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SPECIAL

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Commissioner Proposes Caps on Superintendent Salaries

By Scott D. Zucker

The Acting Commissioner of Education recently proposed regulations (*N.J.A.C.* 23A:3-1(e)2) that would limit superintendent salaries. The proposed caps apply to contracts for a superintendent, a superintendent reappointed pursuant to *N.J.S.A.* 18A:17-20.1, an interim superintendent, an acting superintendent, or a person otherwise serving as superintendent. A contract that pays a superintendent on a per diem basis shall not exceed 1/260th of the Maximum Salary Amount plus any relevant Increments. The cap does not apply to a superintendent at a county vocational school district, a jointure commission, a county special services school district, or an educational services commission.

Although the regulations state that the caps will apply when the superintendent's contract expires, Acting Commissioner of Education Rochelle Hendricks issued a memorandum to county executive superintendents on November 15th, advising them not to approve any new contracts until the Commissioner's office completes a review of all superintendent contracts.

N.J.A.C. 23A:3-1(e)2 limits the Maximum Salary Amount for the aforementioned positions based on the school district's enrollment figures in the Application for State School Aid (ASSA) filed by the district on the prior October 15th. The proposed provision creates seven Maximum Salary Amount categories based on these attendance figures:

- 1.) If a district's total enrollment is 250 or less, the superintendent's total maximum salary may not exceed \$125,000;
 - 2.) If a district's total enrollment is 750 or less, but greater than 250, the superintendent's total maximum salary may not exceed \$135,000;
 - 3.) If a district's total enrollment is 1,500 or less, but greater than 750, the superintendent's total maximum salary may not exceed \$145,000;
 - 4.) If a district's total enrollment is 3,000 or less, but greater than 1,500, the superintendent's total maximum salary may not exceed \$155,000;
- (cont'd ➔)

- 5.) If a district's total enrollment is 6,500 or less, but greater than 3,000, the superintendent's total maximum salary may not exceed \$165,000;
- 6.) If a district's total enrollment is greater than 6,500, the superintendent's total maximum salary may not exceed \$175,000.
- 7.) If a district's total enrollment is 10,000 or greater, the board of education may apply in writing to the Commissioner of Education for a waiver of the Maximum Salary Amount; the Commissioner's decision is made on a case-by-case basis.

In addition to the Total Maximum Salary, the superintendent may receive, if applicable, an Additional District Salary Increment(s) and/or a High School Salary Increment. The Additional District Salary Increment is \$10,000 for each additional district served by a single superintendent. The High School Salary Increment is \$2,500 for a district served that includes a high school.

Proposed *N.J.A.C.* 6A:23A-3.1(e)10 prohibits a merit bonus provision in a contract, unless it is contingent upon achievement of quantitative and/or qualitative merit criterion. The proposed regulation imposes the following additional requirements upon merit bonus provisions:

- 1.) A contract may not include more than three quantitative merit criteria and/or two qualitative merit criteria *per contract year*;
- 2.) The Executive County Superintendent shall approve or disapprove the selection of the criteria and the data that forms the basis of measuring the achievement of the criteria;
- 3.) The merit bonus may not exceed:
 - a. 3.33% of annual salary for each quantitative merit criterion achieved; and
 - b. 2.5% of annual salary for each qualitative merit criterion achieved;
- 4.) The merit bonus is considered as "Extra Compensation" for purposes of *N.J.A.C.*

17:3-4.1, and therefore, it is not taken into account for purposes of calculating the superintendent's pension;

- 5.) Before paying a superintendent any merit bonus, the local board of education must first submit a resolution to the Executive County Superintendent certifying that a criterion has been satisfied, and the board must receive a confirmation of the satisfaction of that criterion from the Executive County Superintendent before paying any merit bonus.

The proposed regulations also modify the scope of contracts reviewed by the Executive County Superintendent pursuant to *N.J.A.C.* 6A:23A-3.1. The proposed regulations add contracts for superintendents reappointed pursuant to *N.J.S.A.* 18A:17-20.1 and interim administrative positions. Previously, the Executive County Superintendent's review was limited to superintendents, deputy superintendents, assistant superintendents, and school business administrators.

Additionally, under proposed *N.J.A.C.* 6A:23A-3.1(b), if there is not an Executive County Superintendent in a county, an Executive County Superintendent from another county will be designated by the Commissioner to review and approve all relevant contracts. Under the current regulations, the Assistant Commissioner for Field Services is charged with reviewing contracts in counties where there are no Executive County Superintendents.

The proposed regulations are scheduled to go into effect February 7 after a period for public comment.

For the schedule of public hearings and information on where to send written comments, log on to our website at <http://www.lindabury.com/resources/schedule.asp>.

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The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarrillo of the EdLaw Group at edlawgroup@lindabury.com.