



June 27, 2015

Client Alert

Indiana Supreme Court to Review Firing of Principal Due to Relationship with Teacher

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The Indiana Supreme Court recently granted transfer in *Hewitt v. Westfield Washington School Corp.*, which involves the termination of a principal, Hewitt, after it was revealed that he had a consensual sexual relationship with a subordinate teacher. Hewitt admitted to the relationship, but ultimately refused to resign. The school corporation's human resources director informed Hewitt that the director would recommend the school board immediately terminate Hewitt's contract, but that Hewitt could request a private conference with the board in advance of the determination. The school's counsel wrote Hewitt a letter describing the conference as "an informal process" at which Hewitt could not present witnesses or evidence, but could describe what the witnesses would say and the information the documents would contain. The conference was held and the board terminated Hewitt's contract.

Hewitt alleged the school breached his contract and denied him procedural due process by failing to provide him with required procedural safeguards, including an evidentiary hearing. The Hamilton Superior Court granted the school's summary judgment motion on these claims, but the Indiana Court of Appeals reversed in a December 30, 2014 ruling. The Court of Appeals held that Hewitt had been retained under a "regular teacher's contract" in the form prescribed by the State Superintendent pursuant to Ind. Code §20-28-6-3. While Hewitt's contract did not specify the scope of the hearing he was owed, it incorporated by reference "all laws governing the employment and dismissal of teachers," which the Court of Appeals determined included the provisions of Ind. Code §20-28-7.5. That statute provides that a teacher must be allowed to present evidence at the private conference to refute the reason for the termination.



The Court of Appeals rejected the school's arguments that, as a principal, Hewitt was entitled to lesser procedural safeguards and that his admission to the relationship obviated the need for an evidentiary hearing. The Court determined that Hewitt's relationship, which ended by mutual agreement and did not create a hostile work environment, did not automatically allow the school to clear its hurdle of showing that the termination was "not arbitrary, irrational, unreasonable, or irrelevant to the school board's task of building up and maintaining an efficient school system." *Board of School Trustees v. Moore*, 33 N.E.2d 114, 116 (Ind. 1941). The Court also held that the conference Hewitt was provided did not clearly meet the statutory requirements and that issues of material fact remained on both of Hewitt's claims, precluding summary judgment.

The Court of Appeals' opinion was vacated by the grant of transfer, but this case should be closely watched by all conversion charter schools since they are subject to the same statutory requirements for the termination of teacher contracts that are central to this case. While other charters and non-public schools are not subject to these requirements, Hewitt serves as a reminder that all schools need to take care with the contracts by which they retain their teachers and administrators. While the Court of Appeals acknowledged that the school in this case presented a credible argument for why principals deserve less protection than teachers, it is the terms of the contract that control. Including contract terms that reinforce the employment-at-will status of educators and administrators can help protect schools from costly litigation following a termination.

[Todd G. Relue](#) is the co-chair of the firm's Education Law practice group and advises educational organizations on a variety of legal issues including school formation and charter approval, land acquisition, construction and financing, governance, replication and expansion, and sustainability. He blogs about legal issues related to educational organizations at <http://www.ineducationlaw.com> and tweets at [@INeducationlaw](#)