



LINDABURY

McCORMICK, ESTABROOK & COOPER, P.C.

Attorneys at Law

EdLawAlert

By the EdLaw Group at Lindabury

February 1, 2010

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
LISA M. GINGELESKIE
JENNIFER A. OSBORNE
PAUL E. GRIGGS
JOSHUA S. SKLARIN

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

Rumson Office

20 Bingham Avenue
Rumson, NJ 07760
(TEL) 732-741-7777
(FAX) 732-758-1879

www.lindabury.com

2305809v1

New Requirements for Employment of Paraprofessionals for Title I Funded Districts

By Jennifer A. Osborne

Assembly Bill A420 was signed into law in January under Public Law 2009 c. 227. This law establishes measures to provide employment stability for teaching paraprofessionals employed in school districts that receive federal funding under Title I of the Elementary and Secondary Education Act.

Due to the very recent enactment of this law, State agencies have provided very little guidance and interpretations regarding the law. Specifically, there are no guidelines detailing whether all districts that receive Title I monies are required to comply with the law, or if same only applies to those districts that actually use Title I monies to pay their paraprofessionals. At this time, a strict and conservative reading of the law necessitates that all boards of education that receive any Title I monies must follow the legal requirements for paraprofessionals, set forth at Public Law 2009 c. 227 (A420), even if the board does not use its Title I funds to pay these employees.

A420, provides that “*school districts that receive federal funding under Title I of the Elementary and Secondary Education Act of 1965* (20 U.S.C. x.6301 et seq.)” are required to meet certain requirements with respect to the employment of paraprofessionals. (Emphasis added). The language of the law is very broad and appears to apply to any school district that accepts federal funding under Title I, as opposed to those school districts that use Title I monies for the purpose of supporting certain programs or paying paraprofessionals. The broad language of the law also suggests that a district’s receipt of any amount of Title I federal funding will require those districts to comply with the law’s requirements regarding paraprofessionals. In other words, whether a school district receives \$50,000 or \$150,000, the paraprofessional requirements are the same.

Legal Requirements

First, the law provides as follows:

On or before May 15 in each school year, a paraprofessional continuously employed since the preceding September 30 in *a school district that receives funding under Title I of the* (cont’d ➔)

Elementary and Secondary Education Act of 1965...shall

receive either: (1) a written offer of a contract of employment from the board of education for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education; or (2) a written notice from the chief school administrator that employment will not be offered. (Emphasis added).

In other words, the public law requirements provide that applicable school districts must treat the employment of paraprofessionals similarly to non-tenured teaching staff members.

Second, the law further provides that paraprofessionals in districts receiving federal funding under Title I “shall be dismissed or reduced in compensation ***only for just cause, and may not be dismissed for arbitrary or capricious reasons.***”

(Emphasis added). Paraprofessionals who are dismissed or reduced in compensation must receive notice of the basis for the dismissal or compensation reduction and have an opportunity to be heard. It is important to note that the law expressly provides that “nothing in this section shall be construed to grant tenure to a paraprofessional, interfere with the provisions of a collective bargaining agreement, or affect any other right or

remedy that may be available to a school district or paraprofessional pursuant to law.”

This requirement is especially important for districts to be aware of when making hiring decisions and documenting events that occur over the course of a paraprofessional’s career.

Third, the law provides that prior to the beginning of the 2010-2011 school year, districts receiving federal funding under Title I “shall adopt policies and procedures to allow a paraprofessional who is employed by the district and who is enrolled in a teacher preparation program at a regionally-accredited institution of higher education to perform his student teaching experience in the district.” Additionally, school districts are required to provide paraprofessionals who are student teaching in the district with a modified work schedule.

Please note that as more information becomes available on this new legislation and the interpretation of same, the aforementioned opinion to apply the law’s requirements to all school districts receiving Title I monies, even if such monies are not used to pay paraprofessionals, may change.

❧

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. Sciarillo 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.