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**LAW ALERT**

## **Court Decision Raises Questions about Multi-year Administrator Contracts**

June 2, 2011

A recent federal district court decision in Illinois has raised questions about the inclusion of performance goals and the enforceability of multi-year employment agreements for school superintendents. In *Wynn v. Board of Education of SD 159*, the court ruled that multi-year superintendent contracts must include at their inception, the specific student performance and academic improvement goals required by Section 10-23.8 of the School Code (105 ILCS 5/10-23.8).

The contract at issue in *Wynn* was for a three-year period, from July 1, 2008 through June 30, 2011. The contract provided that the performance goals "shall be established by the mutual agreement" of the parties, and shall be approved by the Board by July 1 of each year except for the first year of the contract, which allowed the goals to be approved by October 1. In reality, the goals were not established until January 2010, more than a year after commencement of the contract. The court ruled that a contract which failed to include the required performance goals at the outset was not a valid multi-year agreement. Instead, the court concluded that a contract which merely referenced the parties' intent to develop goals at a future date violates Section 10-23.8 of the School Code. As a result, the court concluded that such a contract must be considered a single year agreement since it failed to include performance goals at its inception. Though not specifically addressed by the court, we presume it would have reached the same result with respect to principal or other administrator multi-year contracts adopted pursuant to Section 10-23.8a of the School Code (105 ILCS 5/10-23.8a).

There are important limitations to the *Wynn* decision. First, it is a federal district court decision and, as such, is not binding on Illinois state courts. The issue of whether a multi-year, performance-based contract must include goals at inception has not been addressed by an Illinois state court. Second, in *Wynn*, the party seeking to invalidate the multi-year agreement was the district's board of education—a party to that agreement. Most boards that have entered multi-year agreements with superintendents will not be similarly motivated, and contractual disputes are generally limited to the parties to the agreement. Finally, the decision may still be appealed though no appeal has been filed as of the date of this publication.

Whether a multi-year administrator contract is susceptible to a challenge based on *Wynn* largely depends on the specific facts and circumstances surrounding the adoption of that agreement and the approval of the performance goals. Additionally, the type of corrective action required, if any, will also vary depending on these facts and circumstances. If you have questions or concerns regarding the validity of a multi-year contract, you or a board representative should contact your attorney to explore potential problems and the need for any recommended corrective action.

Todd K. Hayden of the firm's Joliet office prepared this *Law Alert*.

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