



# Recent Legislation Affecting New Jersey Schools

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### ***I. Child Abuse and Sexual Misconduct Review***

On April 11, 2018, Governor Murphy signed into law new legislation, S-414/A-3381 (P.L.2018, c.5), requiring school districts and schools to review the employment history of prospective employees to determine if they have any past allegations of child abuse or sexual misconduct. The legislation, which takes effect June 1, 2018, applies to all public school districts, charter schools, nonpublic schools, and contracted service providers.

Under the new law, before employing, paying, or contracting for services of any person for a position which involves regular contact with students, schools will be required to review the prospective employee's employment history by contacting all current and former employers from the past 20 years and obtaining information regarding any allegations or disciplinary action pertaining to child abuse or sexual misconduct against students.

Prospective employees will be required to disclose whether they 1) have been the subject of any child abuse or sexual misconduct investigation (unless the allegations were found to be false or not substantiated); 2) have been disciplined, discharged, non-renewed, asked to resign, or otherwise separated from employment while allegations were pending or due to a finding or adjudication, or 3) have had a license or certification suspended while allegations were pending or due to a finding or adjudication. They also will be required to provide written authorization for current and former employers to disclose this information and to release those employers from any liability resulting from such disclosure. Employers will be required to provide the information within 20 days of receiving a request.

The law further provides that penalties for providing false information or failing to provide required information

will include disciplinary action, up to and including termination of employment, as well as civil penalties and criminal prosecution. Employers will be required to include notification of these penalties on application forms.

Schools and school districts should incorporate these requirements into their hiring practices and employment contracts.

Additionally, the new law provides that school districts and schools may not enter into an agreement with a current or former employee that would “suppress” or “expunge” information related to investigations or findings of sexual misconduct or child abuse. Provisions which violate this provision in agreements entered into after the effective date will be unenforceable.

A copy of the bill may be found [here](#).

## ***II. Workplace Democracy Enhancement Act***

On April 12, 2018, the Assembly and Senate both passed the Workplace Democracy Enhancement Act, A-3686/S-2137, known as the “Janus” Bill. Governor Murphy has 45 days from that date to sign, veto, or return the bill to the Legislature.

This bill requires school districts and other public employers to provide union representatives access to members of their negotiations units. It gives unions 1) the right to meet with individual employees on premises during the work day to investigate and discuss grievances, workplace-related complaints, and other workplace issues; 2) the right to conduct meetings on premises during breaks and before/after the workday to discuss workplace issues, collective negotiations, administration of agreements, other matters related to union duties, and internal union matters; and 3) the right to meet with new employees without charge to the pay of the employee. The bill also requires employers to provide unions with employees’ personal contact information, and gives unions the right to use school district email systems to communicate with members. Disputes regarding access to employees will be subject to mandatory arbitration.

Further, the bill prohibits school districts from encouraging employees to resign or relinquish membership in a union or to revoke authorization to deduct union fees. It classifies all employees, including part-time employees, who perform union work as part of the negotiations unit unless they are confidential employees or managerial employees. Employees will be permitted to withdraw from their unions only during the ten-day period following their employment anniversary date each year.

If signed by the Governor, this new law will take effect immediately. Public employers with unionized workers will be required to comply with the bill's provisions even when those provisions conflict with existing collective negotiations agreements. Specific requirements and conflicts should be considered on a case-by-case basis.

This bill is a response to *Janus v. AFSCME, Council 31*, currently pending in the United States Supreme Court. A ruling in that case is expected shortly, and is widely anticipated to prohibit mandatory representation fees for public sector unions. This could cause a significant drop in membership and loss of revenue for public employee unions, as non-members would no longer be required to pay obligatory representation fees. Any inconsistency between the legislation and the Supreme Court's decision will need to be evaluated – and certainly will be a topic of discussion – once the Court's decision is announced.

A copy of the bill may be downloaded [here](#).

For more information regarding either of these new developments, contact any member of the Riker Danzig School Law Group:

Brenda C. Liss, Lance J. Kalik, Teresa L. Moore, James S. Rothschild, Jr., Fiona E. Cousland, Stephen M. Turner, Ashley N. Higginson.

### **Attorneys:**

Brenda C. Liss · Lance J. Kalik · Teresa L. Moore · James S. Rothschild, Jr. · Fiona E. Cousland · Ashley N. Higginson

### **Practice:**

School Law

Headquarters Plaza, One Speedwell Avenue, Morristown, New Jersey 07962-1981 • t: 973.538.0800 f: 973.538.1984

50 West State Street, Suite 1010, Trenton, New Jersey 08608-1220 • t: 609.396.2121 f: 609.396.4578

500 Fifth Avenue, New York, New York 10110 • t: 212.302.6574 f: 212.302.6628

399 Knollwood Road, Suite 201, White Plains, NY 10603 • t: 914.539.3360 f: 914.539.3361

1200 Summer Street, Suite 201C, Stamford, CT 06905 • t: 203.326.6740 f: 914.539.3361

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