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COMPULSORY SCHOOL ATTENDANCE AND KINDERGARTEN

Commonwealth v. Kerstetter, Pa. Supr. Ct. Md. Dist., No. 60 MAP (Op., June 16, 2014)

The Pennsylvania Supreme Court has announced:

“once a parent/guardian elects to enroll a child in a public kindergarten program offered by a school district (provided the child satisfies the district’s minimum admission age for its kindergarten programs), the child has ‘entered school’ and it is the duty of the parent or guardian to comply with Pennsylvania’s compulsory school attendance laws.”

Section 13-1326 of the Public School Code of 1949 defines compulsory school age as, “the period of a child’s life from the time the child’s parents elect to have the child enter school.” In issuing its ruling, the court explicitly found the applicable corresponding Pennsylvania regulation, 22 Pa. Code §11.13 (shown above), to be improper. The regulatory insertion of “as a beginner” is inconsistent with the statutory language whose plain meaning is clear. If a parent or guardian voluntarily enrolls their child in kindergarten, they must thereafter comply with attendance requirements and will be subject to criminal penalties for failing to do so.

In reviewing various relevant school code statutory provisions, the court clarified that the section which defines age of beginners, 13-1304, is the requirement that establishes the latest point in time the provision of education must be available to every resident student; that provision is not intended to define when an obligation arises for a parent or guardian to comply with attendance requirements.

Consistent with the facts of the case, the court did not rule on whether or not a parent or guardian was permitted to disenroll a kindergarten student once enrolled. The court also went out of its way to address why it was not “hypocritical” to make public school kindergarten optional, but then make attendance mandatory. In the court’s opinion, the very few requirements, attendance and immunization, are not an unreasonable exchange for free public schooling, especially when that schooling is not required to be offered by the taxpayers.

Public school attendance officers, home & school visitors and administrators responsible for attendance will now have the same legal obligation to pursue truancy against parents and guardians of illegally absent and habitually truant kindergarten students as they do for all school age students. This is a significant additional responsibility of which staff, parents and guardians alike should be made aware.

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.