

In analyzing the statute the Appellate Division examined the express language as well as the legislative intent behind the statute's enactment. In doing so the Court concluded that the plain language of the law provides no doubt that the legislature intended for sending districts to be able to vote only on the four specific areas listed above. In support of its decision the Court cited the statute's plain language which provides for those areas in which the sending district "shall be eligible to vote" as opposed to providing a non-exhaustive list of such voting areas. Furthermore, the Court opined that to the extent receiving districts have permitted, either in the past or present, sending district to vote in areas not covered by *N.J.S.A. 18A:38-8.1*, the receiving districts have "acted beyond the parameters established by the Legislature. Receiving districts possess no discretion to broaden the voting rights enumerated in *N.J.S.A. 18A:38-8.1*."

All districts involved in sending-receiving relationships should be mindful of the restrictions placed upon voting rights by *N.J.S.A. 18A:38-8.1* and the Appellate Division's strict reading of the statute.

Recent Administrative Code Changes to District Arrest Reporting Procedures

In January 2009, New Jersey Administrative Code Sections 6A:9-17.1 and 6A:9-17.4 were amended to require additional arrest reporting procedures for both school districts and all certificate-holding school employees.

N.J.A.C. 6A:9-17.1 was amended to provide as follows:

All certificate holders shall report their arrest or indictment for ***any crime or offense*** to their superintendent within 14 calendar days. The report shall include the date of arrest or indictment and charge(s) lodged against the certificate holder. Such certificate holders shall also report to their superintendents the disposition of any charges within seven calendar days of disposition. Failure to comply with these reporting requirements may be deemed "just cause" pursuant to *N.J.A.C. 6A:9-17.5*. ***School districts shall make these requirements known***

to all new employees and to all employees on an annual basis.
(Emphasis added).

In other words, the aforementioned Administrative Code section now requires all school district employees who hold a certificate to report their arrests or indictments for "any crime or offense" to the superintendent of schools within a specified period of time.

As expressly noted in the Code language, this new requirement pertains to any and all crimes and offenses, including but not limited to disorderly persons offenses. Furthermore, it is clear that such reporting requirements pertain to both in state and out of state offenses and crimes. Therefore, if an individual is arrested for driving while intoxicated while on vacation in Florida, he or she is still obligated to report same to the superintendent of schools.

School districts are required to make these new procedures known to all employees on an annual basis. Therefore, it is recommended that Boards of Education generate a staff policy regarding the new requirements; make an announcement at the district's next faculty meeting, as well as an announcement at the first faculty meeting each school year; and send annual written correspondence to all certificated staff advising them of the reporting requirements and procedures, and asking employees to "sign off" on receipt of the correspondence. Finally, districts may consider referencing *N.J.A.C. 6A:9-17.1* directly on their employment applications.

Also in January 2009, *N.J.A.C. 6A:9-17.4* was amended in order to provide that the superintendent of schools must notify the Board of Examiners when "nontenured teaching staff members, including substitute teachers, who are accused of criminal offenses or unbecoming conduct resign, retire, or are removed from their positions." This Code section also provides for similar reporting requirements for tenured teaching staff members.



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.

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

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