



A NEWSLETTER FROM THE LAW FIRM OF FERRARA, FIORENZA, LARRISON, BARRETT & REITZ, P.C.

Route to: Board Personnel Instruction PPS Business Other: _____

Hot Topics

Great Turnout for Firm's Intensive 8-Part Workshop Series for School Administrators on Building an Elite Teaching Staff in a Tenure Culture

The Ferrara, Fiorenza Law Firm's eight-part workshop series entitled "**Never Settle for Second Best: Building a Staff of Elite Educators in a Tenure Culture**" got underway this month in Rochester and Syracuse. On September 9 (in Rochester) and 11 (in Syracuse), the Firm's Of Counsel Attorney, Wayne A. Vander Byl, Esq. presented his first one-and-a-half hour program designed to help School Board Members, Superintendents and School Ad-

ministrators rethink commonly held assumptions about tenure and examine how those assumptions affect the culture of public education. It also showed how to set high standards for tenure and how better to decide who should and should not receive tenure. Mr. Vander Byl also provided strategies for how school boards and administrators can use tenure to improve the quality of teaching, rather than letting it stand in the way of improvement.

tenure by meeting high standards of performance and professional conduct during probation. It will describe the best practices to follow in deciding which probationary teachers should be retained or dismissed at the end of their first and second years of probation. It will provide a method for testing whether a tenure-eligible teacher is likely to maintain high standards of performance and professional conduct after receiving tenure.

ministrators adding a class in Syracuse for the next seven months. In other words, if additional School Board Members, Superintendents and School Administrators wish to register for the remaining seven programs in Syracuse, Mr. Vander Byl has agreed to do a second class beginning at noon on the same day as the morning class in our Syracuse location (which will remain at 5015 Campuswood Drive.)



Mr. Vander Byl discussing the differences in criteria for retaining teachers during probationary period vs. after tenure is granted.

[You Can Still Register for the Remaining Workshops](#)

Given that there is still room at our Rochester location for additional participants and we will add another class to the Syracuse location if we receive more registrations, please feel free to register for the remaining seven workshops today. As noted above, we have attached a copy of the registration brochure to this email which provides full details about the remaining classes along with registration instructions. We hope you plan to attend.

As the brochure we have sent over the last few weeks indicates, each of these programs begins at 9 AM and ends at 10:30AM. (Please note that the brochure is also attached to this email.) The Rochester programs are currently being held at our Rochester office located at 400 Meridian Centre Blvd., Suite 110.

[Syracuse Location Changed Due to Larger than Expected Turnout](#)

While the Syracuse programs were originally scheduled to be held at our office conference room located at 5010 Campuswood Drive, East Syracuse, we had to change the location to 5015 Campuswood Drive, East Syracuse to accommodate the turnout that this program has generated. In fact, while we moved the program to the larger room at 5015 Campuswood Drive, we are already at full capacity for that room as well.

[A Possible Second Class to be Offered in Syracuse](#)

That being said, we want to give all our clients and friends an opportunity to take part in this unique and dynamic program. Accordingly, we are consid-

ministrators rethink commonly held assumptions about tenure and examine how those assumptions affect the culture of public education. It also showed how to set high standards for tenure and how better to decide who should and should not receive tenure. Mr. Vander Byl also provided strategies for how school boards and administrators can use tenure to improve the quality of teaching, rather than letting it stand in the way of improvement.

[October's Classes](#)

The next set of workshops are scheduled for October 14 (in Rochester) and 16 (in Syracuse). This program will show how to require teachers to earn

In This Issue ...

- Great Turnout for Firm's Intensive 8-Part Workshop Series for School Administrators on Building an Elite Teaching Staff in a Tenure Culture
- Educational Foundations and Booster Clubs Impacted by New Law
- Extension of Tax Exemption (and other Changes) for Solar/Wind Energy Systems
- Are You Displaying all of the Required Employment Law Posters?
- Upcoming Events

Non-Profit Organizations**Educational Foundations and Booster Clubs Impacted by New Law**

The Non-Profit Revitalization Act (the "Act"), which took effect on July 1, 2014, seeks to reform the governance of non-profit organizations, clarify financial reporting rules, and expands the Attorney General's enforcement powers. The Act may require nonprofit organizations associated with school districts, such as educational foundations or booster clubs, to revisit their existing bylaws and policies to comply with the law. For example, all non-profit organizations are now required to adopt a conflict of interest policy and may also be required to

adopt a whistleblower policy depending on annual gross revenue.

Additionally, the Act implements new financial reporting rules dependent upon an organization's annual gross revenue and support.

Finally, the Act expands the Attorney General's enforcement powers in several important ways. The Attorney General will have the power to approve matters which currently require court proceedings, will have increased authority

to police certain transactions, and will be able to respond to illegal or improper transactions with an expanded scope of options for relief.

If you have questions regarding the Non-Profit Revitalization Act and its application to a school district related non-profits, please feel free to contact either of our offices for more details and/or assistance.

Real Property Tax Issues**Extension of Tax Exemption (and other Changes) for Solar/Wind Energy Systems**

On September 4, 2014, Governor Andrew Cuomo signed into law an amendment to Section 487 of the Real Property Tax Law which extends until 2025 a real property tax exemption for solar, wind and farm waste energy systems (at local option). (Chapter 344 of the Laws of 2014) The exemption was due to expire on January 1, 2015. The Sponsor's stated justification for extension of the exemption is to "provide surety to developers of renewable energy that the option for a real property tax exemption will exist well into the future..." (Senator George D. Maziarz, 62nd Senate District). The amendment to the law went into effect upon signature by the Governor.

The general idea behind the revisions to the law (in addition to extending the exemption out to 2025) is to make sure that "the rules are clear and not subject to change midstream." To that end, the amendments place new obligations on municipality's wanting to protect their tax base.

Taxing Jurisdictions Must "Opt Out" before Construction

Real Property Tax Law (RPTL) § 487 provides for an exemption from real property taxation on a solar or wind en-

ergy system that is incorporated into real property. A municipality (County, City, Town, Village or a School District - except the "Big Five" City School Districts) may "opt out" of the exemption provided for by the statute by passing a resolution providing that no exemption shall be applicable within its jurisdiction. The deadline for passage of local law or resolution formerly was upon completion of construction of the system; however, the amendment to the law now requires that any local law or resolution that would deny the tax exemption must be passed before work on the system in question has begun construction.

"Construction" is deemed to have begun upon full execution of a contract or interconnection agreement with a utility, but if the contract or interconnection agreement requires a deposit to be made, then construction is deemed to have begun when the contract or agreement is fully executed and the deposit is made. The owner or developer of a solar or wind energy system or farm waste energy system is required to provide written notification to the appropriate local jurisdiction (municipalities) upon execution of the contract or interconnection agreement.

Sixty Days From Receipt of Notice to Demand PILOT Agreement

For municipalities who have not acted to remove the exemption of RPTL 487, they can still protect their tax base; however, they must act quickly as the amended law provides that a County, Town, Village or School District has only sixty (60) days from receiving written notification that a contract or interconnection agreement has been executed to demand that the owner or developer enter into a contract for payments in lieu of taxes (PILOT Agreement) requiring annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption. This sixty (60) day notice period is a new requirement that taxing jurisdictions must now observe if they do not wish to recognize the exemption sought by an owner or developer.

Should you have any questions about this amendment to the Real Property Tax Law or the Section 487 exemption, please feel free to call either of our office locations at (315) 437-7600 in Syracuse or (585) 441-0345 in Rochester.

Employment Law Posters**Are You Displaying all of the Required Employment Law Posters?**

With the beginning of a new school year, now is a great time for districts to check their compliance with the relevant Federal and State workplace poster requirements. A list is provided below, indicating which posters are required and where and how they are to be posted to ensure compliance. To the extent possible, school districts should place posters behind clear glass and under lock and key to prevent them from being removed or covered. Please take the time to review this recommended list and make sure your district is in compliance.

Minimum Wage Posters

Both New York State and the United States government regulate minimum wage, overtime pay, and recordkeeping standards affecting workers in school districts. Every employer of employees subject to the Fair Labor Standards Act's (FLSA's) minimum wage provisions must post, and keep posted, a notice explaining the Act in a conspicuous place in all of their establishments. A copy of the notice can be found at <http://www.dol.gov/whd/regs/compliance/posters/flsa.htm>. While there is no specific size requirement for the poster, employees must be able to readily read it. The FLSA notice is also available in languages other than English, but is not required to be posted in any other language. Additionally, employers should post the State Minimum Wage poster conspicuously. We generally advise placing the State poster next to the federal poster in all locations.

FMLA Notice

The Family and Medical Leave Act (FMLA) also requires that all covered employers display a poster explaining the provisions of the FMLA and telling employees how to file a complaint with the Wage and Hour Division for violations of the Act. The poster must be displayed prominently where employees and applicants for employment

can see it. The poster and all the text must be large enough to be easily read and contain fully legible text. Covered employers must display the poster even if no employees are eligible for FMLA leave.

Where the employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer is required to provide the notice in a language in which the employees are literate. To meet the posting requirements, employers may use the poster prepared by the U.S. Department of Labor (USDOL) or may use another format so long as the information provided includes, at a minimum, all of the information contained in the USDOL notice.

Military Service Poster

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects service members' reemployment rights when returning from a period of active duty in the uniformed services, including those called up from the reserves or National Guard, and prohibits employer discrimination based on military service or obligation. Employers are required to provide to persons covered by USERRA a notice of the rights, benefits, and obligations of the employees and employers under USERRA. To do this, employers may post the notice entitled "Your Rights Under USERRA" (available at http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf) where employer notices are customarily placed, mail it, or by distributing it to employees via electronic mail.

Criminal Convictions Notice

Use of criminal conviction records for employment is regulated by Article 23-A of the New York Correction Law, which prohibits employers from unfairly discriminating against persons previously convicted of one or more criminal offenses.

Since 2009, this law requires employers to post a copy of Article 23-A of the Correction Law where workers will be able to see and access the posting.

Anti-Discrimination Law Poster

Information concerning employee rights under the New York State Human Rights Law (Executive Law, Article 15) must also be posted, indicating that discrimination based on race, creed, age, color, disability, national origin, sex or marital status is prohibited. New York State Division of Human Rights has a poster that contains both an English and Spanish translation, which should be posted conspicuously. Additionally, every employer covered by the Federal non-discrimination and Equal Employment Opportunity laws is required to post on its premises the poster, "Equal Employment Opportunity is the Law." The notice must be posted prominently, where it can be readily seen by employees and applicants for employment. The notice provides information concerning the laws and procedures for filing complaints of violations of the laws.

Unemployment Insurance

The New York State Unemployment Insurance Law further requires employers to post conspicuously "Notice to Employees IA 133", which provides information related to employee coverage under the law and gives information regarding filing for Unemployment Insurance benefits. School Districts should also post a notice of compliance with the New York State Workers' Compensation Law. This notice can be obtained directly from the district's insurance carrier.

Continued on the next page

SCHOOL LAW MATTERS is published by Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C., 5010 Campuswood Drive, East Syracuse, New York, 13057, 315-437-7600, www.ferrarafirm.com. © Copyright 2014 by Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C., all rights reserved. Photocopying or reproducing this newsletter in any form in whole or in part for other than internal use is a violation of federal copyright law and strictly prohibited without the express written consent of Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C. The information contained in this newsletter is intended for information purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. Readers should not act upon any information contained herein without seeking professional counsel.

Employment Law Posters

Are You Displaying all of the Required Employment Law Posters? (Cont'd)

Safety and Health Posters

New York State also requires employers to post conspicuously the New York State Department of Labor’s Division of Safety and Health (DOSH) poster entitled “Job Safety and Health Protection.” The poster specifies that the New York State Public Employee Safety and Health Act of 1980 requires that employers furnish employees a workplace free from recognized hazards and in compliance with the safety and health standards applicable to the employer’s workplaces. The poster also provides information related to the filing of com-

plaints for perceived violations. Additionally, employees have a right to know about the hazards they are exposed to in the workplace. Employers are required to make employees aware of the hazards and provide them with the information needed to work safely. Under the federal Occupational Safety and Health Administration, Hazard Communication Standard, employers must develop a comprehensive program to inform employees of hazards they may encounter in the work place and also provide them with training in the use and handling of products containing hazardous chemicals. Public sector workplaces in New York State must

meet the requirements of the NYS Right -To-Know law, which mandates the conspicuous posting of the “You Have A Right To Know!” poster.

For more information regarding the above-detailed federal and State posting requirements, please feel free to give us a call. To download copies of notices and/or posters, please visit: www.labor.state.ny.us/workerprotection/laborstandards/employer/posters.shtm (New York State Department of Labor) and www.dol.gov/compliance/topics/posters.htm (U.S. Department of Labor).

Upcoming Events

<u>Attorney(s)</u>	<u>Date(s)</u>	<u>Event/Location/Program</u>
Don Budmen	September 25	Client In-Service, “Hiring Procedures”
Susan Johns	September 29	National Business Institute Seminar, Doubletree Syracuse Hotel, 6301 Route 298, Syracuse, NY “Special Education Laws Made Simple: Due Process Procedures”
Wayne Vander Byl	October 14	“Never Settle for Second Best: Building a Staff of Elite Educators in a Tenure Culture”, 400 Meridian Centre Blvd., Suite 110, Rochester, NY, Workshop #2 entitled “Tenure Culture, Part 2”
Wayne Vander Byl	October 16	“Never Settle for Second Best: Building a Staff of Elite Educators in a Tenure Culture”, 5015 Campuswood Drive, East Syracuse, NY , Workshop #2 entitled “Tenure Culture, Part 2”
Don Budmen	October 16	OHM BOCES School Boards Institute “Fiscal Training”
Mike Dodd	October 21-23	Client In-Service, “Workplace Harassment Prevention”
Joe Bufano	October 23	Client In-Service, “Issues Facing Students with Bullying, Cyberbullying, and Cyberspace”
Joe Bufano	October 24	Client In-Service, “Dignity Act Training for Athletic Coaches”
Joe Bufano	October 29	OHM BOCES, “Dignity Act Certified Training” for candidates seeking NYSED certification
Joe Bufano	October 30	OHM BOCES, “Dignity Act Certified Training” for candidates seeking NYSED certification
Wayne Vander Byl	November 12 (WEDNESDAY)	“Never Settle for Second Best: Building a Staff of Elite Educators in a Tenure Culture”, 400 Meridian Centre Blvd., Suite 110, Rochester, NY, Workshop #2 entitled “Effective Evaluation of the Problem Teacher – Part 1”
Wayne Vander Byl	November 13	“Never Settle for Second Best: Building a Staff of Elite Educators in a Tenure Culture”, 5015 Campuswood Drive, East Syracuse, NY , Workshop #2 entitled “Effective Evaluation of the Problem Teacher – Part 1”

Please note that “Client In-Service” programs are being provided to particular clients at their request. If you are interested in having us present a program for you, please contact us so we can schedule one to suit your needs.