



School Districts -- “Work Days” Are Not Days Off for Purposes of Notice Requirements to Teachers


by Amy J. Borman and Maria Limbert Markakis

A recent decision out of the Seventh District of Ohio in Mahoning County has changed the way school boards view their contracts with teachers. Judge DeGenaro recently held that “school days on which a teacher used sick or personal time, or on which school was closed because of inclement weather or some other emergency situation were not “work-days” under [a] contract that required a teacher be given the results of a performance evaluation within five days.” This decision makes it easier for school boards to comply with the terms of their contracts when faced with unforeseen events.

The court reviewed two cases originally brought in the Court of Common Pleas for Mahoning County. Both cases concerned teachers in the Youngstown City School District who were hired under a contract that contained a clause which required teachers to be given the results of their evaluations “within five (5) workdays of the observation.” In both cases, the School Board failed to comply with this term of the contract. When the Board decided not to renew his contract, Kuptz appealed as he did not receive his evaluation by the fifth day.

In the first case, Kuptz, the teacher, received his evaluation on December 8, 2005. Five workdays later, on the fifteenth of December, when he was to receive his evaluation results, Kuptz called out of work. When the Board decided not to renew his contract, Kuptz demanded a rehearing, and when the Board affirmed its decision, Kuptz appealed to trial court. The trial court upheld the Board’s decision.

In the second case, Brocker, the teacher, was evaluated twice, and did not receive the results for either evaluation within the five days allowed for in the contract. Following her first evaluation, the



school's boiler exploded, forcing the school to close on the fifth day following the evaluation. On the fifth day after her second evaluation, Brocker was scheduled to take a personal day to attend a conference, resulting in a wait longer than five days between her evaluation and her results. When the Board decided not to renew her contract, Brocker challenged the decision.

The court stated that defining “workday” to mean any day that a teacher was ever scheduled to report for work, regardless of whether the teacher actually reported for work led to an absurd result. The court found that “it is clear that the board of education complied with the terms of its contract with the local teachers’ union,” and as such upheld the Board’s decision not to renew either of the two contracts.

For more information on these decisions, please contact Ms. Borman or Ms. Markakis. Their biographies appear on the following page.

Colleen L. Maloney, a summer law clerk, assisted with this article. She will be graduating from Ohio State’s law school in May 2009.

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Background Check

featuring

Amy J. Borman and Maria Limbert Markakis

Firm member Amy J. Borman returned to her native Midwest from New York City in 1985. She and her husband Bob have raised three children in the Toledo area. Dena (25), an Indiana University School of Music graduate, is a high school choral conductor in the Chicago Public Schools; Gabe (23) is a University of Maryland graduate and currently a paralegal at the U.S. Department of Justice, Antitrust Division in Washington D.C. and Ethan (18) graduated from the Toledo School for the Arts this spring. He will be attending Berklee College of Music in Boston this fall. Mr. Borman has multiple degrees, including one from New York University and he is a school counselor at Saint John's Jesuit High School.



Ms. Borman attended Wittenberg University and the University of Michigan where she obtained her bachelor's and master's degrees in music, respectively. She earned her law degree from the University of Toledo. Obviously, her interests lie in the arts. She is active in the arts organizations as well as professional women's organizations and educational advocacy endeavors.

In her practice, Ms. Borman advises businesses and educational institutions in all matters of compliance with laws. Ms. Borman provides guidance to educational clients nationwide and has been a guest speaker at businesses, universities and schools throughout the United States and Europe.

Ms. Borman can be reached at our Toledo or Columbus offices (419-241-6000; 614-280-1770).

Associate Maria Limbert Markakis was born in Northeast Ohio and is a graduate of the Ohio State University and its law school. While in law school, she spent a semester studying at the University of Oxford in Oxford, England. She received her bachelor of science degree in honors accounting and was awarded the College of Business Pacesetter Award.



Her legal career began at the Ohio Attorney General's Office in Columbus. She then moved to Toledo with her husband, George, a native of Cleveland, when he entered medical school at the University of Toledo. Dr. Markakis is currently in his second year of ophthalmology residency at the Kresge Eye Institute in Detroit.

Three years ago Aristotle was born. He is an active little boy who "plays" soccer with the Leprechaun League, attends Kindermusik and enjoys the Toledo Zoo Camp. Ms. Markakis, her husband and son can be spotted cycling around their neighborhood on their bicycle built for two!

Ms. Markakis is part of the Firm's Education Law Section. Her practice takes her across Ohio representing clients and advising school boards. In 2007 she was selected as an Ohio Rising Star Super Lawyer. Only 2.5% of the state's best up-and-coming attorneys are chosen.

Additionally, Ms. Markakis is a member of the Junior League of Toledo and an active member of Holy Trinity Greek Orthodox Cathedral. She can be reached by calling our Toledo office (419-241-6000).