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MUNICIPAL LAW ALERT

Court of Appeals Holds that School District's Long-Standing Payment of Medicare Part B Premiums for Retirees Gives Rise to Binding Expectation of Continuance

The New York State Court of Appeals recently ruled that a school district's voluntary payment of Medicare Part B premiums for over-65 retirees, after a contractual requirement to do so was dropped, gave rise to a binding expectation that it would continue providing such benefits. In *Chenango Forks CSD v. New York State Public Employment Relations Board*, 2013 WL 2435066 (June 6, 2013), the Court noted that the dispute arose when the school district circulated a memorandum to its faculty and staff announcing that, due to the cost, it was terminating its long practice of reimbursing Medicare Part B premiums to retirees 65 or older. The district was at one time required by its health care insurance plan to reimburse these premiums. The parties then negotiated a switch to a new plan, reflected in a collective bargaining agreement (CBA) between the parties that was silent regarding that benefit. Subsequent CBAs between the parties were also silent on the issue but, nonetheless, the district continued to provide it.

PERB sided with the union, finding that the school district had committed an improper employer practice by failing to negotiate the discontinuance of its long-standing practice of reimbursement. The district brought an unsuccessful Article 78 proceeding in the Appellate Division, Third Department, seeking review of the PERB decision, then appealed to the Court of Appeals. The Court of Appeals affirmed the Third Department's decision, holding that the determination that the school district had committed an improper employer practice by failing to negotiate a discontinuance of its reimbursement of Medicare premiums was supported by substantial evidence.

After the district circulated the memorandum, the union filed an improper practice charge with the New York State Public Employment Relations Board (PERB). The union asserted that the school district had violated the Public Employees' Fair Employment Act, Civil Service Law § 209-a (1)(d), (the Taylor Law), by unilaterally discontinuing the Medicare Part B premium reimbursement. The issue presented to PERB was whether the union was correct in claiming that the teachers and employees were entitled to rely on the school district's voluntary continuation of reimbursement and could insist on the preservation of this benefit.

PERB sided with the union, finding that the school district had committed an improper employer practice by failing to negotiate the discontinuance of its long-standing practice of reimbursement. The district brought an unsuccessful Article 78 proceeding in the Appellate Division, Third Department, seeking review of the PERB decision, then appealed to the Court of Appeals.

The Court of Appeals affirmed the Third Department's decision, holding that the determination that the school district had committed an improper employer practice by failing to negotiate a discontinuance of its reimbursement of Medicare premiums was supported by substantial evidence.

Furthermore, the Court ruled that there was no error of law or abuse of discretion in the finding that the district's voluntary continuation of its benefits practice was relied on by the school community, particularly in view of the testimony of a substantial number of school district employees that they understood that they were entitled to these over-65 benefits.

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Hancock Estabrook has recently created an **Education Law Blog** and a **Municipal Law Blog**, where our clients and contacts can now find an ongoing and growing archive of articles, links and other information related to education law and municipal law issues and other topics of interest in the public and education sectors. We encourage you to visit these blogs for regular updates.

EDUCATION LAW BLOG: <http://www.hancocklaw.com/education-law-blog/>

MUNICIPAL LAW BLOG: <http://www.hancocklaw.com/municipal-law-blog/>

If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:

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This article has also been published as a Hancock Estabrook Education Law Alert.

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