieved the refusal to grant step and column movement and proceeded to arbitration. The arbitrator concluded that step and column movement was required for the 2005-2006 school year because the bargaining unit members started the school year prior to the expiration date of the collective bargaining agreement. The District appealed the decision to the Court of Common Pleas which affirmed the arbitration award. The case is now on appeal to the Commonwealth Court.

School Districts with contract expiration dates in late August or September 1st need to be cognizant of this decision and either change the expiration date the next time bargaining occurs or make sure school begins after the last day of the collective bargaining agreement.

2. The Right to Union Representation During an Investigatory Review

The Pennsylvania Supreme Court recently issued a decision clarifying the law concerning whether an employee has a right to be accompanied, during an investigatory interview, by a union representative of his or her choosing. Prior to the Supreme Court's decision in *Commonwealth of Pa. v. PLRB*, the law had been that the employer was under no obligation to honor an employee's request for a particular union representative unless the collective bargaining agreement required it to do so. As a result of the Supreme Court's decision, it is now clear that the employer must honor an employee's choice of representative as long as the representative is reasonably available and there are no extenuating circumstances.

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.