



LINDABURY

McCORMICK, ESTABROOK & COOPER, P.C.

Attorneys at Law

EdLawAlert

By the EdLaw Group at Lindabury

March 1, 2011

TWO ALERTS

The EDUCATION LAW GROUP at Lindabury has extensive experience in the area of school law. We serve as general counsel, special education counsel, and labor counsel for boards of education throughout the State.

ANTHONY P. SCIARRILLO
ATHINA LEKAS CORNELL
JEFFREY R. MERLINO
DENNIS MCKEEVER
JENNIFER A. OSBORNE
PAUL E. GRIGGS
JOSHUA S. SKLARIN
SCOTT D. ZUCKER

edlawgroup@lindabury.com

Westfield Office
P. O. Box 2369
53 Cardinal Drive
Westfield, NJ 07091
(TEL) 908-233-6800
(FAX) 908-518-2967

Summit Office
480 Morris Avenue
Summit, NJ 07901
(TEL) 908-273-1212
(FAX) 908-273-8922

Red Bank Office
331 Newman Springs Road
Suite 133
Red Bank, NJ 07701-6766
(TEL) 732-741-7777
(FAX) 732-758-1879

www.lindabury.com

New Law Permits Advertising on School Buses

By Scott D. Zucker

A new law, signed by Governor Christie on January 6, 2011, permits school districts to sell advertising space on the exterior of school buses they own or lease. The law (*N.J.S.A. 18A:7F-7.1*) excludes school districts that contract out for their bus services and private schools from participating. The Legislature may reconsider the exclusions in a year.

The law requires that fifty percent of revenue generated by the sale of advertising space be used by boards of education to offset the fuel costs of providing transportation to students. The remaining fifty percent of revenue shall be allocated to support programs and services the boards of education deem appropriate.

The new law prohibits advertisements for tobacco or alcohol products, political advocacy, and “any other advertisements for products or services or by sponsors that the Commissioner of Education deems inappropriate.” It requires that local boards of education give their prior approval for any advertisement. Advertisements within school buses remain prohibited.

School bus advertising contracts will have to comply with the Public School Contracts Law (*N.J.S.A. 18A:18A-1 et seq.*).

Motor Vehicle regulations (*N.J.A.C. 13:20-50B.19(e)*) currently prohibit the placement of advertisements on school buses. Therefore, we recommend that school districts not enter into any advertising contracts until after the State Board of Education promulgates regulations and rules addressing the law. The State Board of Education will address, at a minimum, the permissible size for advertisements, the criteria for determining the age-appropriateness of the advertising and the suitability of the message.

PERC Refuses to Order Board to Pay the Cost of Salary Increments upon the Expiration of a One-Year Contract

By Dennis McKeever

On February 3, 2011, the Public Employment Relations Commission (“PERC”) granted the Bloomfield Board of Education’s (“Board”) motion for reconsideration of an Initial Ruling (cont’d ➔)

related to an Unfair Practice Charge (“Charge”) that was filed by the Bloomfield Education Association (“Association”).

The Charge alleged that the Board violated the New Jersey Public Employer-Employee Relations Act (*N.J.S.A. 34:13A-1 et seq.*) by refusing to pay salary increments following the expiration of the parties’ one-year collective negotiations agreement. The Initial Ruling granted the Association’s request for interim relief, but stayed implementation so the Board could seek reconsideration from the full Commission.

The facts are as follows: the Board and the Association had a one-year agreement expiring on June 30, 2010. During negotiations, the Board proposed a wage freeze for the 2010-2011 school year. The Board also advised the Association that it would not be paid the cost of the salary increment. Thereafter, the Association filed the Charge and sought interim relief. The Association argued that the failure to pay the increment at the conclusion of a one-year memorandum of agreement violates *N.J.S.A. 18A:29-4 (Neptune Twp. Bd. of Educ. v. Neptune Twp. Educ. Ass’n, 144 N.J. 16 (1996))*.

The Commission found that the hardship to the Board by paying the increments would outweigh the harm to the Association. In denying the requested

interim relief (i.e., not ordering the Board to pay the increment), the Commission noted that the Board was dealing with a significant loss of state aid and was seeking a wage freeze during negotiations for the 2010-2011 school year. The Commission reasoned that “should the successor contract reflect the wage freeze sought by the Board, the amount of the increments paid (\$735,506) cannot be a factor worked out between the parties through the regular negotiations process. Under the tenure law, the increments are irretrievable once paid, so the Board will have no opportunity to recoup the money.”

The Commission specifically rejected the Association’s argument that the teacher’s salary could “be ‘red-circled’ as a recoupment option because the Board [would] still . . . suffer[] the harm of having to pay the money.”

This case was transferred to the Director of Unfair Practices for further proceedings. We will continue to monitor this litigation and will update you as information becomes available.



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.



www.lindabury.com

Before making your choice of attorney, you should give this matter careful thought. The selection of an attorney is an important decision.

You may, if this letter is inaccurate or misleading, report same to the Committee on Attorney Advertising, Hughes Justice Complex, P.O. Box 037, Trenton, NJ 08625.